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In the matter of Compulsory Interest Arbitration  
concerning the negotiations impasse between

Township of Pequannock, New Jersey

DECISION AND AWARD

and

of

Pequannock P. B. A. Local #172

Frank A. Mason, Arbitrator

Re: New Jersey Public Employment Relations  
Commission Docket IA-2002-033

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#### APPEARANCES

FOR THE TOWNSHIP: Frederic M. Knapp, Esq., Labor Counsel  
Laufer Knapp Torzewski & Dalena, L.L.C.

Kevin F. Boyle, Township Manager

David W. Hollberg, Chief Financial Officer

William A. Montano, Chief of Police

FOR THE ASSOCIATION:

Richard D. Loccke, Esq., PBA Attorney  
Loccke & Correia

Kevin Nelson, President and Patrolman

David Wetmore, Treasurer and Detective

Daniel Dooley, Sergeant

Vincent J. Foti, Financial Consultant

#### INTRODUCTION AND PROCEDURAL BACKGROUND

The Township of Pequannock and PBA Local 172 were parties to a negotiated Agreement which expired on December 31, 2001. Negotiations for a successor Agreement covering the ranks of Patrolman and Sergeant reached an impasse and a petition to initiate compulsory interest arbitration was filed by the PBA and logged in by the Public Employment Relations Commission on January 9, 2002. A timely response was

filed by the Employer also dated January 9, 2002 wherein the Township expanded the list of issues declared to be at impasse. The PERC Docketed the matter as IA-2002-033 and on March 19, 2002, based on a mutual request, appointed Frank A. Mason, as the arbitrator under its authority, to conduct appropriate proceedings as are required with the objective of assisting the parties in the resolution of their impasse.

An initial meeting was conducted on May 10, 2002 at which many of the elements of impasse were considered and some progress was made during the mediation process to resolve or limit them. There followed a second informal meeting on June 14, 2002 which also fell short of an overall resolution of the impasse and the parties jointly agreed to proceed to a formal hearing. Two days of hearings were set for October 2nd and 3rd, 2002. During those hearings each party presented evidence and testimony and were given opportunity to examine and cross examine sworn witnesses and after completion of the hearing to file comprehensive post hearing briefs. The final brief was received and briefs exchanged on February 4, 2003 at which time the record of the hearing was closed. There being no alternative agreement of the parties the conventional method of arbitration was initiated as provided under the statute.

## **POSITIONS OF THE PARTIES**

### **FINAL OFFER OF THE ASSOCIATION**

#### **ECONOMIC ISSUES**

1. Wages: For a four Agreement retroactive to January 1, 2002, 5% across the board increase each year effective on January 1st.
2. Holiday fold-in: All pay for holidays be folded into the base salary and utilized for all computations associated such as overtime rates and pension contributions.
3. Longevity: That there be a longevity service benefit provided at the cumulative rate of 1% for each period of three years completed service.
4. Sick Leave Allowance: That the current annual sick leave of 12 days per year be increased to 15 days per year.

#### **NON-ECONOMIC ISSUES**

1. Work Schedule: The current work schedule be incorporated in the language of the new Agreement.
2. Probation: That the current contractual Article X, Probation, be eliminated from the new Agreement. It now allows dismissal during probation period of one year after hire and sets a hire rate for new employees as a percent of the maximum pay rate and a second probation period upon promotion to sergeant.

3. Legal Defense: That the Employer paid criminal defense attorney selection procedure for a charged officer be modified so that the individual involved, not the Township, has the right to select the attorney and, separately, that the Township also set up a legal service plan and contribute \$150 per year per officer.

4. Grievance Definition: That the definition of a grievable matter be extended to include other regulatory rules, administrative decisions and the like and that the procedure be specifically modified to include minor disciplinary matters.

#### **FINAL OFFER OF THE TOWNSHIP**

#### **ECONOMIC ISSUES**

1. Wages: There shall be across the board increases of 3% in each of three years of a new Agreement effective on January 1st of each year.

There is a second proposal which establishes a separate salary guide for new hires adding a step to reach maximum salary and which freezes the entry level and maximum salary for the contract period having the effect of truncating the salary maximum which those employees would be entitled to at a level substantially below the plan for officers employed prior to the new Agreement.

2. Uniform Allowance: This allowance to be reduced from \$900 per year set in prior Agreement to \$750 for the new contract. In addition the Township proposes that the cost of new bullet-proof vests could be shifted to officers unless other arrangements were made. The Township also seeks a provision to the effect that all payments under the plan are made only for items supported by actual receipts and paid in the year following that in which the expenses were incurred. Payments to be subject to budgetary restrictions.

3. Health Benefits: The Township seeks to change the entitlement of free health benefits under its plan so that after officers retire the Township benefits plan continues as primary coverage only until the officer becomes eligible for Medicare/Medicaid at which time that plan would become primary and the Township plan secondary. The contract clause submitted would not confirm this. This change could also impact on the current option for the shared cost provision of coverage for a spouse after retirement in that such option is conditioned on the officer qualifying for coverage upon retirement from the Township; thus when the retired officer qualifies for Medicare/Medicaid and would no longer qualify for coverage from the Township [as a careful reading of the Township proposal would lead me to conclude] the spousal coverage might no longer be continued.

#### **NON-ECONOMIC ISSUES**

1. Deletion of the contractual provision for advancing payment for vacation periods.

2. Minor language adjustments as deletion of expired provisions.

## PROFILE OF THE TOWNSHIP AND ITS ECONOMIC CONDITION

Pequannock Township is located in the extreme northeast corner of Morris County bordering on Passaic County and just a short distance from the northwesterly corner of Essex County. It is 6.95 square miles in size and occupied by just fewer than 14,000 residents. It is essentially suburban in character with very little industry and largely mature in the sense of land use. It appears to be a desirable residential community as a place to live and the median household income was recently set at \$72,729. There are some new commercial and residential developments but on a limited scale due to the absence of open land. There continues to be some farm related activity most of which is now focused on hothouse production. Much of the open land is unavailable for development due to the flood plain of the Pompton River on the eastern portion of the Township and of the flood plain on the west due to the Beaver Creek. There is also the lack of sewer systems and unsuitable drainage for septic systems which contribute to the problem as well. Thus 95% of the developable land has been occupied.

The population has been very constant over the past ten years but the school system has grown considerably in that time in part due to the abandonment of regionalization in favor of local schools. There are generally 25 police officers, which number has also been virtually constant for many years, whose function has been expanded by much technological challenge, the need for dramatically more diversified services to the public as well as an increasing crime rate and substantially increased vehicular traffic due to changed road systems. Both parties rate their performance as exemplary.

The Township views its financial circumstance as critical to these negotiations and has approached the table with the perspective that there must be a conservation of funds balanced with the objective of creating a fair and reasonable Agreement. To this end Township has proposed the two tiered salary plan as one means of achieving future savings. The Township Manager testified that police salaries are getting too high and that the rate of pay increases within the salary guide needs to be reduced as would be accomplished by adding another step and restricting the maximum salary attainable.

