

STATE OF NEW JERSEY
PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of Interest Arbitration Between:

TOWN OF BOONTON,
"TOWN"

- and -

Docket No. IA-2019-021

PBA LOCAL 212
"PBA or Union."

Before: Brian W. Kronick, Esq., Interest Arbitrator

Appearances:

For the Town:

Matthew J. Giacobbe, Esq. and Adam S. Abramson, Esq.
Cleary, Giacobbe, Alfieri, Jacobs LLC

For the PBA:

Stuart J. Alterman, Esq. and Timothy J. Prol, Esq.
Alterman & Associates LLC

PROCEDURAL HISTORY

Police Benevolent Association Local 212 (the “PBA”) and the Town of Boonton (the “Town”) are parties to a Collective Negotiations Agreement with an effective term of January 1, 2016 through December 31, 2018 (the “Agreement”).

The parties had engaged in extensive negotiations culminating in an MOA that the PBA believed was a binding agreement with the Town. That MOA, that was allegedly signed and ratified in March 2019 (“MOA 3”) is the subject of unfair practice proceedings before the New Jersey Public Employment Relations Commission (“PERC”). The PBA filed an Unfair Practice Charge with PERC on April 16 and May 29 and Request for Interim Relief with PERC on June 10, 2019 including a request to suspend these proceedings. PERC denied the request for Interim Relief and request to suspend these proceedings on July 1, 2019. The PBA has filed a motion for reconsideration with PERC, and the unfair practice proceedings are ongoing.

On May 8, 2019, the Town filed the instant Petition to Initiate Compulsory Interest Arbitration with PERC (the “Petition”) pursuant to the Police and Fire Interest Arbitration Reform Act, N.J.S.A. 34:13A-16 (the “Act”). On May 20, 2019, PERC randomly appointed me as arbitrator. On June 23, 2019 a mediation session was held as required by the Act. Since a settlement was not achieved through mediation, Interest Arbitration hearings were scheduled for July 16, 17 and 22, 2019.

The parties submitted Final Offers on July 9, 2019 and were allowed to amend their Final Offers up to the close of hearing on July 22, 2019. At hearing both parties were represented by competent and professional counsel and each had an opportunity to present evidence and offer testimony. The Township submitted four (4) binders containing over eighty (80) exhibits. The Township also offered testimony from Jon Rheinhardt, Town Financial Expert. The PBA submitted two (2) binders containing lettered (A-G) and numbered subparts as exhibits. The PBA also offered testimony from Patrolman Shane Denker, Detective Brian Walinski, Patrolman Christian Danzi, Patrolman Dean Mondino, Chief David Mayhood, PBA President Karl Mangino, Township Business Administrator Neil Henry, and Dr. Raphael Caprio, Ph.D., PBA Financial Expert. The testimony from all the witnesses was highly credible and the financial exhibits were detailed in outlining the Town’s finances and budget documents. The parties did not challenge the respective credentials of the Financial Experts, but each party does question and challenge the respective calculations and analysis of the other party’s expert. The parties were given until Monday August 5, 2019 to submit post-hearing briefs with reply briefs due August 12, 2019.

This proceeding is governed by the Police and Fire Interest Arbitration Reform Act as set forth in N.J.S.A.34:13A-16 through N.J.S.A.34:13A-16.9 as amended on June 24, 2014 by P.L. 2014, c.11 (the “Act”). The Act requires the use of conventional arbitration, however, the strict limits on the amount of base salary increases has sunset and this agreement is not subject to those limitations. Still, the Award must be in compliance with the Act, the appropriations and tax levy limitations in P.L. 1976, c. 68 (C. 40A:4-45, *et. seq.*) and Section 10 of P.L. 2007, c. 62 (C. 40A:4-45:45) and, most importantly, must be in the interest and welfare of the public. This Interest Arbitration Award is issued in accordance with the 16g interest arbitration criteria to the extent deemed relevant. See N.J.S.A. 34:13A-16.7(b) and N.J.S.A. 34:13A-16g.

Pursuant to P.L. 2014, c. 11, the arbitrator has 90 days from appointment, or by August 19, 2019, in which to render an award. This has resulted in a greatly compressed time period for issuance of the Award.

THE FINAL OFFERS

In accordance with the Act, each party submitted a Final Offer (the "Final Offer"). The PBA submitted MOA 3 as its Final Offer and offered PBA Arbitration MOA ("PBA 1A") as its Final Offer at arbitration. These Final Offers are set forth as follows:

TOWN FINAL OFFER

ARTICLE I SALARIES

A. Salary Increases as follows:

2019	2% (Retroactive to January 1, 2019)
2020	2%
2021	2%
2022	2%

1. Schedule A-4 for Officers hired on or after January 1, 2016, increase guide from 12 to 15 Steps and equalize all steps.

Academy	2019	2020	2021	2022
1	\$40,957.08	\$41,776.22	\$42,611.75	\$43,463.98
2	\$44,744.95	\$45,639.85	\$46,552.65	\$47,483.70
3	\$48,532.82	\$49,503.48	\$50,493.55	\$51,503.42
4	\$52,320.70	\$53,367.11	\$54,434.45	\$55,523.14
5	\$56,108.57	\$57,230.74	\$58,375.35	\$59,542.86
6	\$59,896.44	\$61,094.37	\$62,316.26	\$63,562.58
7	\$63,684.31	\$64,958.00	\$66,257.16	\$67,582.30
8	\$67,472.18	\$68,821.63	\$70,198.06	\$71,602.02
9	\$71,260.06	\$72,685.26	\$74,138.96	\$75,621.74
10	\$75,047.93	\$76,548.89	\$78,079.86	\$79,641.46
11	\$78,835.80	\$80,412.52	\$82,020.77	\$83,661.18
12	\$82,623.67	\$84,276.15	\$85,961.67	\$87,680.90
13	\$86,411.54	\$88,139.77	\$89,902.57	\$91,700.62
	\$90,199.42	\$92,003.40	\$93,843.47	\$95,720.34

14	\$93 ,987.29	\$95 ,867.03	\$97,784.37	\$99,740.06
15	\$97,775 .16	\$99,730.66	\$101,725.28	\$103,759.78

**ARTICLE XIII
MEDICAL
INSURANCE**

A. Section E - Add the following language:

All employees shall continue to contribute towards health benefits at the Tier IV/Year 4 rates as set forth in the health benefit contribution charts in the contract.

**ARTICLE XXVIII
DURATION**

A. The term of the Agreement shall be January 1, 2019 through December 31, 2022.

PBA LOCAL 212 FINAL OFFER MOA 3

Article I, Salaries

Percentage increases across the board 2019 – 0%; 2020 – 2.0%; 2021 – 2.0%.

In addition, all rank and file individuals at maximum step, only, in all pay schedules set forth from the expired Contract ending on December 31, 2018 shall receive a fairness adjustment as follows: 2019 – \$0; 2020 - \$6,000; 2021 - \$6,000.

The fairness adjustment as agreed upon shall be added to the existing maximum step numerical salary number and then the 2.0% cost of living increase shall be added.

In addition, the A-4 salary guide that is presently 12 steps appearing in the expired Contract ending on December 31, 2018, shall increase to that of 20 steps. All employees falling within the salary guide shall receive their step increase on their date of hire and not on their anniversary date of their academy step.

Article II, Longevity

Amend paragraph four of Article II to beginning of ten years through nineteen years to 2.0% of base pay and then beginning twenty years and thereafter 3.0% of base pay.

Article III, Vacation

Add new subsection 4 as requested by the Town, agreeing that all vacation will be prorated during the last year of employment.

Article IV, Holidays

Revise paragraph one to read 208 hours as opposed to the 104 existing in the expired Contract. Therefore, paragraph one is revised to state that each officer shall receive 208 paid

holiday hours per calendar year and receive compensation for holiday hours at double time for each hour. The remaining Article remains the same.

Article V, Overtime

Revise Section A, paragraph 4 to reflect 300 hours.

Revise Section E, paragraph 1 to reflect the maximum of 300 hours.

Add paragraph 2 which states that commencing January 1, 2019 compensatory time may be accumulated for the year in which worked and one following calendar year. If compensatory time is not used by the end of the following calendar year, the officer must sell this time back to the Town. Compensation time rate will be based upon the officer's current straight time rate (inclusive of holiday pay and longevity). Example, an officer works 60 hours or compensatory time in 2019 and uses 20 hours as time off, the officer has a balance of 40 hours that must be used or sold back by the end of 2020. Officers will notify the Town of Boonton in writing of the intent to sell compensatory time back no later than October 15 of each year. The payment will be non-pensionable and made by a separate check to the officer no later than December 15.

All compensatory time which has been banked prior to January 1, 2019 shall be grandfathered and will be permitted to carry for three years from the date of ratification of this Agreement before the time must be used or sold as stated above.

Article VII, Terminal Leave

Revise the second paragraph of the policy under this Article to state that: employees that are retired from service with the Town of Boonton after 25 years of pensionable service, and at least 15 years of service with the Town of Boonton shall be entitled to receive a retirement contract which will include any provisions for terminal leave.

Article IX, Uniform and Maintenance Allowance

Revise Section A to increase the amount to \$2,000.00 annually.

Article XI, College Credits

Include verbiage from the SOA Contract to be effective on January 1, 2020:

1. All employees securing an associate degree shall receive an annual stipend of \$500.00.
2. All employees securing a bachelor's degree shall receive an annual stipend of \$1,000.00.
3. Annual college stipend shall be made part of the base pay and paid together with regular salary and shall be included for the purposes of retirement contribution and overtime calculations but shall not be included in the base.
4. All employees attending college will receive a book reimbursement benefit, up to \$500.00 per year, for purposes leading to a degree or certificate in an accredited institution of learning.
5. Effective January 1, 2020 the Town will contribute a total of \$28,000.00 in any one year as tuition reimbursement. This pool of money will be used on a first come, first

served basis and will reset each calendar year and be subject to a lifetime cap of \$5,000.00. in order to qualify for reimbursement under this stated policy the officer must enrolled in a police science or criminal justice program as defined by the institution, which us deemed accredited by the New Jersey Department of Education and must achieve a grade of "B" or better or in a course where no letter grade is assigned, then a "passing grade". The Chief of Police shall have the discretion to approve and/or disapprove any program and/or course of study that is not a police science or criminal justice program based upon the police department's operational needs. The Chief of Police shall also have the discretion to approve or disapprove this benefit to be utilized for specialized courses offered by police academy's, professional associations in the field of criminal justice or institutions offering educational courses deemed beneficial to the employee and the employee's department.

6. All employees who serve honorably in the United States Military shall receive an annual stipend of \$500.00.

Article XIII, Medical Insurance

Revise Section B, effective January 1, 2019, the Town shall provide the medical coverage for retired officers and their dependents for the life of the officers, and in the event of the officer's death the dependents will be covered at the Town's expense, for the eligibility period of the dependent children (parent child) until the child reaches the maximum major coverage or a maximum of five years total from the officer's death whichever is less, until such coverage becomes available through marriage, employment, or other source...the remaining portion remains the same.

Revise Section E to reflect the employee will pay Tier IV while active and Tier I when retired, the maximum out of pocket contribution for a member under this contract covered shall be capped at 2019 contribution rate. This provision may not be negotiated in future Contracts.

Remove year 2 and year 3 from all percentage scales.

Article XIX, Death Benefits

Revise Section B to reflect, in the event of the death of any member covered under by this agreement the Town will continue to pay the member's salary for six months after the member has died. Salary payments will be made to the beneficiary or executor of the estate.

Article XXI, P.B.A. Convention

First paragraph revise Section A to reflect, two duly authorized convention delegates are allowed to attend the PBA convention and mini convention and to be compensated at a rate of full pay for the time spent at each convention.

Revise Section B to reflect, the State Delegate or in this absence the alternative State Delegate is to be allowed to attend monthly meetings of the PBA and to be compensated at full pay for attendance at said meetings.

Revise Section C to reflect funds in the amount of \$1,000.00 for reimbursement and expenses for the delegation of the PBA convention and \$500.00 for reimbursement of expenses for the delegation for the PBA mini convention.

Article XXII, Compensation for Private Contract

Revise first paragraph. Revise to reflect the rate will be time and one-half (1 ½) of the highest paid Sergeants top rate of pay (including holiday pay and longevity).

Add new verbiage: private contact shall be paid at a minimum of 4 hours. Should the detail extend longer than 4 hours, a minimum of 8 hours will apply. After 8 hours, officer will be compensated on an hour per hour basis. The 8-hour minimum provision shall not apply to non-profit and community groups. (Examples may include but are not limited to private citizen parties, Boonton Main Street, Boonton Fire Department, Town of Boonton, Boonton schools or any other organization approved by the Chief of Police). These agencies will be charging a 4-hour minimum then hour by hour.

Article XXIV, Shift Staffing

Revise Section C to reflect that the opinion of the officers covered in this Agreement, that to provide proper police protection for the community and to insure the safety of officers, 4 police officers per shift is required. However, it is not binding on the parties. Staffing shall be at the sole discretion of the Chief of Police as stated in paragraph A.

Officers covered under this Agreement shall be given 30 days' notice of schedule changes to the regularly scheduled shift. Officers may agree to any change in schedule inside of 30 days at the individual officer's discretion on a case by case basis.

Article XXV, Officer in Charge Compensation

Patrol officers in charge of a shift in the absence of the regularly assigned shift Supervisor, i.e. Sergeant, will be compensated hour for hour comp time. The presence of the Chief of Police or Police Captain or Police Lieutenant shall not operate to avoid the obligation to pay the senior police officers outlined above. This shall be pursuant to the 300-hour cap on compensatory time.

Article XXVI, Fully Bargained Provisions

First paragraph removes requested new verbiage as follows: all provisions of this Agreement will continue in effect until the successor Agreement is negotiated.

New Article A. Police Cameras – remove.

New Article B. Detective Bureau.

Officers assigned to detective bureau will receive additional compensation of \$4,000.00 each year. This shall be paid under separate check on July 1 of each year in the amount of \$2,000.00 and in a separate check on December 31 in the amount of \$2,000.00. This provision is non-pensionable and will not factor into the time and one-half rate.

New Article C. Traffic Officer – remove.

New Article D. School Resource Officer – remove.

New Article E. Extra Hours Worked from 12 Hour Shift – remove.

New Article F. Fire Emergencies.

All firemen with the rank C1, C2, or C3 covered under this Agreement who are employed shall have the duty as an employee to respond to any fire call or emergency call in which the fire department is involved as an employee of the Town. This provision is subject to minimum shift staffing and OIC (Officer in Charge) discretion.

Proposed PBA 2019-2021 Salary Guide

(2019-0%, 2020-2%, 2021-2%) + \$6,000 on Top Step 2020 & 2021

<u>HIRED BEFORE DECEMBER 31, 2010</u>				
<u>Police Officer</u>	<u>2018</u>	<u>2019</u>	<u>2020</u>	<u>2021</u>
Step 1	\$41,774.00	\$41,774.00	\$42,609.00	\$43,462.00
Step 2	\$50,791.00	\$50,791.00	\$51,807.00	\$52,843.00
Step 3	\$59,801.00	\$59,801.00	\$60,997.00	\$62,217.00
Step 4	\$68,816.00	\$68,816.00	\$70,192.00	\$71,596.00
Step 5	\$77,831.00	\$77,831.00	\$79,388.00	\$80,975.00
Step 6	\$86,844.00	\$86,844.00	\$88,581.00	\$90,352.00
Step 7	\$85,858.00	\$95,858.00	\$103,895.00	\$112,093.00

<u>HIRED ON OR AFTER JANUARY 1, 2011</u>				
<u>Police Officer</u>	<u>2018</u>	<u>2019</u>	<u>2020</u>	<u>2021</u>
Step 1	\$42,158.00	\$42,158.00	\$43,001.00	\$43,861.00
Step 2	\$48,535.00	\$48,535.00	\$49,506.00	\$50,496.00
Step 3	\$55,295.00	\$55,295.00	\$56,401.00	\$57,529.00
Step 4	\$62,056.00	\$62,056.00	\$63,297.00	\$64,563.00
Step 5	\$68,816.00	\$68,816.00	\$70,192.00	\$71,596.00
Step 6	\$75,577.00	\$75,577.00	\$77,089.00	\$78,630.00
Step 7	\$82,338.00	\$82,338.00	\$83,985.00	\$85,664.00
Step 8	\$89,098.00	\$89,098.00	\$90,880.00	\$92,698.00
Step 9	\$95,858.00	\$95,858.00	\$103,895.00	\$112,093.00

<u>HIRED ON OR AFTER JANUARY 1, 2013</u>				
<u>Police Officer</u>	<u>2018</u>	<u>2019</u>	<u>2020</u>	<u>2021</u>
Academy	\$40,955.00	\$40,955.00	\$41,774.00	\$42,610.00
Step 1	\$42,535.00	\$42,535.00	\$43,386.00	\$44,253.00
Step 2	\$48,535.00	\$48,535.00	\$49,506.00	\$50,496.00
Step 3	\$55,295.00	\$55,295.00	\$56,401.00	\$57,529.00
Step 4	\$62,056.00	\$62,056.00	\$63,297.00	\$64,563.00
Step 5	\$68,816.00	\$68,816.00	\$70,192.00	\$71,596.00
Step 6	\$75,577.00	\$75,577.00	\$77,089.00	\$78,630.00
Step 7	\$82,338.00	\$82,338.00	\$83,985.00	\$85,664.00

Step 8	\$89,098.00	\$89,098.00	\$90,880.00	\$92,698.00
Step 9	\$95,858.00	\$95,858.00	\$103,895.00	\$112,093.00
<u>HIRED ON OR AFTER JANUARY 1, 2016</u>				
Police Officer	2018	2019	2020	2021
Academy	\$40,955.00	\$40,955.00	\$41,774.00	\$42,610.00
Step 1	\$42,535.00	\$42,535.00	\$43,386.00	\$44,253.00
Step 2	\$48,535.00	\$48,535.00	\$49,506.00	\$50,496.00
Step 3	\$55,295.00	\$55,295.00	\$56,401.00	\$57,529.00
Step 4	\$62,056.00	\$62,056.00	\$63,297.00	\$64,563.00
Step 5	\$68,816.00	\$68,816.00	\$70,192.00	\$71,596.00
Step 6	\$75,577.00	\$75,577.00	\$77,089.00	\$78,630.00
Step 7	\$82,338.00	\$82,338.00	\$83,985.00	\$85,664.00
Step 8	\$89,098.00	\$89,098.00	\$90,880.00	\$92,698.00
Step 9	\$89,098.00	\$89,098.00	\$90,880.00	\$92,698.00
Step 10	\$89,098.00	\$89,098.00	\$90,880.00	\$92,698.00
Step 11	\$89,098.00	\$89,098.00	\$90,880.00	\$92,698.00
Step 12	\$89,098.00	\$89,098.00	\$90,880.00	\$92,698.00
Step 13	\$89,098.00	\$89,098.00	\$90,880.00	\$92,698.00
Step 14	\$89,098.00	\$89,098.00	\$90,880.00	\$92,698.00
Step 15	\$89,098.00	\$89,098.00	\$90,880.00	\$92,698.00
Step 16	\$89,098.00	\$89,098.00	\$90,880.00	\$92,698.00
Step 17	\$89,098.00	\$89,098.00	\$90,880.00	\$92,698.00
Step 18	\$89,098.00	\$89,098.00	\$90,880.00	\$92,698.00
Step 19	\$89,098.00	\$89,098.00	\$90,880.00	\$92,698.00
Step 20	\$95,858.00	\$95,858.00	\$103,895.00	\$112,093.00

PBA'S ARBITRATION FINAL OFFER ("PBA 1A")

Article I, Salaries

Salary Increases:

- 2.75% increase for 2019, 2.85% increase for 2020, 2.95% increase for 2021.
- Include one-time adjustment to top patrol step in all pay schedules of \$3000.00 in 2019, \$3000.00 in 2020 and \$3000 in 2021, adjustment to be added then % increase applied to total.
- Add additional steps to A-2, A-3, A-4 pay scale, see step guide.

Patrol Base								
2018	2.75%	2019	2.85%	2020	2.95%	2021	Step	
41774	1148.79	42923	1223.30	44146	1302.31	45448	1	TABLE A-1
50791	1396.75	52188	1487.35	53675	1583.42	55259	2	
59801	1644.53	61446	1751.20	63197	1864.30	65061	3	
68816	1892.44	70708	2015.19	72724	2145.35	74869	4	
77831	2140.35	79971	2279.18	82251	2426.39	84677	5	
86844	2388.21	89232	2543.12	91775	2707.37	94483	6	
98858	2718.60	101577	2894.93	107557	3172.93	113818	7	
42158	1159.35	43317	1234.54	44552	1314.28	45866	1	TABLE A-2 Jan-11
48535	1334.71	49870	1421.29	51291	1513.08	52804	2	
55295	1520.61	56816	1619.24	58435	1723.83	60159	3	
62056	1706.54	63763	1817.23	65580	1934.60	67514	4	
68816	1892.44	70708	2015.19	72724	2145.35	74869	5	
75577	2078.37	77655	2213.18	79869	2356.12	82225	6	
82339	2264.30	84602	2411.17	87013	2566.90	89580	7	
89098	2450.20	91548	2609.12	94157	2777.64	97659	8	
98858	2718.60	101577	2894.93	107557	3172.93	105739	9	
						113818	10	
40955	1126.26	42081	1199.32	43281	1276.78	44557	Acad	6 mo. TABLE A-3 Jan-13
42158	1159.35	43317	1234.54	44552	1314.28	45866	1	
48535	1334.71	49870	1421.29	51291	1513.08	52804	2	
55295	1520.61	56816	1619.24	58435	1723.83	60159	3	
62056	1706.54	63763	1817.23	65580	1934.60	67514	4	
68816	1892.44	70708	2015.19	72724	2145.35	74869	5	
75577	2078.37	77655	2213.18	79869	2356.12	82225	6	

82338	2264.30	84602	2411.17	87013	2566.90	89580	7	6 mo. TABLE A-4 Jan-16
89098	2450.20	91548	2609.12	94157	2777.64	97659	8	
98858	2718.60	101577	2894.93	107557	3172.93	105739	9	
						113818	10	
40154	1104.24	41258	1175.86	42434	1251.81	43643	Acad	
43804	1204.61	45009	1282.75	46291	1365.59	47611	1	
48537	1334.77	49872	1421.35	51293	1513.15	52755	2	
53270	1464.93	54735	1559.95	56295	1660.70	57899	3	
58002	1595.06	59597	1698.52	61296	1808.22	62041	4	
62715	1724.66	64440	1836.53	66276	1955.15	63042	5	
67469	1855.40	69324	1975.75	71300	2103.35	68165	6	
72202	1985.56	74188	2114.35	76302	2250.91	73332	7	
76934	2115.69	79050	2252.92	81303	2398.43	78477	8	
81667	2245.84	83913	2391.52	86304	2545.98	83620	9	
86400	2376.00	88776	2530.12	91306	2693.53	88764	10	
91133	2506.16	93639	2668.72	96308	2841.08	93908	11	
98858	2718.60	101577	2894.93	107557	3172.93	99053	12	
						113818	13	

Article II, Longevity

Change Paragraph 4: Replace \$1,000.00 with 2% of base pay. Replace \$2,000.00 with 3% of base pay.

Article V, Overtime

Revise Section A, Paragraph 4 to reflect four hundred eighty (480) hours.

Revise Section E, Paragraph 1 to reflect a maximum of four hundred eighty (480) hours.

Article XI, College Credits

Add new verbiage: stipend of \$500 associate degree, stipend of \$500 for honorable service in the United States Military, stipend of \$1000 for bachelor's degree.

Article XIII, Medical Insurance

Revise Section B, effective January 1, 2019, the Town shall provide the medical coverage for retired officers and their dependents for the life of the officers, and in the event of the officer's death the dependents will be covered at the Town's expense, for the eligibility period of the dependent children (parent child) until the child reaches the maximum major coverage or a maximum of five (5) years total from the officer's death whichever is less, until such coverage becomes available through marriage, employment, or another source. For officers who retire with twenty-five (25) years of pensionable service credit as defined by the Police and Fire Retirements System, or who become disabled, which disability causes separation, provided however, that such coverage shall only continue until such time as an office covered by this agreement secures employment by and employer who has provisions to provide medical insurance coverage.

Revise Section E, to reflect the employee will pay Tier 2 while active and Tier 1 when retired, the maximum out of pocket contribution for a member under this contract will be capped at the 2019 contribution rate.

Article XXI, P.B.A. Convention

Revise Section A to reflect, two (2) duly authorized convention delegates are allowed to attend the P.B.A convention and mini convention and to be compensated at a rate of full pay for the time spent at each convention.

Revise Section B to reflect, the State Delegate or in this absence the alternative State Delegate is to be allowed to attend monthly meetings of the P.B.A and to be compensated at full pay for attendance at said meetings.

Revise Section C to reflect, funds in the amount of \$1,000.00 for reimbursement of expenses for the delegation of the P.B.A Convention and \$500.00 for reimbursement of expenses for the delegation for the P.B.A mini convention.

Article XXII, Compensation for Private Contract

Revise to reflect the rate will be time and one-half (1 ½) of the highest paid Sergeants top rate of pay (including holiday pay and longevity).

Add new verbiage: Private contact shall be paid at a minimum of 4 hours, should the detail extend longer than 4 hours, a minimum of 8 hours will apply, after 8 hours officers will be compensated on an hour per hour basis. The 8 hour minimum provision shall not apply to non-profit and community groups, (examples may include but are not limited to private citizen parties, Boonton Main Street, Boonton Fire Department, Town of Boonton, Boonton schools, or any other organization approved by the Chief of Police) these agencies will be charged a 4-hour minimum then hour by hour.

Article XXIV, Shift Staffing

Revise Section C to reflect, it is the opinion of the Officers covered in this agreement, that to provide proper Police protection for the community and to insure the safety of Officers, four (4) Police Officers per shift is required. However, it is Not Binding on the Parties. Staffing shall be at the sole discretion of the Chief of Police as stated in paragraph A.

Officers covered under this Agreement shall be given 30 days' notice of schedule changes to their regularly scheduled shift. Officers may agree to any change in schedule inside of 30 days at the individual officer's discretion on a case by case basis.

Article XXV, Officer in Charge Compensation

Patrol Officers in charge of a shift in the absence of the regularly assigned shift supervisor, i.e. Sergeant, will be compensated hour for hour comp time. The presence of the Chief of Police or Police Captain or Police Lieutenant shall not operate to avoid the obligation to pay the senior police officers outlined above.

New Article - Detective Bureau.

Officers assigned to Detective Bureau will receive additional compensation of \$4,000.00 each year. This shall be paid in a separate check on July 1st in the amount of \$2,000.00 and in a separate check on December 31st \$2,000.00. This provision is non-pensionable and will not factor into the time and one-half rate.

Officers assigned to the Detective Bureau will receive four (40 hours of comp time for each day they serve in a "on call" capacity to compensate for restricted movement.

New Article - Fire Emergencies.

All firemen with the rank C1 C2 C3 covered under this contract who are employees shall have the duty as an employee to respond to any fire call or emergency call in which the Fire Department is involved as an employee of the Town. This provision is subject to minimum shift staffing and OIC (Officer in Charge) discretion.

Article XXVIII, Duration

1. January 1, 2019 through December 31, 2021.

BACKGROUND

The parties to this proceeding are the Town of Boonton and Police Benevolent Association Local 212.

A. Town Background and Demographics

Boonton is a Town in Morris County, New Jersey, and is governed under the Town form of government operated by a Mayor and an eight (8) member Board of Alderman. The Town borders Morris County municipalities Lincoln Park, Boonton Township, Parsippany-Troy-Hills, Mountain Lakes, and Montville.

As of the 2010 United States Census, there were 8,347 people, 3,235 households, and 2,112,455 families residing in the town. The population density was 3,574.6 per square mile (1,380.2/km²). There were 3,398 housing units at an average density of 1,455.2 per square mile (561.9/km²). The racial makeup of the town was 78.81% (6,578) White, 4.82% (402) Black or African American, 0.31% (26), Native American, 10.05% (839) Asian, 0.01% (1) Pacific Islander, 2.79% (233) from other races, and 3.21% (268) from two or more races. Hispanic or Latino of any race were 11.02% (920) of the population.