The Township underscores the need for a conservative financial policy for several reasons. The Chief Financial Officer indicated that there has been an alarming increase in the value of tax appeals which were \$337,000 in 2001 and which increased to in excess of \$500,000 in 2002. In significant part these reflect the taxation of green house agricultural production as commercial enterprise which is being challenged by farmers who contend they should have the farm land rate. In addition the impact of these appeals, if granted, impacts only the municipal portion of the budget and not at the Board of Education which absorbs the lions share of revenues while bearing no responsibility for the return of tax dollars where appeals are successful. The recent record does not reflect a high level of tax appeal successes as only \$5080 was returned in 2000 and none in 2001 when the value of tax appeals jumped over \$220,000 from 2000. The litigation of these appeals had not

been completed at the time of these hearings and remains a worrisome question for future planning. However it is apparent that there is a format being followed in the appeals process wherein each appellant is seeking a 50% reduction in property evaluation. There was no evidence provided as to the "ordinary" relationship of such claims to tax refund amounts but the history of tax returns would suggest that the liability, as stated based on filed claims, is very likely to be much less than the funds required to be put aside for tax appeals pending. This leads to a hypothesis that the argument as to the financial impact of these accumulated appeals is somewhat overstated.

The tax rate on property in the Township has risen at a compound rate of 3.9 % from 1996 to 2002. However this is based on an average assessment which has been maintained at a constant value. Were the taxable properties to have been revalued in keeping with the rate of appreciation for real estate the tax rates clearly would not have appeared to increase although the dollars of taxation would have grown. The tax rate for 1996 was set at \$2.32 following the revaluation of 1995. The 2001 tax rate of \$2.76 would, if revalued based on true value, be \$2.10 from the preliminary equalization table for 2002. The total tax payment on an average residential property grew from \$4267 in 1996 to \$5325 in 2002. During that same period the cost of running the Police Department rose from \$1,921,154 in 1996 to \$2,461,386 [anticipated] for 2002 or a compound rate of 4.25 % or .35% more than the tax rates. However the 2002 increase in the salary and wages section was placed at 5.56% for the calculation of anticipated cost as contrasted to the 3% offered in negotiations, perhaps reflecting the anticipation of additional staffing.

Among the financial problems of concern the CFO indicated that the Sewer Project anticipated revenues required to complete the project over the next six years could produce a short fall which would have to be made up as part of the tax obligation. However the information provided does not demonstrate any delinquency in payments to date and the total amount due in each year is declining from \$82 thousand in 2002 to \$70 thousand in 2005. These amounts are in the neighborhood of only 1% of the budget and would never likely be short by more than some minor proportion of the amount due. At this time the fund balance anticipated to be realized will not be less than \$70 thousand during the next three years. Thus it is hard to see why this item should appear as a threat to the overall balance of the budget.

Another consideration which the CFO raised as a looming problem is the fact that the Township is currently self insured for certain risks including health benefits. These benefits were said to cost \$13,051 per employee annually in 2002 which reflects an increase of 23.3% from the \$10,581 paid in 2001 and more than double the amount paid in 1996. None of this is being paid by the employees. There is apparently nothing on the horizon which suggests that these costs are going anywhere but up in the years ahead. No information was presented which would compare these costs of a self insured plan with comparable coverages provided under a plan with broader employee base, such as the State Health Benefits Plan. This cost experience is a causative element as to the Township's demands to require Medicare/Medicaid to be incorporated as the primary

coverage when retired employees become eligible. It would appear to be only common sense to include the Medicare/Medicaid coverage as part of the plan as the employees and the Township have been paying premiums for that coverage for many years and the net result in terms of financial protection of the employee is negligible.

A further issue of concern has to do with the precipitous change in the annual fund balance and the remainder after its utilization in the succeeding year. In 2000 the fund balance available was \$2,436,863 and the amount used in the 2001 budget was \$1,400,000. There remained a free balance of \$936,954. That free balance rose to \$1,036,863 in 2001 in spite of a reduction in the fund balance of \$290,000. However the free balance was anticipated to drop by \$300,000 in 2002 when the financial data was prepared for this hearing. Much of this reduction can probably be attributed to much higher reserves for tax appeals pending.

There is substantial reluctance to raise property taxes to offset the potential additional expenditures associated with the demands of the PBA. The Township described the population as relatively stable and with limited income already having been subjected to significant tax increases over the past several years. There does not appear to be a likelihood of shifting the tax burden to any new commercial payers and the result is a policy to be as conservative in expenditures as is practicable. Additionally the Township is critical of the PBA's demands on several fronts. The request to incorporate a longevity plan is seen as an unwarranted cost as Township points to the fact that the PBA gave up a longevity plan in exchange for the implementation of a \$2500 one time increase in pay beginning after 17 years of service in prior negotiations. The PBA demand is seen as an attempt to now have both benefits by restoring one which was negotiated away.

Likewise the PBA demand for increased sick leave is seen as unjustified and certainly another potential cost to the Township while the actual use of sick leave for legitimate sickness remains very low. The holiday pay fold into base demand is also viewed as simply another way to wring more money from the Township in the form of overtime rate increases and additional pension liabilities.

Township also noted that the demands of the PBA were inconsistent with the treatment of other groups of employees and that to grant the excessive demands of the PBA would provide a basis for discontent and internal chaos which would lead to a reduction of dedication to the Employer. It would be unfair to others and they would react to that condition. It is noted that the negotiations with the Blue Collar unit resulted in across the board increases of 3.5% annually; a figure not offered to the PBA.

The Township characterizes the PBA demand for 5% annual increases as outrageously high and beyond the levels of improvements in such negotiations throughout the County or the State. The current salary scale is described as one of the best in the County and would remain so with the 3% program posed as an appropriate level of increase. In fact the Township notes that this level of increase is higher than the cost of living changes and the general improvements being realized in private employment. As Pequannock is seen as

a community of residents with modest income and very little commercial taxable properties there is need for a conservative approach to the costs of salaries and benefits which would be fairly met by the proposals advanced by the Township in this proceeding. In fact the perception is that the police officers are compensated on a high level of comparison and that this has resulted in excellent morale and dedication by those officers and virtually no turnover except in the circumstance of retirement. Evidence introduced by both parties has generally indicated that police salaries are increasing at more like 4% per year, somewhat less than demanded here and somewhat more than has been offered. Certainly the lower than average offer would have the effect of reducing the competitiveness of Pequannock salaries to other communities.

The CFO testified that the Township has had no problem maintaining its expenditure increases within the CAP law guidelines up to the 2002 budget but may begin to see problems beginning in 2003. The index rate was used to form the 2002 budget but the Township could have increased the budget to the 5% limit available. This was done because of the policy of controlling the increase in property taxes. The potential from the alternative use of available flexibility under the CAP rules would have amounted to \$155,748. The 2002 budget was cast within CAP limits and, given CAP bank remainders from the 2000 and 2001 years, resulted in an unused spending authority of \$323,927 according to the CFO explanation of the 2002 Municipal Data Sheet during cross examination.