There were 3,235 households out of which 29.0% had children under the age of 18 living with them, 48.6% were married couples living together, 11.8% had a female householder with no husband present, and 34.7% were non-families. 26.2% of all households were made up of individuals, and 8.7% had someone living alone who was 65 years of age or older. The average household size was 2.54 and the average family size was 3.10.

In the town, the population was spread out with 21.2% under the age of 18, 7.1% from 18 to 24, 30.6% from 25 to 44, 27.9% from 45 to 64, and 13.2% who were 65 years of age or older. The median age was 39.4 years. For every 100 females there were 101.5 males. For every 100 females ages 18 and older there were 100.6 males.

The Census Bureau's 2006–2010 American Community Survey showed that (in 2010 inflation-adjusted dollars) median household income was \$79,097 (with a margin of error of +/- \$9,165) and the median family income was \$89,965 (+/- \$14,678). Males had a median income of \$53,495 (+/- \$4,466) versus \$47,463 (+/- \$7,099) for females. The per capita income for the Town was \$33,366 (+/- \$4,035). About 5.6% of families and 10.7% of the population were below the poverty line, including 17.8% of those under age 18 and 4.7% of those age 65 or over.

According to the Census Bureau's 2013-2017 American Community Survey, the Town consisted of three thousand one hundred and thirty-four (3,134) households, of which two thousand eighty-eight (2,088) were families. The Survey additionally showed that in 2017 inflation-adjusted dollars' median household income was \$91,055 and the median family income was \$105,156. The per capita income for the Town was \$41,585.

B. Town Financial Picture

The Town's 2019 total municipal budget was \$13,883,921 up from the 2018 budget of \$13,381,194. The 2019 Appropriations within CAPS was \$10,148,539, excluded from CAPS was \$1,940,390 with a reserve for uncollected taxes of \$1,794,992. The Town budgeted \$9,301,695 in revenue through taxation and \$4,582,226 (i.e., surplus, misc. revenue, delinquent taxes). State aid has been level at \$913,500 from 2015 to 2019. Anticipated surplus in 2019 is \$2,538,000 up from \$2,330,000 in 2018. The Fund Balance was reported as \$2,729,441 in 2016, \$2,815,949 in 2017 and \$3,267,909 in 2018. In 2019, the tax levy cap is calculated to be \$175,334, \$178,955 in 2020 and \$189,715 in 2021.

The Police Department Budget in 2018 was \$3,520,139 (including the Chief and the Superior Officers Association) with \$2,292,770 in base pay, \$150,000 in overtime and other compensation, \$626,843 in pension, \$398,858 in health care contributions and \$51,668 in employment taxes and other benefits. The Police Department Budget in 2019 is \$3,832,764 (including the Chief and the Superior Officers Association) with \$2,555,600 in Base Pay, \$140,000 on overtime and other compensation, \$698,956 in pension, \$401,961 in health care contributions and \$36,246 in employment taxes and other benefits.

C. Boonton Police Department

The Town of Boonton Police Department is currently comprised of twenty-three (23) Officers which include a Police Chief, Captain, Lieutenant, Detective Sergeant, two (2) Detectives, four (4) Sergeants and thirteen (13) Patrol Officers. In addition, there are four (4) dispatchers. The Detective Sergeant and Detectives make up the Detective Bureau while the four (4) Sergeants and thirteen (13) Patrol Officers make up the Patrol Division. The Patrol division is broken up into four (4) squads, each headed by one of the Sergeants.

Under Chief Mayhood's direction, the Town of Boonton Police Department is a "concierge" police force. The Police Department attempts to provide "proactive" policing rather than "reactive" policing and is devoted to community policing with Officers participating in numerous community policing events. The Town of Boonton's Police Department is an accredited Police force. This accreditation requires the Police Department to continually implement the best practices throughout the Department and adhere to stringent standards of professionalism and practice. This is an important status for a Police Department and is part and parcel of the superlative policing services offered by the Town of Boonton Police Department to the taxpayers of the Town of Boonton. The Boonton Police Department "Functions Chart" outlines the myriad functions of the Department. The services provided by the Patrol Division include responding to medical call, motor vehicle crashes, theft calls, missing persons, domestic calls, welfare checks, suspicious incidents, and others. In addition, the Patrol Division engages in speed limit enforcement, property checks, and general ward patrol.

The Dispatchers form the Communications and Dispatch Center and the Administrative department oversees Human Resources, Training & Certification, Parking

Enforcement & Towing, Records, Information Management & Compliance, Information Technology, Road Infrastructure, and Budget & Grant Management. In addition to the regularly trained Police Force, and as part of the contingent of Officers in the Town of Boonton, Officers have other training and qualifications including five (5) EMTs, two (2) CPR instructors, Academy instructors, three (3) Drug Recognition Experts, certified bike Officers, two (2) FBI/Homeland Security liaisons, two (2) D.A.R.E. Officers, two (2) seatbelt instructors for community policing, and others. The Department also has two (2) instructors certified and trained in the handling of Active Shooter situations.

Boonton Police had 18,285 calls for service in 2018 up from 16,230. Most reported incidents involve motor vehicle accidents and property checks. From 2017 to 2018, according to the New Jersey State Police Uniform Crime Reporting Unit (UCRU), the Town of Boonton had a 150% increase in the number of violent crimes. The overall crime index for the Town of Boonton increased 8.2% in this period, and the overall total of crimes measured by the UCRU increased from eighty-eight (88) in 2017 to ninety-seven (97) in 2018. This translates to a 10.2% increase in the number of crimes from 2017 to 2018.

Moreover, the number of arrests-per-officer by the Town of Boonton Police Department is higher than those of neighboring municipalities. The Boonton Police have 10.087 arrests per officer, while Lincoln Park, the next nearest jurisdiction, has just 7.5. Parsippany, Montville, and Mountain Lakes, comparable jurisdictions in terms of geographic location, but some having substantially higher populations than Boonton, average roughly five (5) arrests per officer.

The PBA and Town have an expired contract that had a duration from January 1, 2016 through December 31, 2018. The prior contract was from January 1, 2013 through December 31, 2015. The PBA is comprised of fifteen (15) members; six (6) at top step, three (3) near top step of the respective guides, and six (6) in early steps on the A-4 guide. The Town is also party to an agreement with the Superior Officers Association with a term of January 1, 2016 through December 31, 2018 and from January 1, 2013 through December 31, 2015. The history of negotiations in the Town is to settle the PBA contract then the SOA.

POSITION OF THE PARTIES

The PBA's Position

The PBA submits that the Town has exhibited bad faith in its dealings throughout this process. The PBA argues this is relevant because that bad faith is ongoing in the Town's refusal to agree to a fair and just contract which would allow for the continued high level of protection, engagement, and community service provided by the Boonton Police and currently enjoyed by the taxpayers and sought after by the Mayor and Board of Aldermen. The Town, according to the PBA, has proffered unsupportable claims regarding the ability and appropriateness of awarding the PBA a fair and equitable contract which takes into account the needs of the taxpayers of the Town. The PBA argues that the examination of all of the relevant factors of N.J.S.A. 34:13A-16(g) establishes that at a minimum, the PBA 1A, if not MOA 3, should be awarded as the contract in this matter.

The PBA maintains that percentage increases greater than 2%, and substantial reduction in the amount of Chapter 78 healthcare contributions, for active duty Officers and for retired Officers, are necessary to provide fair compensation to the Town's Police Officers, in light of the level of services they provide, the comparably low compensation they receive, and the devastating attrition which will ensue at all levels in the event the Town's proposal is awarded.

The Town's Final Offer suggests a fifteen (15) step salary guide, 2% across the board raises, along with Tier 4 Chapter 78 medical contributions for a duration of 2019 through 2022. The PBA argues this paltry, bare-bones proposal not only disregards the provisions of the bargained-for and agreed-to provisions of MOA 3, but it misrepresents and over-exaggerates what the Town's proposal would actually cost the taxpayers of the Town to fund.

The PBA submits that the services provided by the Officers of the Boonton Police Department comprise an essential benefit to the taxpayers of the Town. In addition, comparisons among the salaries and compensation show the Town Police Officers, are compensated at the lowest levels in Morris County while having a substantial and increasing workload compared to nearby Police Departments and public employees within the Town. The PBA argues that the Town has an undisputable ability and responsibility to appropriate funds for, at a minimum, the PBA 1A proposal, if not MOA 3.

Finally, the PBA submits that deleterious and disastrous fallout will occur in the event PBA is not awarded a fair, equitable, and appropriate contract, commensurate with the quality of the policing services, community engagement, dedication, and high level of competence of the Officers of the Town of Boonton Police.

The Town's Position

The Town's argues its Final Offer is fair, reasonable, well-balanced and provides an intelligent approach for future financial stability. The Town submits it has shown that its proposals will keep the Town of Boonton police officers' salaries competitive with or better than the County averages of other officers while providing far superior fringe and salary benefits. The Town notes that Boonton Police Officers have their holiday pay rolled into their base pay each year, which increases the officers' pensionable salaries by ten percent (10.0%). Additionally, Boonton Police Officers are afforded very competitive and generous fringe benefits including but not limited to, terminal leave, longevity, uniform allowance, and retiree medical insurance. Moreover, the Town's Final Offer ensures the continued practice of pattern with the other bargaining groups and non-bargaining employees.

The Town submits its evidence presented in this matter demonstrates that each element of the statutory criteria supports the Town's Final Offer as reasonable, and, as such, the Town's Final Offer should be awarded. The Town argues that the PBA did not present any substantive reliable evidence at the hearing. Moreover, the Town notes that the Financial Expert for the PBA admitted that the first Final Offer of the PBA, also referred to as MOA 3, should be revised for interest arbitration. He also testified that he never costed out the PBA's MOA 3 or Arbitration Final Offer (PBA 1A) to determine its effect on the Town, its budget and taxpayers.

The Town argues that the taxpayers are financially stressed and more concerned with the Town's spending and delivering public services at a reasonable cost. It submits that its offer represents a fair balance between reasonable salary increases in the face of an upcoming recession, the ever-increasing cost of health benefits, stagnation in State aid, and ensures the financial stability of the Town without overwhelming already strapped taxpayers.

DISCUSSION AND ANALYSIS

A. The Arbitrator's Authority

Public employers and public safety unions are statutorily mandated to resolve their labor disputes pursuant to the Police and Fire Interest Arbitration Reform Act, N.J.S.A. 34:13A-16 (the “Act”). By enacting the Act, the Legislature recognized the unique and essential duties police officers and firefighters perform and the life-threatening dangers they face. The purpose of the interest arbitration procedure is to promote and protect the well-being of New Jersey citizens, the efficient operation of police and fire departments as well as the high morale of employees that perform this important work.

B. Statutory Criteria

In rendering an award, the Arbitrator must consider the following nine (9) factors:

1. The interest and welfare of the public;
2. Comparison of wages, salaries, hours and conditions of employment of the employees involved in the arbitration proceedings with 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;
 - b. In public employment in general;
 - 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)
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. The stipulation of the parties;
5. The lawful authority of the employer;
6. The financial impact on the governing unit, its residents and taxpayers;
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 negotiations and collective bargaining between the parties in the public service and in private employment;

9. Statutory restrictions imposed on the employer. Among the items the arbitrator or panel of arbitrators shall assess when considering this factor are the limitations imposed upon the employer by section 10 of P.L. 2007, c.62 (C. 40A:4-45.45).

The Arbitrator must render an award based on the evidence on the record considering the statutory criteria set forth above. The opinion and award must clearly address the criteria. It must include a discussion of the evidence as it relates to the statutory criteria, the weight accorded to each criterion and the reason for the decision. The opinion and award must also explain whether any of the criteria were deemed to be irrelevant and why.

This Award will be issued under concept of "conventional authority" pursuant to N.J.S.A. 34:13A-16d; and, N.J.A.C. 19:16-5.7(e). Under conventional authority, an arbitrator's award is not limited by either party's final offer. Rather, the arbitrator has the power to select from either party's last offer or, alternatively, the arbitrator may use his or her judgment and grant an award that he or she feels is more reasonable than any offers made by the parties. See, e.g., Hudson County Prosecutor and PBA Local 232, Docket No. IA-96-178 (July 28, 1997) (Arbitrator did not err by establishing third year salary for Town prosecutor investigators which was lower than the employer's offer).

N.J.S.A. 34:13A-16g(8) requires consideration of those factors ordinarily or traditionally considered in the determination of wages, benefits, and employment conditions. One such consideration is that the party proposing a change in an employment condition bears the burden of justifying the proposed change. The burden must be met by sufficient evidentiary support. No proposed issue can be deemed presumptively valid in the absence of justification that is supported by credible evidence. Indeed, labor stability is partly conditioned upon the parties consistency in the application and implementation of terms and conditions of employment as set forth in the parties' agreement. For this reason, changes in terms and condition of employment should not be awarded lightly. Moreover, any decision to award or deny any individual issue in dispute, especially those having economic impact, will include consideration as to the reasonableness of that individual issue in relation to the terms of the entire award. A decision on an individual issue will include consider the reasonableness of awarding that issue in relation to the overall terms of the award. Indeed, while there may be merit to awarding or denying a single issue if it were to stand alone; a different conclusion is reached when considered within the context of the entire award. I am also required by statute to determine the total net annual economic cost of the terms required by the award.

The parties have submitted extensive documentation and comprehensive position statements addressing the statutory criteria which I have reviewed and considered under the 16g criteria. The issues in dispute are both economic and non-economic. Each issue in dispute will be addressed below and will include an analysis of the issue and an award resolving that issue.

The 16g Criteria

The Interest and Welfare of the Public, N.J.S.A. 34:13A-16g(1)

The Interest and Welfare of the Public criteria is the most significant of all statutory factors to be considered and an Arbitrator must give due weight to the interest and welfare of the public when issuing an award. It is a criterion that includes the financial impact of the awarded increases and the desirability of maintaining employee morale for the Town's police officers. Indeed, the criteria recognizes the interest of the public in knowing that its police department is staffed by competent, dedicated personnel possessing good working morale, and the interest of the public in avoiding higher taxes and/or diminished services.

As Arbitrator Mastriani recognized in Point Pleasant and PBA Local 106, IA-2012-001 (September 19, 2011): "The interest and welfare of the public is entitled to the most weight because it is a criterion that embraces many other factors and recognizes their interrelationships, including the financial impact of an award on the governing body and taxpayers." See also Town of Seaside Park and PBA Local 182, IA-2012-022 (April 9, 2012) ("The interest and welfare of the public is not only a factor to be considered, it is the factor to which the most weight must be given."). "Arbitrators have reviewed the public interest as encompassing the need for both fiscal responsibility and the compensation package required to maintain an effective public safety department with high morale." See Sayreville and PBA Local 98, IA 2006-047 (November 5, 2008).

The New Jersey Supreme Court emphasized that "the public is a silent party" to the interest arbitration process, and that "an award runs the risk of being found deficient if it does not expressly consider" the public interest. Hillsdale, 137 N.J. at 82-83. "Indeed, the Arbitration Act expressly requires the arbitrator to consider the public interest and public welfare." Id. "An award that ignores the interests and welfare of the public or subordinates these interests to other considerations would tend to undermine the intent and purpose of the Act itself." Township of West Windsor, Docket No. IA-2019-014, June 20, 2019. In the Appellate Division's decision in the Hillsdale matter, the Court found that the public interest factor "focuses in part on the priority to be given to the wages and monetary benefits of public employees within a municipality's budget and plans." Hillsdale, 263 N.J. Super. at 188. "It is not enough to simply assert that the public entity involved should merely raise taxes to cover the costs of a public interest arbitration award. That would also conflict with other enumerated factors and render them hollow." Id. Arbitrators historically understood this criterion as requiring that public safety employees be well compensated. However, the Appellate Division directed that this criterion be interpreted differently, holding that it "focuses in part on the priority to be given to wages and monetary benefits of public employees within a public employer's budget and plans." Hillsdale, 263 N.J. Super. At 188. In other words, an interest arbitrator is required to balance the expense borne by the taxpaying public with the need to ensure that the necessary services are provided.

The Town maintains that notwithstanding the low per capita income, the taxpayers of the Town have been forced to pay a continual increase in taxes since 2003. The Town's Final Offer, they argue,

balances the expense borne by the taxpaying public with the need to ensure that the necessary services are provided. In the present matter, the Town submits its Final Offer is clearly more supportive of the public's interest and welfare than the PBA proposal. The Town's Final Offer they argue will accomplish several important public policy goals while still affording the PBA a respectable wage increase. First, it will enable the Town to maintain its fiscal stability. Additionally, the offer will ensure that the Town's police officers, who are statutorily entitled to the interest arbitration process, do not receive far superior wages and benefits than civilian employees, who do not enjoy such benefits. Most importantly, it argues the Town's Final Offer ensures the continuation of the Town's internal patterns.

At the Arbitration hearing, numerous PBA members testified that they may seek other employment if the Town's Final Offer, providing two percent (2.0%) increases, is accepted. However, the Town submits that of the ten (10) police officers hired since 2006, only one (1) officer has transferred/resigned from the Town. Further, the Town submits that the prior contracts between the Town and the PBA were beyond the two percent (2.0%) hard cap that was in place at that time and were expressly agreed to and negotiated by the PBA.

Lastly, the PBA compared the Town of Boonton to municipalities such as Lincoln Park, Dover, and Mountain Lakes, among others. However, the Town submits that the PBA failed to acknowledge that it is comparing the Town of Boonton to municipalities that have much larger police forces or extremely high taxes. For example, the Town suggests that Dover has the highest equalized municipal tax rate in all of Morris County and Lincoln Park has the second highest equalized municipal tax rate.

The PBA maintains that the interests and welfare of the public mandates a balancing test between the raw cost of providing services and the benefits to residents which those services afford. In establishing this balancing test, the Legislature placed the safety and well-being of the taxpayers at an equal level with the costs to procure those services. In other words, the financial burden on the taxpayer to provide policing services does not outweigh the importance of providing those services. Therefore, according to the PBA, in the event histrionic financial austerity would impact the quality and level of services provided to the taxpayers, and in fact would result in a drastic decline in the quality and level of services provided to those taxpayers, the costs must, per the declared Legislative policy of the State of New Jersey under N.J.S.A. 40A:4-45.1, increase to provide those necessary services to the taxpayers.

If less than the PBA 1A proposal is awarded, the PBA submits there is a substantial risk that the ranks of the Town's Police Department will be decimated. The Town runs the significant risk of becoming a "Training Ground" says the PBA whereby Officers only take jobs with the Department for a short period of time, become trained, and then leave for greener pastures and higher salaries elsewhere. Therefore, the PBA argues not only would the quality of Officer able to be recruited decline thereby decreasing the level of safety in the Town, but the taxpayers of the Town would bear the financial burden of continually training Officers, only to have those experienced well-trained Officers leave for other position.

Comparability 16g (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 C.34:13A-16.; provided, however, that each party shall have the right to submit additional evidence concerning the comparability of jurisdictions for the arbitrator's consideration.

Internal Comparisons

Internal comparability can be broken down into two general categories consisting of uniformed and non-uniformed employees within the same jurisdiction. An internal pattern of settlement in the same jurisdiction involving both uniform and non-uniform employees is a significant factor in the determination of an award because it usually corresponds to a public employer's budgetary capabilities and connotes uniform treatment.

In the Matter of Interest Arbitration between the County of Union and FOP Lodge 103, IA-2010-118, Arbitrator Hundley noted that PERC issued a directive that arbitrators must consider evidence of settlements between the employer and other negotiations units, as well as claims that those settlements constitute a pattern. See Union Cty., P.E.R.C. No. 2003-33, 28 NJPER 459, (¶33169 2002) and Union Cty., P.E.R.C. No. 2003-87, 29 NJPER 250 (¶75 2003). Further, arbitrators must fully articulate the rationale for any decisions to deviate from an internal settlement pattern. Union Cty., P.E.R.C. No. 2003-33; Union Cty., P.E.R.C. No. 2003-87. The principle underlying these decisions is that maintaining an established pattern of settlement promotes harmonious labor relations, provides uniformity of benefits, maintains high morale, and fosters consistency in negotiations. Id.

The Town asserts it has established a pattern of settlements in its negotiations with other Town unions as well as non-union employees, which should be maintained in the instant matter. The Town is party to a collective negotiations agreement with the Town of Boonton Association of Street and Water Employees, the Town Board of Health and Morris Council No 6 N.J.S.C.A. I.F.P.T.E. ("Council 6") that represents white collar employees, and the Superior Officer's Association that represents the sergeants, lieutenants and Captain.

The Town submits that the salary increases for other union agreements has been consistent with that offered to the PBA in this Interest Arbitration. Specifically, the Association of Street and Water Employees, the Superior Officers Association and Council No. 6 were all afforded increases of 2.0% in the first 2 years and 2.25% in the third year of the most recent agreement. The Town submits that there has been an internal pattern of settlement of the bargaining units all being afforded the same percentage increases.

The Town suggests it also has an established a pattern of settlements in its negotiations with other Town unions as well as non-union employees regarding the fringe benefits provided. Specifically, most bargaining unit employees and the non-union employees receive the same or comparable benefits. For example, Street and Water members, Council No. 6 members and PBA members are all afforded the same longevity. Further, the vacation leave, sick leave, and terminal leave provisions are all nearly identical to that provided to the PBA. The Towns suggest the PBA members are also provided benefits in excess of those afforded to other Town employees, both union and non-union. Specifically, the PBA is afforded much more lucrative holiday pay. Where other Town employees, except for SOA members, receive a set number of paid holidays, PBA members receive one hundred and four (104) hours of holiday pay at double time. Similarly, PBA members are eligible to receive weekly overtime far exceeding that of members of any other Town bargaining unit, including Street and Water employees.

Lastly, all Town employees, both union and non-union, contribute to their health benefits in accordance with the Tier IV rates. Additionally, the Town argues that non-union employees and more recently the Street and Water unit and Council No. 6 unit all agreed to the following language with regard to health benefit contributions: "Employees shall contribute to his/her health benefits in accordance with the Tier IV rates set forth in Chapter 78, P.L. 2011." Therefore, the Town submits the PBA is being treated equally with the internal pattern of settlement in order to continue and promote harmonious labor relations, and uniformity of benefits for all Town employees.

The PBA submit that the police start at a lower starting salary than the Boonton Department of Public Works. Comparing the Boonton Police salaries with the Boonton DPW salaries, a Police Patrolman's starting base salary is \$40,154. With 10% holiday pay(DPW does not work holidays), the base Patrolman's salary is \$44,169.40. By way of comparison, the a DPW worker assigned to the Street division starts at \$52,561, a DPW Water employee starts at \$64,376, and a DPW Mechanic starts at \$66,664.20. A Police Officer in the Town of Boonton will not equal the salary of a DPW employee in the Town of Boonton until the Patrolman has worked for twelve (12) years.

External Comparisons

External comparability consists of comparisons between the group subject to the petition and other public safety employees in similar jurisdictions, other public employees, generally, and private sector comparisons. In weighing salary statistics introduced by a party, I observe that PERC has promulgated guidelines that may be broken down into the following five general categories:

1. Geographic comparability, contiguous jurisdiction or nearby, size of jurisdiction, and nature of employing entity;

2. Socioeconomic considerations, basically a comparison of the type of statistics found in the New Jersey Municipal Data Book and the UCR, such as population density, cost of living, crime rate, violent crime rate, fire incident and crime rate, etc.;
3. Financial considerations, such as the tax collection rate, state aid, budget surplus, surplus history, ratios of tax revenue to total revenue, etc.;
4. Compensation/benefits provided to employees of the comparison group; and
5. Any other comparability considerations deemed relevant by the arbitrator.

Salary comparisons

Since 2011, comparability of percentage increases for interest arbitration has been considered but has been less relevant due to the 2% salary cap. Now that the 2% cap has sunset, comparability will once again be a significant criterion to address.

According to the 2018 Biennial Report on the Police and Fire Interest Arbitration Reform Act issued by PERC, the number of interest arbitration petitions decreased since the implementation of the 2% hard cap. After enactment of the law, there were twenty (20) petitions in 2015, nine (9) in 2016, and twenty-nine (29) in 2017. The number of interest arbitration awards issued over the last two years remained low (8 in 2016; 4 in 2017; 2 in 2018). For the years 2008 through 2017, the average annual salary increases in interest arbitration awards were: 2008-3.73%; 2009-3.75%; 2010-2.88%; 2011-2.05%; 2012-1.98%; 2013-1.89%; 2014-1.69%; 2015-1.71%; 2016-1.94%; 2017-2.05%.

The Town submitted comparisons from the following Morris County collective negotiations agreements as external comparables for consideration: Township of Boonton, Chatham Borough, Chatham Township, Denville, Dover, East Hanover, Florham Park, Hanover, Harding, Jefferson Township, Kinnelon, Lincoln Park, Long Hill Township, Madison, Mendham Borough, Mendham Township, Mine Hill, Montville, Morris Plains, Morris Township, Morristown, Mount Arlington, Mount Olive, Mountain Lakes, Netcong, Parsippany, Pequannock, Randolph, Riverdale, Rockaway Borough, Roxbury, Victory Gardens, Wharton.

The PBA submitted comparisons from the following collective negotiations agreements as external comparables for consideration: Township of Boonton, Butler Borough, Chatham Borough, Chatham Township, Chester Borough, Chester Township, Denville, Dover, East Hanover, Florham Park, Hanover, Harding, Jefferson Township, Kinnelon, Lincoln Park, Long Hill Township, Madison, Mendham Borough, Mendham Township, Montville, Morris Plains, Morris Township, Morristown, Mount Arlington, Mount Olive, Mountain Lakes, Netcong, Parsippany, Pequannock, Randolph, Riverdale, Rockaway Borough, Rockaway Township, Roxbury, Victory Gardens, Washington Township, Wharton. The PBA also submitted the collective negotiations agreements between the County of Morris and Morris County Corrections, Morris County Sheriff Officers, Morris County Prosecutors PBA and Morris County Park

Police. The PBA submits that throughout the process of negotiations of MOA 3, the Town and PBA jointly compiled, and mutually relied upon, a Global Comparison Spreadsheet that included many of the municipalities listed above. This document compares all the salaries, hours, and compensation of all Police Departments in Morris County. The PBA submits that it clearly establishes that the Boonton Police are compensated among the lowest levels for starting salary and are at the bottom when it comes to top salary. The Township Business Administrator testified that in his analysis Boonton was "in the lower quadrant".

Private Sector Wage Data

Although an arbitrator must consider the general level of wage increases in the private sector, an arbitrator is not required to accord such statistics any weight. Indeed, unless a party presents credible evidence comparing a private sector classification to a public sector classification, the private sector comparison will be considered but not given much weight. I do not afford much weight to the private sector comparison but note the parties arguments.

On July 11, 2018, PERC published its most recent report of private sector wage changes based on data compiled by the New Jersey Department of Labor and Workforce Development. For the fiscal year period July 1, 2016 through June 30, 2017, according to PERC's reporting, private sector wages increased 2.1%; government wages increased 1.9%; and total average annual wages increased 2.1%.

The Town suggests its offer is consistent with New Jersey private and public salary increases in the past three years. Specifically, in 2015-2016, private sector wages increased on average point seven percent (0.7%) and total governmental wages increased on average point six percent (0.6%). The local government annual wages increased one-point two percent (1.2%) in 2015-2016, but the Morris County average annual wages decreased on average point three percent (-0.3%). In 2016-2017, private sector wages increased on average two-point one percent (2.1%) and total governmental wages increased on average one-point nine percent (1.9%). Most recently, from 2017 to 2018, private sector wages increased on average two-point five percent (2.5%) and total governmental wages increased on average two-point nine percent (2.9%). The local government annual wages increased one-point eight percent (1.8%) in 2017-2018, but the Morris County average annual wages increased on average a mere point seven percent (0.7%).