A further dark cloud on the financial horizon was seen as the lack of reliability of past years State assistance in particular the foregoing of the Township portion of the pension premiums which seemed increasingly problematic based on the State's budget shortfalls and which are not known until the April following the year in which due. There is also a concern as to the amount of general State aid, which amounted to \$1,581,923 in 2001 and was anticipated at the same level for 2002, which will be forthcoming during the further years of this Agreement. In addition the examination of interest income for the foreseeable future suggests a reduction based on continually lowering interest rates as was already seen between 2001 and 2002.

Although the CFO admitted that there was significant new and partial construction values which were expected to produce in excess of \$111,000 in new taxes his overall assessment of the financial circumstance of the Township was not one of optimism so long as the policy objectives of containing the tax rate increases to bearable levels continued to be the guide. The Township continues to earn a AAA rating by Moody's and has issued only about 27% of the available debt limit. It appears the Township has been well and conservatively managed from a fiscal viewpoint.

#### THE PERSPECTIVE OF THE PBA

The PBA presented four economic issues which they argue should be awarded in this procedure. In large measure the PBA is in sharp disagreement with the Township as to the relative comparability of the compensation of officers in Pequannock with surrounding

areas. Part of the problem is that the PBA has chosen a group of employers for its comparison base which differ from those used by the Township. PBA claims the Township choices reflect a geographically wider range than should be used and that many of those chosen reflect living conditions quite different than experienced in the Township which should be compared with the more immediate area in which it is located. A second criticism is that the Township claim of favorable comparison as to pay rate is flawed in that most other municipalities provide a combination of pay elements and that the total compensation is the only realistic basis for comparison. The major ingredient is that a large percent include a longevity plan, which is a cash supplement to the basic salary, and that this extra shifts the Pequannock pay comparison from fairly close to average to being about 13% lower. In making this claim the PBA has not given credit for their agreed upon \$2500 which modifies the top salary from the 17th year onward. The determination of the proper basis for the development of comparison is dependent in substantial measure on the identification of a limited comparison group. I will attempt to do this in another section of this opinion and award. At that point the proper comparison of the Township's compensation plan to other employers will be more clearly formed in my mind at least.

In addition the claim of the Township as to the adequacy of its salary proposal is alleged to be flawed because even when using the Township's group of comparables the annual increases for the contract period are more like 4% and this translates into a further falling behind of average pay should the Township proposal be awarded. Worse yet is viewed the proposal to place all new employees on a new salary guide in which the top pay will trail the current plan in 2005 by 12.55%, using the 3% per year offer of the Township for calculation, or, should the annual increase be 4%, 16.98%. This is seen to be entirely unrealistic and unacceptable especially given the added factor of the less than average pay level in the current plan.

The PBA also takes issue with the initiative of the Township to reduce the clothing allowance pointing out that the \$900 paid during the last three years is not greater than the average of such payments in comparable jurisdictions. While making no claim for an increase the PBA avers there is no logical reason to reduce this level of payment.

On the other hand the PBA reinforces its demand for the improvement of the sick leave program from 12 to 15 days by presentation of data showing of 13 jurisdictions 11 provide 15 or more [in equivalent hours] days while only 2 grant 12 days. The average of the group of 13 is 14.77 days. Thus Pequannock trails by nearly 3 days per year.

The PBA stand on the longevity issue is that the total compensation plan at Pequannock is well behind average of other municipalities with which these officers interact on a regular basis and that the way to bring it closer to average is to add incrementally wherever it can be accomplished. PBA recognizes that a demand for the equivalent base salary increase to enable a catch up to average would be unlikely. The reason is that just standing still will involve at least 1% more than has been offered for each year. In addition the makeup of the added differential attributable to longevity income would require not less than another 9% even after giving full credit for the \$2500 which is folded into salary after 17 years



service; but not accounting for all longevity earnings others have received before achieving that service time. Thus the annual salary increase would have to be not less than 6+%. And even if granted would not offset the loss of income during the years it would take to reach that average level in 2005. Thus it seeks to achieve some reasonable compromise; even the folding into base salary of holiday pay would represent a step in the right direction and one which has been taken in many other jurisdictions. All in all the PBA sees itself on righteous grounds in the pursuit of its demands. In its brief the PBA acknowledges that the value of the longevity plan among its selected group of comparable jurisdictions is different from the same computation if the comparable jurisdictions chosen by the Employer were used but there would still be a differential of \$3200 as contrasted to the \$6800 in its group which it suggests are more clearly related to the Pequannock service area.

The PBA also substantiates its case for the payment of all holidays as part of the base pay by noting that of the 18 municipalities chosen by the Employer for comparability measurement 13 have incorporated holiday pay in the base salary and 5 do not. It also notes that the average number of holidays in that group is 13.17 or 1+ more than are afforded these employees. This is seen as yet another way do demonstrate the paucity of the overall compensation plan in Pequannock as compared to other municipalities.

The PBA as well as Township demands which concern non-economic matters will be considered below.

#### DISCUSSION AS TO APPLICATION OF THE STATUTORY CRITERIA

The clear focus of this impasse is the compensation of police officers. Other concerns are present but the emphasis is on financial considerations. Both parties have presented much information concerning this element but the central theme has been that of comparability and as to the Township a further concentration on its budgetary policy objectives. Nothing has been presented to suggest that the Township would be incapable of finding the funds required for a reasonable compromise with the PBA demands although it maintains that any movement from its position would have some impact on its control of future budgeting. The CAP situation is not a factor as the Township has maintained a CAP balance and increased it from year to year. In fact the Township has made more than sufficient efforts to provide reserves for such as unpaid taxes, regularly collected at nearly 99%, tax refunds, and substantial fund balances on an annual basis. These are obviously tactics which should give comfort to the tax paying citizens of Pequannock.

The argument as to the appropriate financial rewards for the quality of service of the police officers who have served well is a counterbalancing consideration. On the very surface of this impasse is the 3% offer of the Township which is quite obviously lower than what has been agreed upon in every negotiated agreement brought into evidence in this hearing. And the associated question is whether there is reason to support or modify the overall compensation plan offered under the conditions presented.

## 1. THE INTERESTS AND WELFARE OF THE PUBLIC

Traditionally this criterion is involved with the consideration of the CAP law controls of local government spending. In this circumstance there has been a record of fiscal responsibility and conservative practices so that the annual budgets have been cast well within the limits of CAP spending and in fact there has been a consistent banking of funds accumulated within the CAP limits but not spent. The 2002 budget utilized only the index rate and contained provision for all anticipated or even potential funding responsibilities with considerable reserves and a CAP bank enlargement. There is substantial flexibility within the budget and the prospects of an award so demanding as to unanticipated fund requirements in this matter which would seriously damage the general health of the fiscal plan is small and will be avoided.

The interests of the public are increasingly tied to the provision of a safe and comfortable environment. The police have a prominent role in securing that objective. The level of dedication to the responsibility of their work is tied to some extent to the degree of satisfaction officers have with the working conditions and compensation provided. It is axiomatic that superior performance comes from fair and equitable treatment. The new Agreement should demonstrate those characteristics and as such should be seen as appropriate by the citizenry. The record of their lack of participation in the approval of school budgets suggest a level of complacency as to the impact of annual budgets on the property tax requirements.