Here, the PBA notes that there are several analyses of salaries, wages, hours, and conditions of employment were undertaken in this matter. The PBA submits that looking at the most recent private wage data for 2018, certain areas of the private sector rose by significant percentages, such as construction (3.5%), Information Technology (3.3%), Finance/Insurance (4.0%), Management of Companies/Enterprises (4.5%), Administrative/Waste Services (5.3%) and other services such as repair, and maintenance (3.2%). In addition, the overall average increase when comparing sectors of the economy which grew and sectors which contracted was 2.1%. None of the professions evaluated, and none of the jobs or professions whose salaries increased by as much as 5.3%, 4.5%, or even 3.5%, face the inherent dangers and risks that Police Officers face. Each day an Officer goes to work, he faces the very real possibility that a suspect will become combative, that a traffic stop could turn deadly, that someone will pull out a firearm and that that Officer may not return home. Barring freak unpredictable accidents, all the individuals in the professions outlined in the private sector are free

from those dangers and concerns. Accordingly, the PBA argues the salary increases above and beyond those in various private sectors is warranted and appropriate here.

Overall Terms and Conditions of Employment 16g(3)

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.

The evidence considered by the Arbitrator encompasses the *status quo* terms and conditions of employment and note that that this unit receives: a top-step salary of \$95,858, under either a 7, 9, 9 plus academy or 12 plus academy step guide based on year of hire; terminal leave; vacation leave; sick days; comprehensive medical insurance benefits; officer in charge pay; holiday pay; uniform allowance; overtime; compensatory time; longevity, and personal leave. In 2018, a top step Police Officer's base cumulative salary, 10% holiday pay and longevity was \$106,443. Moreover, each police officer of the Town of Boonton is enrolled in the Police and Fireman's Retirement System, which permits a police officer to retire after twenty-five (25) years of service at sixty-five percent (65%) or sixty percent (60%) of final compensation, depending on the officers date of hire. See N.J.S.A. 43:16A-11.1.

The Stipulation of the Parties, N.J.S.A. 34:13A-16g(4)

There were no stipulations by the Parties stipulations in this proceeding.

The Lawful Authority of the Employer, N.J.S.A. 34:13A-16g(5).

While the 2% hard cap has sunset, statutory limitations are specifically referenced in other criteria, including the lawful authority of the employer, the tax cap levy and other statutory restrictions upon the employer. N.J.S.A. 34:13A-16(g)(5) requires the arbitrator to consider the "lawful authority of the employer," and specifically references P.L. 1976, c. 68, which is codified at N.J.S.A. 40A:4-45.1 et seq. The aforementioned statute is commonly known as the "Local Government Cap Law," and states, "it is hereby declared to be the policy of the Legislature that the spiraling cost of local government must be controlled to protect the homeowners of the state and enable them to maintain their homesteads." N.J.S.A. 40A:4-45.1. The New Jersey Legislature established a second tax levy cap established by section 10 of P.L. 2007, c. 62, which is now codified at N.J.S.A. 4-45.45. As part of this legislation, the Interest Arbitration Act was also amended to include a ninth and final criteria for the arbitrator's consideration, "the statutory restrictions imposed upon the employer," which specifically includes "the limitations imposed upon the employer by section 10 of P.L. 2007, c.62." N.J.S.A. 34:13A-16(g)(9).

Section 10 of P.L. 2007, c.62 originally established a tax levy cap of four percent (4.0%) above the previous year's tax levy. However, on July 13, 2010, Governor Christie signed into law P.L. 2010, c. 44 in order to cut the allowable tax levy increase to two percent (2.0%). As explained above, the two percent (2.0%) tax levy cap "caps the amount that you raise the tax by 2 percent."

The Appellate Division in Hillsdale interpreted the "lawful authority of the employer" criterion to refer to the Local Government Cap Law. Hillsdale, 263 N.J. Super. at 193. The Supreme Court agreed, stating, "Given the existence of financial constraints and budget caps... an award to police or fire departments necessarily affects other municipal employees and the entire municipal budget." Hillsdale, 137 N.J. at 86. In Hillsdale, the Appellate Division required the arbitrator to consider the impact of the award on other budget items. Hillsdale, 263 N.J. Super. at 194. When applying the lawful authority of the employer criterion, the Arbitrator must address the Town's budget cap situation, as well as the statutory requirement that the Town prepare a balanced budget each year.

The Financial Impact on the Governing Unit, Its Residence, The Limitations Imposed Upon the Local Unit's Property Tax Levy, and Taxpayers, N.J.S.A. 34:13A-16g(6).

N.J.S.A. 34:13A-16g (6) also requires the Arbitrator to consider the financial impact of the parties' offers on the governing unit, its residents and taxpayers. In PBA Local 207 v. Borough of Hillsdale, 137 N.J. 71 (1994), the court noted that the financial impact requirement in the statute does not equate with the municipalities' ability to pay. Id. at 188. The Supreme Court stated in Hillsdale that a municipality should not have to prove that it is not financially able to afford the PBA's final offer. 137 N.J. at 86. This criterion encompasses a far more searching and critical analysis than simply whether a local government has the ability to pay an award. It does not require the local government to prove that it would suffer financial difficulties as a result of an award. Id. Put differently, a local government "should not have to demonstrate it would be financially crippled before its arguments could be found to be sufficient." Id. at 194. Arbitrators have recognized this fact as well. Arbitrator Barbara Tener analyzed this issue in In the Matter of Interest Arbitration between Borough of Oakland and Oakland PBA Local 164, IA-93-069 (1994) noting that "[T]he affordability of the respective packages is not, in my view, a very weighty factor unless the more reasonable package is also the more expensive. The question of whether the Borough can afford the PBA's offer is not dispositive in this case."

The New Jersey Supreme Court emphasized that "it is not enough to simply assert that the public entity involved should merely raise taxes to cover the costs of the public interest arbitration award." Id. (quoting Hillsdale, 263 N.J. Super. at 188). Moreover, the municipality does not carry the burden of proving its financial inability to meet the union's final offer. Id. In addition, the correct application of this criteria does not require an employer to provide that it would suffer a "substantially detrimental result," or that the financial difficulties would be created or worsened. Hillsdale, 263 N.J. Super. at 194. Rather, the effect that the award will have on other employees and the employer's overall budget must be considered by the Arbitrator. Hillsdale, 137 N.J. at 86.

The Town's Ability to Pay

Both parties questioned the reliability of the financial analysis submitted by the other party. The Town argued that the exhibits presented at the hearing and the testimony of the Town's Financial Expert demonstrate that the Town is confronting a number of difficult fiscal problems and financial challenges. The PBA argued the Township expert provided net opinions based on assumptions and that its Financial Expert submitted his own report and analysis of the Town's ability to pay. The Town argues the PBA Financial Expert recommended the PBA offer PBA 1A instead of MOA 3 and he admittedly did not cost out the parties proposals.

The Town's Financial Situation

The Town's 2019 total municipal budget was \$13,883,921 up from the 2018 budget of \$13,381,194. The 2019 Appropriations within CAPS was \$10,148,539, excluded from CAPS was \$1,940,390 with a reserve for uncollected taxes of \$1,794,992. The Town budgeted \$9,301,695 in revenue through taxation and \$4,582,226 (i.e., surplus, misc. revenue, delinquent taxes). State aid has been level at \$913,500 from 2015 to 2019. Anticipated surplus in 2019 is \$2,538,000 up from \$2,330,000 in 2018. The Fund Balance was reported as \$2,729,441 in 2016, \$2,815,949 in 2017 and \$3,267,909 in 2018. The tax levy cap in 2018 is calculated to be \$173,334, \$178,955 in 2020 and \$189,715 in 2021.

The Town suggests its ratable growth has been non-existent. The Town's ratable growth, or percentage of assessed valuation change, has declined in the past two (2) years it argues. The Town's percentage of assessed valuation change has been in the negative in three (3) of the last five (5) years and has not exceeded one-half percent (0.5%) since 2014 it submits.

The PBA disagrees and suggests otherwise. The Town estimated that ratable will remain stagnant or decline. However, as Dr. Caprio noted, this is an assumption and projection with which he disagrees. Dr. Caprio testified as follows:

Many of the projections assume no increase in ratable, which I find to be an assumption I disagree with. There will be increases in ratables. And to assume that there aren't does what? The assumptions, I am going to say this, I may have to restate it, I am assuming no increase with a common increase in the costs, it. Is not surprising that the local tax rate increases because they're not projecting an increase in the ratable. So the fact that the municipal rate is projected to go up is a function of the assumptions that ratable aren't going up, which I find an assumption that I disagree with.

Additionally, the Town submits in 2018, the it's Fund Balance decreased in the amount of \$583,155.05. The Town is projecting that its Fund Balance will further decline by approximately \$74,620.34 in 2019. As explained by Mr. Rheinhardt, the use of Fund Balance should be relative to the Town's ability to regenerate what was used; any use in excess of one hundred percent (100%) should be done only with a plan in place to back off an overdependence on Fund Balance or risk running a deficit. Since 2004, the Town has used Fund Balance in excess of the prior year's operations nine (9) times. Most

notably, in 2019, the Town's Fund Balance as a percentage of its prior years operations is approximately one hundred and thirty percent (130%).

According to the PBA and Dr. Caprio, the Town has the ability to allocate and replenish funds from the Fund Balance. In addition, the Town consistently allocates funds from the Fund Balance and replenishes them at greater than 100%. That the Town possesses the ability to replenish its fund balance regularly, and at levels greater than 100%, the PBA argues lends support to the proposition that the Town possesses sufficient funds to allocate an appropriate amount to the Police Officers of the Town.

Taxes

The Town submits that in 2003, the municipal tax per person in the Town of Boonton was \$436, ranking the Town fifth 5th lowest municipal tax per capita as compared to the other thirty-nine (39) Morris County municipalities. In 2018, it argues the municipal tax per person in the Town of Boonton was \$1,051, ranking the Town 23rd lowest municipal tax per capita as compared to the other thirty-nine (39) Morris County municipalities. Thus, the Town submits that over the past fifteen (15) years, the municipal tax per person has increased \$615, a total increase of 141%, or an average increase of 9.40% over the fifteen (15) year period. As further explained by the Town's Financial Expert, Mr. Rheinhardt, the amount of taxes raised to support the budget are constantly increasing and is above the goal of remaining under sixty percent (60%) of the total budget.

The PBA argues that while keeping property tax bills low for the residents is a laudable goal, it should not, and must not come at the cost of providing adequate police services. Here, providing adequate police services to the taxpayers of the Town necessitates awarding, at a minimum, the PBA 1A proposal. The PBA 1A proposal is calculated to cost roughly an additional \$100,000 per year over the life of the contract. In performing his analysis of the additional cost to each individual taxpayer, Dr. Caprio calculated that, if the PBA contract were funded solely from property tax increases which are within the levy cap, each taxpayer of the Town of Boonton would be responsible for an additional \$32.81 per year, which translates to roughly \$2.70 a month for the superlative, comprehensive, accredited policing services provided by the Boonton Police.

According to the PBA, the Town has the ability to raise sufficient funds under the tax levy cap. The PBA submits that the Town has seen fit to ignore the levels at which they are, by law, allowed to raise the taxes, and has instead raised the tax base by 1% or 1.5%, instead of at a level which would provide additional funds. Thus, the Town of Boonton has failed to avail itself of the full legal allotment they may bring in under the statutory levy cap.

The PBA also noted the level of delinquent taxes to support their position that the Town is able to fund all other projects, programs, departments, and public salaries, but lacks the funds to provide adequate policing services to the residents and taxpayers of the Town of Boonton. Like with the tax levy, the PBA submits that the Town fails to take the action necessary or takes action which fails to

improve the financial position of the Town, and then claims to lack sufficient funds to provide a fair and equitable contract to the PBA.

Debt

At the Interest Arbitration hearing, there was substantial discussion regarding the Town's debt. As explained by Mr. Rheinhardt, the Town's Net Debt is a much better measure of the debt burden the Town has than the Gross Debt, as the Gross Debt includes school and utility debt. The Town's Net Debt has grown from a low of \$5,134,261.00 in 2004 to a high of \$8,202,106.00 in 2018. In fact, the Town's debt burden rose over 13.14% from 2017 to 2018 alone. As a result of the Town's rising debt burden, the Town's Finance Committee put together a Debt Affordability Plan.

The Town's Debt Affordability Plan determined that \$900,000.00 was the appropriate level for debt to maintain service levels and infrastructure without placing an undue burden on the taxpayers of the Town and that maintaining the capital effort would increase that amount to \$1,200,000. As explained in the Debt Affordability Plan, the primary funding source for the Plan will be future PILOT payments received by the Town. In 2020, the anticipated payment from the Avalon Bay PILOT program is \$700,000.00, or nine percent (9.0%) of gross revenue. The Debt Affordability Plan indicates that beginning in 2020, the Town will allocate \$407,000 of the Avalon Bay PILOT payment to fund the debt portion of the Plan. The remaining \$300,000.00 to be received from Avalon Bay will be allocated to maintaining the capital effort under the Plan. The Town argues that had it not adopted the Debt Affordability Plan and taken action; taxpayers of the Town would have seen an even more significant increase in taxes beginning in 2020. Lastly, it argues that the PILOT payments to be received by the Town will be phased out over time in accordance with the finance agreement. Thus, the Town cannot expect to have a rolling payment of \$900,000 from the PILOT.

According to the PBA, the Town, on its own discretion, is currently allocating all, or a vast majority, of the \$700,000.00 from the Avalon PILOT to debt service. Despite the additional policing services which the addition of more than 600 - 1000 residents will have; the Boonton Police received no allocation from this \$700,000.00 revenue stream it argues. However, Dr. Caprio noted the following regarding the Town's debt: “[H]aving to do with debt, its pre-year debt level is low, less than 1 percent. State statute sets a maximum of three-and-a-half percent ratable. So, their debt level is significantly below that number.” The PBA maintains that the funds from the Avalon Bay PILOT represent a significant financial boon to the Town, and the debt level which the Town has currently is low. According to the PBA, it is, therefore, unnecessary and irresponsible for the Town to allocate the totality of the revenue generated by the Avalon Bay PILOT to debt service.

Cost-of-Living Criterion, N.J.S.A.34:13A-16g(7)

The Consumer Price Index “CPI” is a measure of the average change, over time, in the prices paid by consumers for a market basket of consumer goods and services. Goods and services measured by the

CPI include food and beverages, housing, apparel, transportation, recreation, education and communication, and all other goods and services. The CPI is the most widely used measure of inflation. The CPI for all urban consumers in the United States increased by 0.3 percent in April 2019's CPI data. The CPI increased by 1.7 percent over the past year according to CPI data. The CPI for the New York-Northern New Jersey area has reported increases. Prices in this area have increased by 0.3 percent in April, after rising 0.3 percent in March. For the 12 months ended in April 2019 the CPI advanced 1.6 percent.

An annual Cost-of-Living Adjustment (COLA) is authorized under the Budget Cap Law, N.J.S.A. 40A:4-45.1.a. Under the Budget Cap Law, the Department of Local Government Services ("DLGS") announces the COLA. The DCA announced COLA for calendar year 2019 budgets is 2.5%. In addition, the CPI is often used to adjust consumer's income payments, for example, Social Security, to adjust income eligibility levels for government assistance and to automatically provide cost of living wage adjustments to millions of American workers. The COLA for Social Security benefits in 2019 is 2.8%.

Continuity and Stability of Employment, N.J.S.A. 34:13A-16g(8)

N.J.S.A. 34:13A-16g(8) provides for consideration of:

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 bargaining between the parties in the public service and in private employment.

The continuity and stability of employment criteria incorporates several concepts. The first providing a competitive compensation and benefits package that alleviates excessive turnover thus maintaining "continuity and stability in employment." The second is the concept of the "relative standing" of a negotiations unit with respect to other units of similar employees. Last, the continuity and stability of employment criteria incorporates the consideration of internal settlements and comparability, since deviation from such settlements can undermine morale, discourage future settlements, and affect labor relations stability.

The "stability and continuity of employment" criteria relates to employment issues such as layoffs, give backs, and salary freezes. Hillsdale, 263 N.J. Super. at 195. Specifically, the Appellate Division stated that arbitrators are required to consider facts such as salary structure, unemployment rates, employee turnover and the "virtual absence of unemployment among police." Fox, 266 N.J. Super at 519.

The Town argues that the Police Officers have never been laid off or put on furlough. The absence of any layoffs, furloughs, and downsizing contrasts with the current economic climate in the nation and in many municipalities within the State of New Jersey. Additionally, they argue police services are not subject to privatization like other public sector services. The Town maintains that Town's Police Officers are secure in their employment without any concern for layoffs or downsizing even during such dire economic times. In fact, the Town notes it has six (6) Officers at top step, six (6) newly hired Officers within the

last three (3) years and ten (10) Police officers hired since 2006, with only one (1) Officer that transferred/resigned from the Town.

At the Arbitration hearing, numerous PBA members testified that they may seek other employment if the Town's Final Offer, providing two percent (2.0%) increases, is accepted. Compelling testimony was heard from Patrolman Denker, Danzi, Mondino, and Detective Walinski. The PBA maintains that if anything less than the PBA 1A proposal is awarded there is a substantial risk that the ranks of the Town Police Department will be decimated. This includes the exodus of new Officers with 1 - 3 years of service, those in middle ranks with 4 - 10 years of service, and loss of seasoned veterans with upwards of 20 years of service. In addition, it argues that if increases in the salaries and decreases in the Chapter 78 contributions are not instituted, the Town Police Department runs the significant risk of becoming a "Training Ground" whereby Officers only take jobs with the Department for a short period of time, become trained on the nickel of the taxpayers of the Town of Boonton, and then leave for greener pastures, and higher salaries, elsewhere. Therefore, the PBA argues that not only would the quality of Officer able to be recruited decline thereby decreasing the level of safety in the Town, but the taxpayers of the Town of Boonton would bear the financial burden of continually training Officers, only to have those experienced well-trained Officers leave for other position.

Other Restrictions Imposed on the Employer, N.J.S.A. 34:13A-16g(9)

The Legislature has codified the "cap consideration" requirements and statutory limitations on the employer set forth in section 10 of P.L. 2007, c.62 (C. 40A:4-45.45) in section 16g(9).

ANALYSIS AND AWARD

After review of the Final Offers, evidence and arguments, the Award in this proceeding is analyzed and discussed below. The PBA submitted MOA 3, and offered extensive testimony and documentation regarding MOA 3, its status before PERC and impact on this proceeding. The PBA also offered PBA Arbitration MOA (PBA 1A) which I utilized as its Final Offer in my analysis for this Award. It is important to note at the outset that the labor relations acrimony created in the present round of negotiations unfortunately cannot be rectified regardless of the terms awarded in this interest arbitration award.

The interest and welfare of the public has been given the most weight in this Award with great scrutiny given to the existing salary and benefits of PBA members, a comparison of police salary and benefits to other Town employees, and comparable municipal police officers in the geographic area also given significant weight. In that regard, the continuity and stability of employment has also been given significant weight in this award. Significant weight has also been applied to the lawful authority of the employer and financial impact criteria. I have given lesser weight to the CPI, COLA, private sector wage increases and PERC settlement statistics.

Here, the first step is to determine whether there is a pattern of settlement. The Town asserts it has established a pattern of settlements in its negotiations with other Town unions as well as non-union employees which should be maintained in the instant matter. PERC and judicial precedent have addressed the issue of pattern of settlement. In the Matter of Interest Arbitration between the County of Union and FOP Lodge 103, IA-2010-118, Arbitrator Hundley noted that PERC issued a directive that arbitrators must consider evidence of settlements between the employer and other negotiations units, as well as claims that those settlements constitute a pattern. See Union Cty., P.E.R.C. No. 2003-33, 28 NJPER 459, (¶33169 2002) and Union Cty., P.E.R.C. No. 2003-87, 29 NJPER 250 (¶75 2003). Further, arbitrators must fully articulate the rationale for any decisions to deviate from an internal settlement pattern. Union Cty., P.E.R.C. No. 2003-33; Union Cty., P.E.R.C. No. 2003-87. The principle underlying these decisions is that maintaining an established pattern of settlement promotes harmonious labor relations, provides uniformity of benefits, maintains high morale, and fosters consistency in negotiations. Id.

The Town relies on its agreements with other Town unions as well as non-union employees as the basis for the pattern. These agreements are very similar regarding general terms and conditions of employment. However, the terms of these agreements vary in a number of ways. For example, salary, holiday pay, longevity, college credits, and duration differ among the agreements. Thus, while there are considerable similarities among the various agreements, there is insufficient credible evidence to support the Town's contention of a pattern of settlement.

Article XVIII-Duration

The PBA is proposing a three (3) year contract term. The Town is proposing a four (4) year contract term. Neither party submitted evidence or argument in support of its Final Offer or in opposition to the other party's Final Offer, although the PBA noted the prior agreements were for three (3) year terms.

In the Matter of the Interest Arbitration between County of Hudson and Hudson County Sheriff's Officers PBA Local 334, Docket No. IA-2014-004 (December 30, 2013) Arbitrator Osborn noted that: “[T]here was not much doubt that a longer contract provides a period of labor peace and stability which is beneficial to the parties and furthers the public interest ... However, both in New Jersey and nationally, we are in a period of economic uncertainty. Indeed, it is difficult to predict whether economic conditions will improve, deteriorate or remain stable.”

The PBA placed heavy emphasis in the hearing on potential turnover, the Town’s police department becoming a “training ground” and how the Town’s Final Offer would be demoralizing and decimate the Department.

I note that the last two agreements between the parties had three (3) year terms, and the terms with the other Town bargaining units vary. Considering the negotiations history, present state of labor relations and evidence submitted, I award the PBA’s Final Offer of a three (3) year term. Such a duration is consistent with past contract lengths and is long enough to provide labor stability and help heal the wounds created during the negotiations and litigation of the instant collective negotiations agreement. Also, a three (3) year term is short enough to allow the parties to get back to the table sooner and mutually negotiate and agree to a successor agreement.

Accordingly, I Award a three (3) year duration from January 1, 2019 through December 31, 2021.

Article 1-Salaries

The PBA has proposed salary increases as follows:

- 2019 2.75%
- 2020 2.85%
- 2021 2.95%
- Include one-time adjustment to top patrol step in all pay schedules of \$3000.00 in 2019, \$3000.00 in 2020 and \$3000 in 2021, adjustment to be added then % increase applied to total.
- Add additional steps to A-2, A-3, A-4 pay scale, see included step guide.

Patrol	Base							
		2019	2.85%	2020	2.95%	2021	Step	
41774	1148.79	42923	1223.30	44146	1302.31	45448	1	TABLE A-1
50791	1396.75	52188	1487.35	53675	1583.42	55259	2	
59801	1644.53	61446	1751.20	63197	1864.30	65061	3	
68816	1892.44	70708	2015.19	72724	2145.35	74869	4	

77831	2140.35	79971	2279.18	82251	2426.39	84677	5	
86844	2388.21	89232	2543.12	91775	2707.37	94483	6	
98858	2718.60	101577	2894.93	107557	3172.93	113818	7	
42158	1159.35	43317	1234.54	44552	1314.28	45866	1	TABLE A-2 Jan-11
48535	1334.71	49870	1421.29	51291	1513.08	52804	2	
55295	1520.61	56816	1619.24	58435	1723.83	60159	3	
62056	1706.54	63763	1817.23	65580	1934.60	67514	4	
68816	1892.44	70708	2015.19	72724	2145.35	74869	5	
75577	2078.37	77655	2213.18	79869	2356.12	82225	6	
82339	2264.30	84602	2411.17	87013	2566.90	89580	7	
89098	2450.20	91548	2609.12	94157	2777.64	97659	8	
98858	2718.60	101577	2894.93	107557	3172.93	105739	9	
						113818	10	
40955	1126.26	42081	1199.32	43281	1276.78	44557	Acad	6 mo. TABLE A-3 Jan-13
42158	1159.35	43317	1234.54	44552	1314.28	45866	1	
48535	1334.71	49870	1421.29	51291	1513.08	52804	2	
55295	1520.61	56816	1619.24	58435	1723.83	60159	3	
62056	1706.54	63763	1817.23	65580	1934.60	67514	4	
68816	1892.44	70708	2015.19	72724	2145.35	74869	5	
75577	2078.37	77655	2213.18	79869	2356.12	82225	6	
82338	2264.30	84602	2411.17	87013	2566.90	89580	7	
89098	2450.20	91548	2609.12	94157	2777.64	97659	8	
98858	2718.60	101577	2894.93	107557	3172.93	105739	9	
						113818	10	

40154	1104.24	41258	1175.86	42434	1251.81	43643	Acad	6 mo.
43804	1204.61	45009	1282.75	46291	1365.59	47611	1	
48537	1334.77	49872	1421.35	51293	1513.15	52755	2	
53270	1464.93	54735	1559.95	56295	1660.70	57899	3	
58002	1595.06	59597	1698.52	61296	1808.22	62041	4	
62715	1724.66	64440	1836.53	66276	1955.15	63042	5	
67469	1855.40	69324	1975.75	71300	2103.35	68165	6	
72202	1985.56	74188	2114.35	76302	2250.91	73332	7	
76934	2115.69	79050	2252.92	81303	2398.43	78477	8	
81667	2245.84	83913	2391.52	86304	2545.98	83620	9	
86400	2376.00	88776	2530.12	91306	2693.53	88764	10	
91133	2506.16	93639	2668.72	96308	2841.08	93908	11	
98858	2718.60	101577	2894.93	107557	3172.93	99053	12	
						113818	13	

TABLE
A-4
Jan-16

The Town has proposed the following salary increases:

2019 2% (Retroactive to January 1, 2019)
 2020 2%
 2021 2%
 2022 2%

- Schedule A-4 for Officers hired on or after January 1, 2016, increase guide from 12 to 15 Steps and equalize all steps.

	2019	2020	2021	2022
Academy	\$40,957.08	\$41,776.22	\$42,611.75	\$43,463.98
1	\$44,744.95	\$45,639.85	\$46,552.65	\$47,483.70
2	\$48,532.82	\$49,503.48	\$50,493.55	\$51,503.42
3	\$52,320.70	\$53,367.11	\$54,434.45	\$55,523.14
4	\$56,108.57	\$57,230.74	\$58,375.35	\$59,542.86

5	\$59,896.44	\$61,094.37	\$62,316.26	\$63,562.58
6	\$63,684.31	\$64,958.00	\$66,257.16	\$67,582.30
7	\$67,472.18	\$68,821.63	\$70,198.06	\$71,602.02
8	\$71,260.06	\$72,685.26	\$74,138.96	\$75,621.74
9	\$75,047.93	\$76,548.89	\$78,079.86	\$79,641.46
10	\$78,835.80	\$80,412.52	\$82,020.77	\$83,661.18
11	\$82,623.67	\$84,276.15	\$85,961.67	\$87,680.90
12	\$86,411.54	\$88,139.77	\$89,902.57	\$91,700.62
13	\$90,199.42	\$92,003.40	\$93,843.47	\$95,720.34
14	\$93,987.29	\$95,867.03	\$97,784.37	\$99,740.06
15	\$97,775.16	\$99,730.66	\$101,725.28	\$103,759.78

The Town submits that the evidence presented shows that the Town's offer is far more reasonable when compared to what Morris County police officers in other municipalities are receiving. The Town's offer is also more reasonable when compared to the current pattern within the Town and recent settlements with the non-police units and non-bargaining employees. Moreover, the Town's offer will achieve economic and fiscal stability for the Town in light of the two percent (2.0%) hard tax cap levy, increases to medical benefits, increases to pension contributions, increases to salaries and wages, significant debt, stagnation in State Aid and decreases in other miscellaneous revenues.

The PBA submits and evidence supports that the Boonton Police are compensated among the lowest levels for starting salary and are at the bottom when it comes to top salary. Upon comparison of the Morris County municipalities' patrol officers, the salaries for patrol officers in the Town of Boonton are near the bottom in the County or as Mr. Henry testified "in the lower quadrant." The PBA submits that the Town has budgeted at least \$2,695,600 for police salaries in 2019. The Town's public statement on PBA contract negotiations list 2018 salaries at \$2,707,566. However, the PBA submits that \$352,826 of this amount is the officer's compensation for outside duty. The net appropriation of Town resources for police salaries in 2018 was \$2,354,741 including overtime they argue. The budgeted \$2,695,600 for 2019 represents a 14% increase from the \$2,354,741 in 2018. In short, the PBA submits the Town anticipates the need for an increase of approximately \$300,000 in police salaries.