The work of the police has become increasingly complex and will more than likely continue to do so as long as there is unrest in the world. The same number, or fewer, of officers are now employed than was the case many years ago. However their responsibilities have increased and become much more demanding. The technological aspects of their work have grown exponentially. The public's demands have been seen in the much increased numbers of calls for services and the creation of special services for children, elders and other groups or needs in the general population. The willingness to perform at the highest level of competence possible is a goal which should be supported by the equitable treatment afforded them.

This is an important criterion and will be given careful consideration. I do not feel the Township offer to be sufficient under the circumstances before me. However I recognize the practical values within the fiscal policies adopted and that the impact of any modification of the terms offered must be justifiable.

## 2. COMPARISON OF SALARIES BOTH PUBLIC AND PRIVATE

A great deal has been written concerning the essential differences between police and other private sector employment. Most of which has led to the conclusion that the value of police compensation is much more relatable to other police employment than to other jobs of a non police nature. Aside from that there is one element of correlation which

should be considered and that is the general overall movement of compensation levels in both public and private employment. This may be most significant when appraising the ability of citizens to bear greater tax burdens. By far the greater emphasis should be on the changes within the police community because this is an employment activity which is highly distinguishable from other jobs. It has become obvious in recent years that police wages have risen substantially in comparison to others. To some extent this may reflect the added demands which include technological training, general level of education and the complexities and risks associated with the changes in the nature of the work. It may also be involved with the limited flexibility imposed as to changes of employment, restricted promotional opportunity, hours and conditions of work or other factors. The bottom line is that police have been treated differently than other employees over the past two or even three decades. The result is that the most appropriate comparison to be utilized when attempting to determine the terms of a new contract is what is happening in other police employment. Neither party placed emphasis on the private sector changes but the Township noted that recent developments such as reduced employment and the apparent instability of the economy in general have lent a pessimistic view as to the opportunity for growth and improved economic circumstances. The extremely low level of cost of living changes and the very modest increases in wage levels are seen as an indication of the need to proceed carefully and to guard against undertaking unnecessary costs, especially in the area of employee compensation as such are very difficult to reduce especially for a municipality where the need for community services may be strained and even expanded in difficult economic times.

The Township and the PBA have each asserted their views as to what basis of comparable employment should be used to measure the circumstances of working for Pequannock. It is my responsibility to create a composite group of other employers which most reasonably should form that basis for comparison purposes. I intend to do that as a predicate for the determination of how Pequannock compares in overall compensation of its police. In doing so I first will include those employers which were on both the PBA's and the Township's list of communities deemed appropriate. There were six of these. Next I looked at either parties choices which were within approximately five miles of Pequannock. There were five of these, three chosen by the Township and two by the PBA. Finally I looked for choices which were within approximately 10 miles and found seven of which three were on the Employer's list and four on the PBA's list. This composite group of 18 municipalities are the base group for the comparisons of compensation. None of the 12 not on both lists appear to be exceptional although there are indications that some have reflected the individual party's interests more than others. After much careful examination I am comfortable that they fairly represent the general area and reflect reasonably what should be a reliable group for comparison purposes. In part these choices were designed to include representation of both more rural and more suburban areas as Pequannock is situated on a border of same.

The communities are: Bloomingdale; Kinnelon; Little Falls; Totowa; West Milford and Wayne in the first group; Butler; Cedar Grove; East Hanover; Fairfield; Hanover; Jefferson; Lincoln Park; Montville; Oakland; Pompton Lakes; Riverdale; and West

Patterson in the second group. The average salary in 2001 at maximum in the first group was \$67,510; in the second group \$67,040 and the weighted average for all 18 was \$67,197. Pequannock at \$66,859 was paying \$608 less than average of the 18 comparables and \$651 less than the average of just the six mutually chosen. It paid \$451 less than the 12 selected for the second group from all suggested by both parties.

The second key element in the computation of overall compensation is the longevity pay added to the maximum base. The record includes evidence of 15 of the 18 comparables [municipalities deemed proper for comparison above] reporting specific longevity payment programs. No Agreement or other data was provided for the remaining three. The form of the reports is generally to show the maximum payment available. This may be paid after a varying number of years of service. The maximum may not be achieved until 20 or even 25 years service. This makes it difficult to evaluate as a portion of total compensation except as the contribution to base usable for the computation of retirement benefits. The average of the 15 in 2001 based on the salaries for that year was \$5480 and ranged from \$600 per year to \$9709. Most of the longevity plans are based on percentages of top salary and therefore change as that base changes, generally annually. Most of these plans provide lesser percentages in earlier years of completed service thus the total value of the plan payments during active duty years will vary with the number of years of eligibility and the future years service as well as change in salary level before retirement. Suffice it to say this is a very significant part of total compensation.

Many employees will begin to earn longevity after 5 years service at some limited percent. This generally will graduate in five year periods until the maximum rate is earned. The dollars added to earnings for the lifetime of employment is very difficult to determine and would, in most situations require examination of individuals' work situations and the forecasting of future earnings. In addition to be accurate it would require knowledge of the time when such a plan was first put in place and what changes have occurred as well as a guess as to future changes. Not a particularly simple or ultimately reliable computation.

The PBA presented its version of the distinction of its original group of comparables as to base salary plus longevity earnings and concluded that Pequannock was behind average by some \$8745 per year. This figure included no credit for the \$2500 added to Township maximum pay after 17 years so it can be readily reduced to \$6245. That calculation also included Employers not in the group of comparables and left out some which are which resulted in an average maximum salary of \$69,864 which is \$2682 more than the average of the comparables. This reduction would place the net difference at \$3563 per year and would include credit for the \$2500 paid to Township employees from the 17th year on. In 2001 that difference was equivalent to 5.35%.

The actual dollars received as "longevity" in Pequannock during a 25 year service period under the current plan would be \$17500. In a hypothetical plan which paid a maximum of 4% at 20 years service and presuming a salary growth at 3.75% over a period of 20 years in which longevity was paid at 1% starting at a salary level of \$35,000 and ending at \$73,085 with progressive steps of 1% increase in longevity for each five year period the

officer involved would have received \$28440 in longevity payments. This is in addition to the impact of higher earnings on such things as overtime rates. Thus it can be seen that the person in this situation earns \$10960 more than the payout of the Pequannock plan. In addition the 4% added to salary in time for retirement is more than the equivalent of the \$2500 paid by the Township.

If the hypothetical plan were to be formulated more like most such plans, and still be conservative by comparison, the longevity payments would start at 2% from year 5 through 10 and be adjusted by 2% increments to a maximum of 8%. Using the same initial guide of \$35,000 this would produce a gross added income of \$56,880 and add an extra \$2684 to the pensionable pay for a total of final year pay level at \$75,769. This would exceed the \$2500 at final pay by over \$3300. While it is entirely speculative to attempt to define the value of this in retirement it would be conservative from an actuarial perspective to consider the added worth to be not less than \$75,000 in 2003 measurements and using conservative estimates of changes in cost of living as well as life expectancy. The combination of the added pension income and the \$56,880, less the \$17500 now paid in "longevity", or \$39,380 could be \$114,380 in the lifetime of an officer through active duty and retirement. An even more realistic figure works out to \$160,000.

The Township argument against consideration of the longevity factor in assessing overall salary comparison is predicated on the buyout of the prior plan for a \$2500 addition to salary after 17 years service. Reasonable scrutiny of that accord demonstrates that the change was almost an even trade off. In the 1997-1998 Agreement the longevity payments, which varied from \$200 after four years service to \$800 after 20 years service, were made as cash payments not in base until after 17 years service. When that happened the addition to base rate was about 1.3%. But we are now several years past that point and the PBA's pursuit of improvements can not be judged as foul play by labor relations standards. The PBA is simply using all available information to demonstrate the comparative compensation circumstance of these employees as contrasted to that which is afforded to others in like employment and in similar and locally situated communities.

The Township also argues that it's 3% per year rate of increase will keep the salary program highly competitive. There is more truth in this when the group of comparables is replaced by the remaining communities of the County or if only certain chosen communities are considered for comparison. However, the figures supplied by the Township suggest that the average increase for 2002 in all the County municipalities on record was 3.93% and that for 2003 it was 3.69% without as many final figures available and the tossing out of one community as an aberration. Given even only this information it is difficult to accept the Township's assertion that the 3% offer will allow the Pequannock pay rates to maintain their relative position in contrast to neighboring towns. The 2002 offer is just over 75% of the widespread municipalities in the County. Over a four year contract the slide would amount to 3% and more than that when measured against the comparable base outlined above.

Perhaps more to the point is the fact that many generalizations offered as to the competitive pay rates of the Township are supported by the inclusion of the \$2500 after 17 years service. But they frequently do not include the longevity payments in those communities with which the comparisons are drawn. This approach neglects the sometimes many years in which longevity pay is made before 17 years service and the considerably greater payment levels of salary and retirement income reached under those longevity programs as noted above. Considering the nature of this benefit it is unfortunate that the Township did not undertake a more comprehensive evaluation of the add on worth of such programs.

In reviewing the salary increase information available from both parties concerning the established comparable group of municipalities I find 13 of the 18 to have reported for 2002. The average rate of increase was 4.419%. For 2003 there were fewer reporting at the time of hearing but 9 indicated an average increase of 4.33%. Of only five reporting for 2004 the average was 4.39%; an average increase in each of the three years of 4.38%. These figures suggest that in the area immediately surrounding Pequannock pay rates have been rising faster than in Morris County as a whole or in the State as well where in 2001 the average increase awarded or settled in cases litigated under the control of PERC was 3.86%. Separately Township introduced an exhibit showing the rate increases for the 28 Morris County municipalities having reported for 2002 at 3.93% and for 15 municipalities for 2003 a rate of 4.34%, a rate practically identical to the rate change for the comparable group above noted at 4.33%. Thus one can draw the conclusion that for the Pequannock pay schedule to maintain its relative position the three percent offered will prove to be inadequate. Considering all of the above information it seems that rate increases are generally at and above the 4% level.

Another consideration to be dealt with is the demand of the Township for introduction of a new pay plan for persons yet to be hired. It wants the new guide to incorporate an added step before reaching maximum pay and it wants the plan frozen for the term of this contract so the maximum pay will be adjusted down from the current plan by approximately \$7000 to \$8000. This has led to steep resistance from the PBA which claims the current plan to be inadequate and this proposal to be preposterous.

It should be noted that the most frequently relied on factor in setting pay rates has been the comparability to pay for other employees in essentially similar positions. It is fundamental to the development of an equitable salary plan. While not the only consideration to be made it is of great importance and should only be offset by conditions which preclude its utilization.

This criterion is critical to the overall resolution of this impasse. The issues are complex and the impact on employee welfare and morale could be considerable. The effect on the citizenry is also of major concern and the required balance of these two requires great attention and evaluation. This is a criterion I see as very significant.

### 3. CONSIDERATION OF OVERALL COMPENSATION

The rate of pay provided can not be evaluated as a single indicia of the adequacy of a compensation plan. In police employment a sound retirement system is a very real element but by virtue of the control of retirement plans being in the hands of the State such does not come into focus here except as to the impact of the base salary level to be used in the computation of pension benefits. There are other vital elements of a compensation plan including the health benefits provided. In Pequannock the plan is very comprehensive and there has been no participation in premium costs by the employees. This plan has become increasingly expensive particularly in recent years and the Township has had to fund the plan at a several thousand dollar per employee increase over the last two years. The Township has asked that the Agreement be modified so as to reflect that the coverage provided become secondary to Medicare/Medicaid at the time when retired employees become eligible. The PBA has not agreed to this although virtually all such plans incorporate a like provision. After all the employees themselves have been paying substantial amounts in dedicated taxes for that coverage and the Township has also. To continue an Agreement which precludes use of these Federal plans as an offset to the costs borne by the Township does not make sense and would be certain to propel the current costs of health benefits to more extreme levels. Blending the Township plan with the Federal coverages will not diminish the benefits to employees but will assist in reducing costs to the Township.

In the proposed language change offered by the Township the current spousal coverage clause is removed, perhaps inadvertently, but as such coverage is necessary until the age of entitlement to Medicare and beyond the terms of the Agreement should be carefully crafted to preserve that coverage.

There are many other elements of the overall compensation plan. In this proceeding the parties have brought several into focus. The Employer has demanded the reduction of the annual allowance for clothing and maintenance of same from \$900 to \$750. The demand is described as a means to save some money and supported by the claim that the previous increase from \$750 to \$900 was not intended to be a permanent change. The current level is very much like the average of most of the area communities. PBA provided a list, not limited to the comparables list noted above, wherein the average payment was \$961. The included comparables provided an average of \$944. There was also added terms which would lead one to presume that body armor previously supplied as a matter of past practice might now be charged back to the employee and the cost deducted from the allowance. The demand also requires the employee to accumulate all expense vouchers and to turn them in at the end of the year so that no reimbursement for the year in which expenditures are made would be paid until the following year. The PBA would be content to leave this clause as it is in the past Agreement.

The PBA has raised the issue of sick leave allowance. The current amount is 12 days and the demand is for 15 days. There was no obvious attempt to demonstrate the need for added leave as a matter of the number of such days experienced by employees. However

the PBA points to the fact than most police contracts provide 15 days. In fact the comparison chart provided which included 10 communities in the group of comparables and of those only one was at 12 days, one at the equivalent of 18 days and the remainder granted 15 days.

The PBA also raised a question as to the folding into base compensation the value of holidays that are paid in cash. In its presentation it noted that some 72% of Agreements concerning police include such a provision. The Township rejected this proposal on the basis of its having the effect of increasing the pay rates for computation of overtime, pension benefits and become a part of the rate on which increases are computed. In an effort to hold down costs it denied this request. The PBA took the opposite track and defended its demand on the basis of the claim of Pequannock's overall compensation plan to be inferior and such an improvement would move the program incrementally toward average. In short it represents some added dollar value.