The PBA is comprised of fifteen (15) members; six (6) at top step, three (3) near top step of the respective guides, and six (6) in early steps on the A-4 guide. Based on the Town's cost-out documentation, the 2018 cumulative base pay for the PBA was \$1,074,785 with 10% holiday pay of \$107,479 clothing allowance of \$26,250 and longevity of \$7,000 for a total of \$1,215,514. In 2019, the cumulative base pay for the PBA under the *status quo* is estimated to be \$1,118,789, with 10% holiday pay of \$111,879, step

movement of \$48,404, clothing allowance of \$26,250 and longevity of \$7,000 for a total of \$1,263,918. In 2020, the cumulative base pay for the PBA under the *status quo* is estimated to be \$1,161,352 with 10% holiday pay of \$116,135, \$46,818 in step increases, clothing allowance of \$26,250 and longevity of \$7,000 for a total of \$1,310,737. In 2021, the cumulative base pay for the PBA under the status quo is estimated to be \$1,197,153 with 10% holiday pay of \$119,715, \$40,381 in step increases, clothing allowance of \$26,250 and longevity of \$8,000 for a total of \$1,351,119. The cost of moving PBA members through the guide under the *status quo* represents \$48,404, or 3.98% in 2019; \$46,818 or 3.7% in 2020; and \$40,381, or 3.08% in 2021.

The Town's Cost Out of Town's Offer

The Town's Final Offer on salary consisted of two percent (2.0%) increases in every year of the Agreement and the addition of three (3) salary steps to Schedule A-4. According to the Town's cost out documents, the two percent (2.0%) increases, in addition to step movement and holiday pay will increase the cumulative base pay to \$1,141,165, 10% holiday pay of \$114,116, clothing allowance of \$26,250 longevity of \$7,000 for a total of \$1,288,531 in 2019. In 2020, the cumulative base pay increases to \$1,208,270, 10% holiday pay of \$120,827, clothing allowance of \$26,250, longevity of \$7,000 for a total of \$1,362,347. In 2021, the cumulative base pay increases to \$1,270,429, 10% holiday pay of \$127,043, clothing allowance of \$26,250, and an increase in longevity to \$8,000 for a total of \$1,481,721. The cost of moving PBA members through the guide represents \$73,017 in 2019; \$73,815 in 2020; and \$69,374 in 2021.

The Town's Cost Out of PBA's Arbitration Offer PBA 1A

The Town's cost out of the PBA's Arbitration Final Offer or PBA 1A proposal consisted of increasing salaries by 2.75%, 2.85% and 2.95%, implementing a top step adjustment, implementing a detective stipend, implementing degree stipends, increasing clothing allowance, changing longevity, and increasing convention pay, among other things. In 2019, the cumulative base pay to \$1,160,252, with 10% holiday pay of \$116,025, clothing allowance of \$30,000 longevity of \$13,205, detective stipend of \$12,000, and \$8,500 college degree compensation for a total of \$1,339,983. In 2020, the cumulative base pay increases to \$1,266,307, with 10% holiday pay of \$126,631, clothing allowance of \$30,000, longevity of \$13,920, detective stipend of \$12,000, and college degree compensation of \$8,500 for a total of \$1,457,420. In 2021, the cumulative base pay increases to \$1,375,886, with 10% holiday pay of \$137,589, clothing allowance of \$30,000 longevity of \$15,935, detective stipend of \$12,000, and college degree compensation of \$8,500 for a total of \$1,579,909.

The PBA Cost Out

The PBA argues that the Towns' 2018 cumulative base pay for the PBA of \$1,215,514 included full step increases (not salary step splits) and uniform allowance. It submits its proposal costs a total of \$1,283,077 in 2019, \$21,453 less than the Town Final Offer. In 2020, the cost of the PBA Final Offer is \$1,376,548 or \$1,798 less than the town Final Offer. In 2021, the PBA projects the cost to be \$1,509,383 (with breakage of \$1,330,199.61) compared to the Town's Final Offer cost of \$1,447,721. The PBA submits the cost of its step guide increase in 2019 is \$67,563, \$93,470 in 2020 and \$132,834 in 2020.

At the Arbitration hearing, the PBA's Financial Expert testified that "[t]he assumption is the Town needs to find \$100,000 to fund what I regard as cost for PBA." Dr. Caprio further confirmed his belief that the Town "has enough money to pay for the initial \$100,000 a year to afford the PBA budget...estimate[ing] that the PBA's proposal will cost approximately \$100,000 each year, or \$300,000 over a three-year period." When asked at the Arbitration hearing whether he believed the "proposal that the Town has put forth is financially responsible for the Town of Boonton" the Town's Financial Expert expressly stated even the Town's Final Offer "is still a heavy burden."

Salary Award

After review of the parties Final Offers, evidence and submissions, I do not award either parties Final Offers on Salaries but use my authority under conventional arbitration to craft a salary award based on the evidence and application of the statutory criteria.

The PBA Final Offer 1A on salary is not supported by the evidence or application of the statutory criteria. Similarly, the evidence and application of the statutory criteria cannot support the Town's Final Offer on salary.

Based on the application of the statutory criteria to the evidence, I Award the following salary increases:

2019 2.25% plus \$1,000 adjustment to top step retroactive to January 1, 2019

2020 2.25% plus \$1,000 adjustment to top step

2021 2.25% plus \$1,000 adjustment to top step

2018	2019	2020	2021	Step	
41774	42,713	43,674	44,657	1	Schedule A-1
50791	51,933	53,102	54,296	2	
59801	61,146	62,522	63,929	3	
68816	70,364	71,947	73,566	4	
77831	79,582	81,372	83,203	5	
86844	88,797	90,795	92,838	6	
95858	99,037	102,288	105,612	7	
42158	43,106	44,076	45,068	1	Schedule
48535	49,627	50,743	51,885	2	

55295	56,539	57,811	59,112	3	A-2	
62056	63,452	64,879	66,339	4	Jan-11	
68816	70,364	71,947	73,566	5		
75577	77,277	79,016	80,794	6		
82338	84,190	86,084	88,021	7		
89098	91,102	93,152	95,248	8		
95858	99,037	102,288	105,612	9		
40955	41,876	42,818	43,782	Acad	6 mo.	
42158	43,106	44,076	45,068	1		
48535	49,627	50,743	51,885	2		
55295	56,539	57,811	59,112	3		
62056	63,452	64,879	66,339	4	Schedule	
68816	70,364	71,947	73,566	5	A-3	
75577	77,277	79,016	80,794	6	Jan-13	
82338	84,190	86,084	88,021	7		
89098	91,102	93,152	95,248	8		
95858	99,037	102,288	105,612	9		
40154	41,057	41,981	42,925	Acad	6 mo.	
43804	44,789	45,797	46,827	1		
48537	49,629	50,745	51,887	2		
53270	54,468	55,694	56,947	3	Schedule	
58002	59,307	60,641	62,005	4	A-4	
62715	64,126	65,568	67,044	5	Jan-16	
67469	68,987	70,539	72,126	6		
72202	73,826	75,487	77,186	7		

76934	78,665	80,434	82,244	8	
81667	83,504	85,383	87304	9	
86400	88,344	90,331	92,364	10	
91133	93,183	95,280	97,423	11	
95858	99,037	102,288	105,612	12	

The Salary Award will allow the Town to continue to maintain its fiscal responsibility to the taxpayers while providing the officers a fair and reasonable increase and as such is in the public interest. In Monmouth County Sheriff –and- PBA Local 314, P.E.R.C. Docket No. I.A. 2002-061 (2003), Arbitrator Mastriani recognized that an increase in salary fosters the interest and welfare of the public by reducing turnover. In this regard, he stated: “[t]he interests, and welfare of the public are served by a stable and well-trained workforce and the continuity and stability of employment will be enhanced as a result of the salary guide compression and increase in salary.” Thus, an analysis of this criteria must extend beyond the finances of the governing unit and include how wage increases will affect the public interest in other areas. See also Point Pleasant, P.E.R.C. Docket No. I.A. 2011-001 (Mastriani, J. 2011) at 34.

In reviewing the parties arguments and the numerous exhibits admitted into evidence, it is clear that the parties can find comparable data that support the numbers they seek comparing “base pay” at different Departments, other fringe benefits, or some other analysis. The percentage and number comparisons of various salaries alone are problematic when the only item cited is “salary.” What makes up “salary” and salary guides significantly vary. Also, collective negotiations by definition involve a “give and take” with the goal of structuring an overall package that includes health benefits, sick leave, vacation leave, longevity, work schedules, college compensation, among other items. Indeed, a good compromise is when both parties are slightly disappointed.

The 2018 cumulative base pay for the PBA based on annualized steps was \$1,074,785 with 10% holiday pay of \$107,479, clothing allowance of \$26,250 and longevity of \$7,000 for a total of \$1,215,514. In 2019, the cumulative base pay for the PBA under the *status quo* is estimated to be \$1,118,789, with 10% holiday pay of \$111,879, step movement of \$45,517.35, clothing allowance of \$26,250 and longevity of \$7,000 for a total of \$1,263,918.

Under the Town’s Final Offer, in 2019 the cumulative base pay would be \$1,141,165, 10% holiday pay of \$114,116, clothing allowance of \$26,250 longevity of \$7,000 for a total of \$1,288,531 or a 2% increase. Under the PBA’s Final Offer, in 2019 the cumulative base pay would be \$1,160,252, with 10% holiday pay of \$116,025, clothing allowance of \$30,000, longevity of \$13,205, detective stipend of \$12,000, and \$8,500 college degree compensation for a total of \$1,339,983 or 9.4% increase.

Under the terms of the Award, the base pay increase in 2019 would be \$1,159,083 with 10% holiday pay of \$115,908, steps of \$61,623, clothing allowance of \$26,250 and longevity pay of \$7,000 for a total

of \$1,308,241, a 7.1% increase from the 2018 cost of \$1,215,514. In 2020, the base pay increase is \$1,244,527 with 10% holiday pay of \$124,452, steps of \$65,669, clothing allowance of \$26,250 and longevity pay of \$7,000 for a total of \$1,402,229, or a 6.71% increase from the 2019 cost. In 2021, the base pay increases to \$1,327,291 with 10% holiday pay of \$132,729, steps of \$61,033, clothing allowance of \$26,250 and an additional \$1000 in longevity for a total of \$1,494,270, or 6.2% increase from the 2021 cost. The cost of the top step base increases is \$19,074 in 2019, \$19,505 in 2020 and \$19,944 in 2021. The top step increases with holiday pay in 2019 is 3.3%, 3.2% in 2020 and 3.2% in 2021.

The record shows that PBA members are comparably compensated in wages and benefits when compared to their fellow Town employees but lag well behind their colleagues in other Morris County Police Departments. The Town recognizes its Police Officers are in the “lower quadrant” in compensation. There was significant unrebuted testimony from the Chief and a number of Patrol Officers about the potential difficulty of maintaining the high level of police services and retaining existing officers considering the present negotiations and the current opportunities in other Morris County towns. The present scattergram of the seniority of the Department shows a stable work force with little turnover.

The Town’s Street and Water employees and Council 6 employees received 2.25% in 2019. The members of the PBA should be no different. The PBA should also receive increases of 2.25% in 2020 and 2021 to help improve their competitive standing amongst their Morris County peers. In addition, Patrol Officer’s at top step should receive increases of \$1,000 in 2019, 2020 and 2021 to be more competitive with other police departments in Morris County. Under the terms of the Award, Patrol Officers at top step earning \$95,858 plus 10% holiday pay or \$105,443 currently will receive \$99,027 plus 10% holiday pay or \$108,929 in 2019 a 3.3% increase from 2018 making them more competitive with their Morris County police colleagues.

The wage terms will not cause the Town to exceed its limitations as to budgetary appropriations nor cause the imposition of tax revenues that exceed limitations in the tax levy cap. The Award’s increases fall within what the Town budgeted in 2019 and the tax levy cap amounts of \$175,334 in 2019, \$178,955 in 2020 and \$189,715 in 2021 and will not cause adverse financial impact on the Town, its residents or taxpayers. The additional cost of \$8,500 per year for the college credit compensation awarded herein is also within the budget and levy cap calculations and will not adversely impact the Town or its taxpayers.

I have also given due weight to the overall compensation and benefits presently received and find the Award will improve the Town’s level of comparability in compensation and benefits with other police departments in Morris County. In 2019, Patrol Officers at top step earning \$95,858 plus 10% holiday pay or \$105,443 will receive \$99,027 plus 10% holiday pay or \$108,929 making them more competitive in their standing with other Morris County municipalities. Moreover, the college credit compensation awarded herein will add to the overall compensation and benefits package further improving the Town and PBA members standing with their peers.

Article XIII Medical Insurance

The Town has proposed the following:

Section E - Add the following language:

All employees shall continue to contribute towards health benefits at the Tier IV/Year 4 rates as set forth in the health benefit contribution charts in the contract.

The PBA proposed the following:

Revise Section B, effective January 1, 201[9], the Town shall provide the medical coverage for retired officers and their dependents for the life of the officers, and in the event of the officer's death the dependents will be covered at the Town's expense, for the eligibility period of the dependent children (parent child) until the child reaches the maximum major coverage or a maximum of five (5) years total from the officer's death whichever is less, until such coverage becomes available through marriage, employment, or another source. For officers who retire with twenty-five (250 years of pensionable service credit as defined by the Police and Fire Retirements System, or who become disabled, which disability causes separation, provided however, that such coverage shall only continue until such time as an office covered by this agreement secures employment by and employer who has provisions to provide medical insurance coverage.

Revise Section E, to reflect the employee will pay Tier 2 while active and Tier 1 when retired, the maximum out of pocket contribution for a member under this contract will be capped at the 2019 contribution rate.

The Town submits that PBA members are afforded health benefits under the State Health Benefits Plan ("SHBP") at the Direct 10 level. The Town provides such coverage to both active and retired PBA members requiring employee contributions at the Chapter 78 Tier IV rates. The Town submits that the vast majority of active Morris County police officers are required to contribute to their health benefits in accordance with the Tier IV rates. Additionally, it submits the majority of Morris County municipalities do not offer its police officers with retiree health benefits. In fact, it submits that twenty (20) of the thirty-seven (37) Morris County municipalities do not provide retiree health benefits to their police officers.