Notwithstanding these issues the overall compensation plan is very complete and the benefits portion provides substantially for the needs of the employees. While consideration must be given to the demands made by both parties I don't see this as pivotal in the determination of an overall Agreement. I therefore do not see this criterion as a major consideration and while certainly relevant hardly at the top of the list as to relevance except as the salary issue is also considered in conjunction with the benefits provided.

#### 4. STIPULATIONS OF THE PARTIES

The only stipulation of the parties had to do with the continuity of the old Agreement except as modified by this award and inclusion of the settlements achieved during these proceedings. As such I do not see this criterion as of special concern.

#### 5. THE LAWFUL AUTHORITY OF THE EMPLOYER

This criterion places the arbitrator in the position of carefully evaluating the impact of an award particularly as it might affect the CAP Law constraints which are placed on it. I do not believe that the terms of this award will in any but the slightest way have such a consequence. There will be need for greater expenditures but these will be relatively slight compared with the financial flexibility being maintained by the Township. This is a reflection of the conservative management policy and the presence of substantial reserves and fund balances to cushion any mandated new expense. Budgets of record demonstrate considerable surplus and the recent downturn is not sufficient to raise questions as to the level of demands this award will impose.

During testimony of both the CFO and the Township Manager there were numerous references made to the concept of careful and responsible fiscal planning. The Township's post-hearing brief also dwelled on the need for a free hand as to such matters and the inherent impact of any unplanned expenditure becoming an interference with those plans. Suggestions were made as to the potential of limiting the flexibility needed to



undertake other programs or services but no specific project was suggested as a potential problem. Clearly the Township has managed its finances very well. The relative tax stability and circumstances surrounding the budget balances and reserves along with a low level of borrowing has led to the Moody's ranking of AAA and the apparent comfort of the taxpaying public suggest they are confident of this management. I shall refer to the costs of any changes beyond the proposals of the Township below and am confident they will not present an unmanageable financial crisis. The Township has obligations to its employees as well as to its citizens. It has adopted policies suggesting the affirmative posture of fair and equitable compensation. The negotiations function serves to provide a means of resolving the conflict between the policy of financial constraint and that of fair treatment. To simply assert that the conditions of employment proposed are what they should be in the face of evidence which controverts that assertion and which is ignored leads to impasse in negotiations. This disagreement must be fairly resolved.

While there is a long term impact of the use of moneys for a purpose not planned which might contribute to the need for incrementally more tax revenues that which is attributable to this award will be slight. I see this as more than a significant criterion but nothing planned will be devastating to these policies.

#### 6. THE COST OF LIVING

The cost of living data strongly suggest that increases in salaries have greatly exceeded the modest change in COL over the past 10 years. The proposals of the Township can not be criticized as inadequate based on COL projections or recent actuality. However, there has been little attention paid to this criterion as a determinant of wage changes in recent history. Instead there have been voluntary settlements which far outstrip the COL in virtually all police employment both in New Jersey and in general elsewhere. Thus the basic foundation issue used in setting salaries has become more focused on the movement found throughout the system. Equity, as a concept, is best defended when relatively equal treatment is forthcoming. This draws the attention away from COL and toward comparable employment. The statute requires consideration of both. Under the current circumstances I find this criterion of considerably less consequence than those of comparability and the interest and welfare of the public.

#### 7. THE CONTINUITY AND STABILITY OF EMPLOYMENT

Instability has not reared its face in Pequannock. Not one person has quit employment from the police function except for retirement. The level of morale is high and testimony suggests that these officers have welcomed the demands for expanded responsibility, more training and development of methods and plans to meet the demands of the public for safety and security. They clearly have met the challenge for higher productivity and the complex knowledge to function in a technologically demanding environment. If there are any issues which might have a negative impact on the dedication to performance they might be found in the disagreements concerning the proper level of compensation or modifications of benefits that are perceived to be negative. This has not yet become

problematic. Hopefully my award will be understood to provide a reasonable level of satisfaction to these employees without being overly destructive of the perceived needs for fiscal restraint. The Township faces an uncertain future at this point in time because of the economic recession and lack of an obvious change for the better. In such circumstance the conservative approach to the management of the affairs can not be criticized.

I see this as a criterion of importance and will strive to create an award which reflects the attention it deserves and can be seen by the Township as basically justified.

## 8. THE FINANCIAL IMPACT ON THE GOVERNING BODY

This criterion is an imperative as to level of consideration. To ignore the fiscal consequences of this process would be an important mistake. However the determinations which I have spelled out herein are carefully thought out as to the impact on the Township. The award will be somewhat more costly than the proposal of management but the differences are entirely justified. The resultant contract will serve to assure the fairness and equitable treatment policy of the Township is not merely an empty promise. The salary and ancillary adjustments will place the Township fairly in the center of overall compensation paid to police in a group of surrounding communities many of which are close enough for interaction and mutual assistance in police matters.

The analysis of the budget presentations suggest that the 2002 implementation will not require any additional funding beyond reserves for that purpose. The extra dollars needed for 2002 beyond the proposed spending of the Township amount to approximately \$20,000 or a salary increase of 1.25% greater than was advocated. The justification for this should be apparent in the discussion herein.

While it is true that any use of tax revenues for whatever purposes represents an erosion of the funds available for other needs there is no indication in this record that the resolution of this dispute at the cost levels involved would precipitate a concern as to increased taxation. Given the surplus levels historically presented in the annual budgets it is apparent that the impact of this award will have only a marginal impact on fiscal planning and policy. The additions to cost are not inconsequential but do not vary from offers from the Township by more than the 1.25% in each of two years and as little as .75% in 2005. Given that the 3% offered by the Township is .9% lower than any settlement figure for the area the real distinction between the award and reality is probably less than .35% in any year or under \$6000. It should also be noted that the award includes some elements of savings related to a new salary schedule and modification of the health benefits obligations of the Township. Where extra expenditures are encountered is the provision for extension of the senior officers pay after 17 and 24 years of service. Those added payments to any one officer for the 7 year period to normal retirement amount to only \$8500 for a lifetime of service and partially make up for the extra earnings of other police which amount to several times that number. The added program costs during this four year contract period are approximately \$30,000.

## DISCUSSION AND CONCLUSIONS

The core issue of this impasse is compensation and this is of great importance to each party. The Township's proposal of 3% increases is obviously below the average of all comparisons that were made available. If it were awarded the result would have been an erosion of the relative pay level of these employees as contrasted to others in the comparable group many of whom already enjoy considerably higher total compensation composed of base pay plus longevity pay which ranges up to as high as 12 %. That result would be inconsistent with the policy of the Township and its stated intent to provide a competitive and equitable level of compensation. Having negotiated away the prior longevity plan the Township appears to be insulted to learn that PBA wants to revive that form of added pay. But the real issue is not the form of pay but the value of the compensation plan. And the most realistic way of measuring that is by assessing the total compensation of similarly situated employees performing the same basic job. The use of a comparison base as was established here is a fair and acceptable method of discerning the appropriateness of the terms of employment in a new Agreement. Of course comparison does not stand alone in the consideration of the reasonableness of a compensation plan. The underlying financial condition of the Employer and the prospect of impact on the taxing residents must be borne in mind as well. Other elements of contention must also be weighed and fit into an overall contract which is fair to both parties.

As already stated my perception is that the 3% level of improvement is not supportable under the circumstances presented. Additionally the imposition of a pay guide for new employees which is truncated so as to preclude them from ever reaching a maximum pay level now enjoyed by all others is fundamentally flawed. Admittedly it would be a way to conserve money and perhaps the Township Manager's observation that salaries are simply getting too high is worth parting notice. However the comparison of police salary rates is generally addressed at the journeyman pay level which is the top pay in each rank. To impose a new structure which is dedicated to the result of reducing that pay level in Pequannock by as much as 8 or 10 percentage points would require the conclusion that all underpinning justification for the compensation plan should be scrapped. This whole proceeding has been focused on the relative merit of the pay scale at the top. There has been no justification presented which would suggest abandonment of that means of measurement. Top pay is the amount earned for most of the years of service and it is the amount upon which the retirement benefits are predicated. I know of no other plan now in existence which would produce the effect suggested by the Township and reject that proposal.

During past negotiations there has been agreement to extend the time frame between employment and arriving at maximum pay. The spread of the pay range is considerable and the introduction of additional step[s] to slow down the movement to the top has merit in that the incremental steps are very substantial and are in addition to across the board changes. However this view is tempered by the fact that it should not take a particular number of years for an employee to be capable of performing the full range of an assigned

job such as patrolman. In this respect the work is rather like craft employment where the status of journeyman is achieved in some reasonable time period and thereafter the pay reflects that capability. Given the training and level of education of most new appointees to police positions it is clear that "journeyman" performance can and should be achieved with the addition of several years experience on the job. A compromise of the growth into top pay with the financial reality of the wide pay scale suggests a guide for new employees containing one other step before maximum pay is gained to be realistic. It provides some degree of savings to the Township without unduly denying top pay status. I therefore will include a guide for newly hired employees which includes an additional step.

My conclusion as to the length of the Agreement is that it be four years beginning on January 1, 2002 and extending through December 31, 2005. Both parties presented evidence as if they were in accord on this point although the official position of the Township was to gain a three year contract. However as we have already entered the second year of a new contract it seems logical to extend the term to four years. Clearly the parties have had a sufficiency of the turmoil of continued negotiations over the past 18 months and the new expiration date will serve to stabilize working conditions and allow the focus to be on performance.

Everything points to annual increases somewhere between the PBA demand and the offer of the Township. The data which demonstrate the changes already included in agreements concerning the comparable group generally have been limited to 2002, 2003 and to a significantly lessor extent to 2004. However the trend line has remained relatively constant at the 4+% level in 2002 and 2003. My considered opinion is that the general economic condition of the economy as a whole is likely to have a modulating influence on negotiated pay increases for 2004 and 2005 which are determined in advance of that time period.

As it happens however the case has been made as to overall compensation being the just way of making comparisons. In this circumstance it can not be denied that a substantial portion of police income is derived from the inclusion of longevity in fairly meaningful amounts as presented above. These parties have reached a determination to eliminate the separate longevity plan from the compensation package in past negotiations in favor of an additive to the maximum pay of \$2500 at 17 years of completed service. I do not see any reason to dismantle that type of compensation method. However it has become clear that there is need to acknowledge that income involves both base pay and extra in the form of longevity or timed additions such as the \$2500. It would be difficult to precisely establish what the relative pay plan at Pequannock should be in terms of comparison to others but it is easy to see that it is falling behind average total compensation by a substantial margin. As noted above the extra income of many longevity plans is delivered late in the careers of employees for some obvious reasons. In that respect I believe it to be rational for Pequannock to make some improvement in a like manner. The gap between Pequannock and the average of comparables as to total pay was described above in some detail. The impact of that difference on total pay received during active duty and in retirement was conservatively estimated to be over \$100,000. I conclude some improvement in the

compensation plan should be made. I will award the following; that the \$2500 addition to the maximum after 17 years service be raised to \$3500 which will produce a cost to the Township of \$7000 in the years required to reach 25 years of service; in addition there shall be a second increase at the conclusion of 24 years of service of \$1500 which will cost the Township \$1500 for the single year before reaching 25 years service. This expenditure of \$8500 will move the total compensation more nearly into line with the combination of base pay and longevity received at the average comparable community. More important it will have the effect that other longevity plans produce by substantially increasing the base for pension and probably producing a minimum addition of over \$53,000 in normal lifetime income as compared to the \$100,000+ shortfall noted above. Given the fiscal circumstance of the Township and its dedication to maintain a conservative financial plan this resolution is seen as both fair and expedient. It will not propel Pequannock earnings to the top of the comparable scale but will go a long way toward overcoming the negative differential which now exists and the cost to the Township will be modest as compared to other methods of achieving a similar result.

Having set this element into place it is somewhat less complicated to reach a determination of across the board increases. Based on comparative data and all evidence at my disposal I conclude the following to be fair and appropriate; an across the board increase of 4.25% retroactive to January 1, 2002; an across the board increase of 4.25% retroactive to January 1, 2003; an across the board increase of 4% effective on January 1, 2004 and an across the board increase of 3.75% effective on January 1, 2005. These increases are intended to keep pace with the general trend already discerned among the comparable group as to base pay advancement and to avoid the prospect of being out of the likely range of increases for the future years as well. When coupled with the increases in the extra compensation for service outlined above, which will partially offset the current gap caused by substantial longevity pay elsewhere, the overall Pequannock compensation plan should produce closer to average income during the term of the award period.

The demand of the Township to modify the language in the Health Benefits clause to include the primacy of Medicare/Medicaid when retired employees are eligible for that coverage makes sense. However should there be a younger spouse for whom the retired employee would otherwise be entitled to purchase continuing health benefits coverage under the current [most recent] Agreement that provision shall be continued except that when the spouse is eligible for Medicare the Township plan shall become secondary coverage.

The request to delete paragraph E of Article IX is approved.

The Township demand for the reduction of the uniform and maintenance allowance from \$900 to \$750 has not been supported. It was described as a one time adjustment but it was allowed to continue for years. The \$900 figure is now less than the average payment among the comparables and the costs associated with uniform purchase and maintenance have not declined since the \$900 figure was put in place in 1998. The inclusion of the conditions concerning the replacement of a bullet proof vest seem to fly in the face of the

obligation of the Township to provide as safe an environment as possible for employees subject to being shot at. These vests last many years and the costs have been offset by grants in many instances. It is my opinion that the Employer should bear the responsibility for this element of safety equipment. and the request to change the contract terms as to paragraph E. of Article 6. including the phrase, "...subject to budgetary restrictions.", is denied.

The PBA has demanded the extension of the sick leave allowance from 12 to 15 days. As noted above this is in keeping with the allowances provided by virtually all of the comparable group. In addition it is part of the fabric of public policy in that the State Legislature set 15 days for sick leave as appropriate many years ago. The argument of Township that it will cause extensive costs is highly problematical. Most employees never need to utilize the full amount of sick leave available. It is a form of insurance and rarely expended without reason. The Township appears to believe that there is sick leave abuse and it is apprehensive that enlargement of the allowance will foster more of same. In fact the Township is seeking to add the following, "Each officer may accumulate an unlimited number of unused sick leave to be used as sick leave". I see no reason not to provide the intended guidance to employees as to such limitation. I therefore grant the increase to 15 days and add the suggested language in order that employees be on notice that such leave is not intended for other purposes and may be denied unless there is an underlying sickness.

The PBA has also asked that there be a fold-in of holiday pay into base salary. There was little in the way of any economic analysis provided to evaluate the cost of this demand. The Township has noted its resistance in part because of what it sees as the cost impact as well as because of a total lack of supporting documentation from PBA. Given the tight economic circumstance of the Employer and the lack of persuasive evidence as to the need or justification of this change except for the information suggesting this to be a common provision in many jurisdictions and in an effort to try to find a reasonable balance of more significant contract elements I have determined to deny this request.

There are a number of non-economic demands to be resolved. The PBA has requested the current work schedule be incorporated in the Agreement. I have not seen it in written form and am not aware of any anticipated changes. However I recognize the hours of work to be a fundamentally important matter in the work place. Without a clear understanding of the needs for this assurance I am loathe to mandate that the current plan remain unchanged. Instead I will opt for the Employer to discuss any changes it may intend to make with the Association and except for emergency based need or temporary circumstance to implement same only after an agreement or lacking same not before 60 days notice.

As to the demand for modification of the Grievance definition I will award that portion of the change requested as affects the right to submit grievances concerning minor discipline to binding arbitration. This is consistent with the determination of the Legislature to allow such and the conviction I have that alternative dispute resolution is both more immediately available, faster and less costly for the parties. The argument of Township that it may

increase costs due to this availability have nothing to do with the ultimate objective of achieving justice. I agree that some cases may be brought to arbitration that would have been abandoned in the face of the substantially more complex route through the courts. This is not a high price to pay for employees having the understanding that their welfare doesn't come with a price tag.

As to the expansion of the definition as requested I find such would expose the parties to unlimited litigation much of which could involve non-mandatorily negotiable issues never even discussed by the parties. There has been no persuasive evidence that such a condition should be imposed on this Employer and it is rejected.

The PBA also seeks a preservation of rights article be included in the Agreement. This is another expansive document which has implications well beyond the boundary of the terms of Agreement reached by settlement or arbitration. To impose such conditions beyond the protections afforded under the contractual terms I find would become a way around the obligations to set terms of employment at the negotiations table. Lacking persuasive evidence to the contrary this demand is rejected.

The PBA has advanced a proposal to require the Township to give up its current right to appointment of an attorney for the defense of an employee involving criminal charges. The Township objects to this. It has good reason to be able to appoint counsel in such matters as it has developed ongoing relationships and understandings as to costs and the like with such attorneys. To provide the employee with an open ended ticket could lead to uncalled for expenses which should remain under the control of a public entity. I do not see any compelling reason for granting this demand and there has been no evidence offered to justify same. It is rejected.

The PBA has demanded the contractual clause concerning probation be removed from Article X. There was no proffer of any evidence that such has caused undue hardship or has been abused. While the term of probation may seem a bit extensive I don't have any information available to make a judgment as to what might be more ordinary. Lacking such I reject this demand.

The proposal that the contractual provision for early vacation checks being made available on request be discontinued makes sense as much of the payroll function is now automated. Thus employees can have direct deposit of payroll and access to those funds by cash withdrawals almost anywhere. To continue a duplicate means of providing such payments is not as simple a matter as once was the case. I therefore sustain this demand.

The Township demand as to meal reimbursement appears to essentially replicate the current language and adds nothing of substance. It is rejected.

## AWARD

1. The salary increases shall be:

January 1, 2002, 4.25%

January 1, 2003, 4.25%

January 1, 2004, 4%

January 1, 2005, 3.75%

2. There shall be established a salary guide for persons employed after the receipt of this award. It shall contain an additional step as set forth here.

The regular salary guide will be advanced by 4.25% for 2002 and the steps are as follows: Entry level, \$31366, 50% \$34851, 55% \$38335, 60% \$41820, 70% \$48790, 80% \$55760, 90% \$62730 and maximum \$69700.

The new employee guide for 2002 will be advanced by 4.25% but divided to accommodate an additional step at the 95% level between the above stated maximum and the 90% step immediately below it at \$66215.

Thereafter the salary guides shall be adjusted as prescribed above for each of the following three years.

3. The current provisions in Article VI, Salaries, Sections E and G shall, effective January 1, 2003, be modified so that officers who have completed 17 years of service will be entitled to a \$1000 increase in the \$2500 now provided to a total of \$3500 in maximum pay. Additionally, effective on January 1, 2003, upon completion of 24 years service there shall be provided a further increase of \$1500 to a total of \$5000 to maximum pay. [The effective date of 2003 is deliberate and intended to offset the amount of back pay required for implementation of this award].

4. The sick leave allowance shall be increased from 12 days to 15 days per year effective January 1, 2003. The provision noted above as advanced by the Township concerning use of sick leave shall be incorporated as well.

5. The demand of the Township as to the modification of the health benefits provision so that retired employees shall, when they become eligible for Medicare/Medicaid be enrolled in such program and maintain that enrollment and that the Medicare plan becomes the primary coverage and the Township plan secondary is awarded subject to the specific condition set forth above which has to do with the continued coverage of a spouse.

6. The demand that the work schedule be incorporated in the Agreement is denied except for the provision for discussion, emergency circumstance and notice of change set forth above.



7. The deletion of the provision for requesting early delivery of vacation checks in Article IV Section F. is awarded.

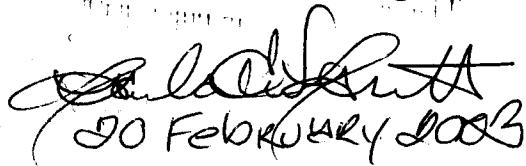
All other proposals not set forth in this award section shall be deemed denied except to the extent that specific terms as to changes are incorporated in the body of this Opinion and Award. The elements of this award are intended to provide a fair and just determination of the issues which were at impasse and to be consistent with applicable and carefully evaluated statutory considerations. I believe this award presents a careful balance of the interests of the parties and should prove a workable format for continued high level of productivity and service.



Frank A. Mason

Pennington, Mercer County, New Jersey

On this date before me personally came and appeared Frank A. Mason, to me known and known to be the individual described in and who executed the foregoing opinion and award and he acknowledged to me that he executed the same.



20 FEBRUARY 2003

PAULA CW PRUITT  
NOTARY PUBLIC OF NEW JERSEY  
My Commission Expires Dec. 10, 2005