There was substantial testimony about the retiree health benefits provided in other Morris County municipalities, specifically Chapter 330. Chapter 330 provides retiree health benefits to certain retired local police officers and firefighters with a portion of the cost covered by the state. N.J.S.A. 52:14-17.32i. Individuals are only eligible for Chapter 330 retiree health benefits coverage if they retire from an employer who does not pay for same. Id. Thus, Chapter 330 is provided to certain retired local police officers and firefighters at no cost to the municipality. The Town notes that although PBA members testified to the benefits of Chapter 330, they have not proposed eliminating retiree health benefits, relying on Chapter 330, and saving the Town the expense of retiree health benefits.

The PBA 1A Final Offer proposes modifications to the contributions for healthcare, including allowing dependents to be covered at the Town's expense in the event of an Officer's death for the eligibility period of the dependent children until the child reaches the maximum age of coverage or a maximum of five (5) years, whichever is less, or until such coverage becomes available through remarriage, employment or another source. In addition, the Chapter 78 contributions from employees would be revised to require Tier 2 Chapter 78 contributions while the employee is active, going to Tier 1 of Chapter 78 when the employee is retired, capping the maximum out of pocket contribution for a member covered under the contract at the 2019 contribution rate.

The PBA argues that a reduction in the healthcare contributions is a necessary component of any award that results from this Arbitration. The cost of medical care to the Boonton PD Officers has historically been zero. The PBA submits that was one of the justifications historically offered as a reason the Boonton PD salaries were not in parity with other departments in the County and State. However, the costs of healthcare were shifted to officers per Chapter 78, and now officers are paying Tier 4 Chapter 78 contributions, which equates to 35% of the cost of the premium. While a reduction to Tier 2 contributions will increase the amount of money the Town spends for its Police Department, prior to Chapter 78, the Town funded health benefits at 100% for life. Under the PBA's proposal, that cost will still be shared by the Boonton Police Officers and the Town, but the officers will receive much-needed relief in that regard at what would be a minor cost to the Town in comparison. The PBA argues that assuming that Tier 4, 35%-of-premium healthcare contributions from Boonton Officers totals \$100,000, and Tier 2, 17%-of-premium contributions would require \$50,000 from the Officers that \$50,000 difference which would be absorbed by the Town would represent a slight expense, and a correspondingly small burden on the taxpayer, but would represent a significant benefit to the Police Officers of the Town of Boonton. The PBA submits that in light of the historical levels of zero percent (0%) contributions for healthcare, a seventeen percent (17%) contribution still represents a significant and sustainable contribution level from active Boonton Police Officers. Looking at retired officers, the reduction in Chapter 78 contributions is necessary because the retired Officer's income experiences a marked drop when they retire.

In addition, the PBA argues the Town has always paid 100% for medical care for retirees. Even under the full phased-in Chapter 78, the Town never had a Police Officer retire who contributed to his healthcare premium costs. The PBA maintains that it was never a problem financially before and requiring retired Police Officers to pay Tier 1 into retirement would not burden the Town now. Moreover, the towns whose Officers are in Chapter 330 pay 20% of the healthcare premium into retirement, while if the Town's proposal is adopted, that payment for the PBA 212 members will be 35% of the premium, even though the 330 towns will be receiving the same health benefits as the PBA 212 members. This results in a significant financial burden to the PBA 212 members, particularly because the Town has always covered health benefits at 100%.

Chapter 78 Tier IV relief is a sensitive topic for the PBA, the Town and New Jersey taxpayers. Public employee salaries were historically lower than private sector salaries with fully paid health benefits a valued term and condition of employment. In 2010, the Legislature enacted Chapter 2 that imposed health care contributions of 1.5% of base pay on all public employees. In 2011, Chapter 78 imposed higher levels of contributions based on the type of plan and salary with percentages as high as 35%. The legislation

provided welcomed relief to public employers and taxpayers. The “savings” realized by the Town by employee contributions has become part of the Town’s budgetary fabric since 2011 and, like savings in other line items, has helped the Town offset increases in health benefit costs and costs/expenditures in other areas of operations.

I note that the legislature made clear that all levels of Tier IV are now the *status quo* for the purpose of future negotiations and impasse proceedings in the public sector:

A public employer and employees who are in negotiations for the next collective negotiations agreement to be executed after the employees in that unit have reached full implementation of the premium share set forth in section 39 of P.L.2011, c.78 (C.52:14-17.28c) shall conduct negotiations concerning contributions for health care benefits as if the full premium share was included in the prior contract....After full implementation, those contribution levels shall become part of the parties’ collective negotiations and shall then be subject to collective negotiations in a manner similar to other negotiable items between the parties [emphasis supplied].

Thus, as with any other item, the party seeking a change in the *status quo* bears a heavy burden to support such change. After review of the parties Final Offers and submissions, I do not find any merit in alteration of the *status quo* as neither party met its burden for a change. In that regard, I find the Town’s Final Offer that Section E - Add the language that “All employees shall continue to contribute towards health benefits at the Tier IV/Year 4 rates as set forth in the health benefit contribution charts in the contract” is consistent with my finding and I award same.

By legislating health care contributions with Tier IV being the *status quo* for successor negotiations, the New Jersey legislature clearly intended that it is in the interest and welfare of the public that all public employees including retirees share in the cost of health care benefits. A comparability analysis also supports the maintenance of the *status quo*. All other Town employees contribute at Tier IV of Chapter 78, nearly all Morris County Police Departments contribute at Tier IV of Chapter 78, most do not provide retiree benefits, and the PBA members and its retirees that receive Town health benefits should be no different. Though the PBA submits an award without Chapter 78 relief will be devastating to the Department and the Town, the evidence and application of the criteria does not support the alteration of the *status quo* for employees or retirees.

Article II, Longevity

The PBA proposes replacing \$1,000.00 with 2% of base pay and replacing \$2,000.00 with 3% of base pay.

All Town of Boonton police officers receive longevity based on years of service with the Town and the PBA would like it to return to a percentage of base pay.

The Town rejects this proposal. Twenty-six (26) of its Morris County counterparts either do not offer longevity at all or eliminated longevity for employees hired after a certain date. The Town argues it is one of the few Morris County municipalities that provides all PBA members with longevity at a time when most municipalities have severely curtailed such benefits and further the State, via the State's "best practices", was pressuring municipalities to get rid of longevity.

After review of the parties Final Offers and submissions, I find there is insufficient evidence to overcome the burden to award the PBA's proposal and alter the *status quo*.

Article XI, College Credits

The PBA proposes to add new verbiage: stipend of \$500 associate degree, stipend of \$500 for honorable service in the United States Military, stipend of \$1000 for bachelor's degree.

The Agreement presently provides for reimbursement for cost of books required for law enforcement related courses or leading to a degree or certification in law enforcement at an accredited institution of learning.

The PBA argues that the SOA received this benefit from the Town after the PBA settled its last contract. The PBA also notes testified that the Street and Water employees receive a generous college credit benefit.

The Town rejects this proposal. The cost of the proposal is estimated to be \$8,500 per year.

After review of the parties Final Offers and submissions, I award the PBA's proposal. An educated police force is in the interests and welfare of the public. I also find the fact that the SOA receives this benefit to be of great weight particularly considering the Town's argument of a "pattern." In addition, the benefit helps to make the Department more competitive with other Morris County Departments where a majority of departments offer some type of education benefit. This benefits will also help retain officers by recognizing their education and/or service and compensating them for same.

Article V, Overtime

The PBA proposes the following:

Revise Section A, Paragraph 4 to reflect 480 hours.

Revise Section E, Paragraph 1 to reflect a maximum of 480 hours.

The Agreement presently provides for an employee to utilize up to 160 hours of comp time in a 28-day period. The PBA seeks to increase that to 480 hours. In Section E, the PBA seeks to increase the amount of comp time an employee can accumulate from 200 hour to 480 hours.

The Town rejects this proposal.

After review of the parties Final Offers and submissions, I find there is insufficient evidence to overcome the burden to award the PBA's proposal and alter the *status quo*.

Article XXI, P.B.A. Convention

The PBA proposes the following:

Revise Section A to reflect, two (2) duly authorized convention delegates are allowed to attend the P.B.A convention and mini convention and to be compensated at a rate of full pay for the time spent at each convention.

Revise Section B to reflect, the State Delegate or in this absence the alternative State Delegate is to be allowed to attend monthly meetings of the P.B.A and to be compensated at full pay for attendance at said meetings.

Revise Section C to reflect, funds in the amount of \$1,000.00 for reimbursement of expenses for the delegation of the P.B.A Convention and \$500.00 for reimbursement of expenses for the delegation for the P.B.A mini convention.

The Town rejects this proposal.

The Agreement presently provides for two (2) members to attend the PBA convention, one delegate to attend monthly PBA meetings and provides for \$350 for reimbursement of expenses.

After review of the parties Final Offers and submissions, I find there is insufficient evidence to overcome the burden to award the PBA's proposal and alter the *status quo*.

Article XXII, Compensation for Private Contract

The PBA proposes the following:

Revise to reflect the rate will be time and one-half (1 ½) of the highest paid Sergeants top rate of pay (including holiday pay and longevity).

Add new verbiage: Private contact shall be paid at a minimum of 4 hours, should the detail extend longer than 4 hours, a minimum of 8 hours will apply, after 8 hours officers will be compensated on an hour per hour basis. The 8 hour minimum provision shall not apply to non-profit and community groups, (examples may include but are not limited to private citizen parties, Boonton Main Street, Boonton Fire Department, Town of Boonton, Boonton schools, or any other organization approved by the Chief of Police) these agencies will be charged a 4-hour minimum then hour by hour.

The Town rejects the proposal.

The Agreement presently provides the compensation for private contract rate will "...time and one-half (1 ½) of the highest paid patrol officer's top rate (including holiday pay and longevity).

After review of the parties Final Offers and submissions, I find there is insufficient evidence to overcome the burden to award the PBA's proposal and alter the *status quo*.

Article XXIV, Shift Staffing

The PBA proposes to:

Revise Section C to reflect, it is the opinion of the Officers covered in this agreement, that to provide proper Police protection for the community and to insure the safety of Officers, four (4) Police Officers per shift is required. However, it is not binding on the parties. Staffing shall be at the sole discretion of the Chief of Police as stated in paragraph A.

Officers covered under this Agreement shall be given 30 days' notice of schedule changes to their regularly scheduled shift. Officers may agree to any change in schedule inside of 30 days at the individual officer's discretion on a case by case basis.

The Town rejects the PBA's proposal and notes its' non-negotiable managerial prerogative when it comes to staffing.

The Agreement presently provides for three (3) Police Officers per shift.

After review of the parties Final Offers and submissions, I find there is insufficient evidence to overcome the burden to award the PBA's proposal and alter the *status quo*.

Article XXV, Officer in Charge Compensation

The PBA proposes the following:

Patrol Officers in charge of a shift in the absence of the regularly assigned shift supervisor, i.e. Sergeant, will be compensated hour for hour comp time. The presence of the Chief of Police or Police Captain or Police Lieutenant shall not operate to avoid the obligation to pay the senior police officers outlined above.

The PBA testified that:

What happens is if you're the senior most patrolman on the shift and your sergeants not there you're in charge. If you screw something up, you're responsible. The liability is on you. You're supervising the new guys, you're dealing with the public when they come in and want to make a complaint. You're doing the job of a supervisor. And most contracts have a provision in there that says, if you're a patrolman and required to perform the duties of a superior officer you're compensated at that rate. We don't have that. However, in the last contract they got something.

So now our contract reads, if you're the shift commander for the entire shift for all 12 hours you will receive three hours of compensation time to

compensate you for being a shift commander. So here's the problem with that. The sergeant comes in in the morning, comes in at seven AM, goes home at six at night. For the next ten hours a patrolman is in charge of the shift. The sergeant comes in and goes home early at noon, the patrolman in charge is from noon until seven. And at five o'clock some massive protracted investigation comes rolling in and that patrolman who's acting as sergeant is there until midnight supervising the younger guys trying to make sure everything is done correctly. Zero compensation because he wasn't shift commander for the entire 12 hours.

All they're looking for is hour for hour. If they're the shift commander for three hours they want hour for hour comp. If they're shift commander for the entire shift they want hour for hour comp. They were not looking for money.

The Agreement presently provides for three (3) hours compensatory time for being an officer in charge for an entire twelve (12) hour shift.

After review of the parties Final Offers and submissions, I find there is insufficient evidence to overcome the burden to award the PBA's proposal and alter the *status quo*.

New Article B. Detective Bureau.

The PBA proposes a new article as follows:

Officers assigned to Detective Bureau will receive additional compensation of \$4,000.00 each year. This shall be paid in a separate check on July 1st in the amount of \$2,000.00 and in a separate check on December 31st \$2,000.00. This provision is non-pensionable and will not factor into the time and one-half rate.

Officers assigned to the Detective Bureau will receive four (4) hours of comp time for each day they serve in a "on call" capacity to compensate for restricted movement.

The PBA submits Detectives miss movies, family functions, and all manner of personal time that any non-Police-Officer would take for granted, all without receiving any additional compensation. The modification would grant Officers of the Detective Bureau four (4) hours of comp time for each day they serve in an "on call" capacity due to their restricted movement during those times.

The Town rejects the new article proposed by the PBA.

After review of the parties Final Offers and submissions, I find there is insufficient evidence to overcome the burden to award the PBA's proposal and alter the *status quo*.

New Article F. Fire Emergencies.

The PBA proposes a new article:

All firemen with the rank C1 C2 C3 covered under this contract who are employees shall have the duty as an employee to respond to any fire call or emergency call in which the Fire Department is involved as an employee of the Town. This provision is subject to minimum shift staffing and OIC (Officer in Charge) discretion.

The PBA submits that a new proposed article dealing with Fire Emergencies would address situations wherein Police Officers who are also members of the Town of Boonton's volunteer Fire Department the ability to respond to calls. This provision is necessary to address issues with Police Officers who are also Firemen and to ensure that they are able to function in those roles when and as necessary. As PBA President Mangino testified:

The concern is, am I covered as to volunteering on town time. That's where that provision comes from. Like that doesn't cost any money. It is just kind of a protection. (3T195:24).

The Town rejects the proposal.

After review of the parties Final Offers and submissions, I find there is insufficient evidence to meet the burden to award the PBA's proposal and alter the *status quo*.

Based upon the application of 16g criteria and the record before me, I respectfully enter the terms of this Award.

AWARD

1. **Duration.** Three (3) year term January 1, 2019 to December 31, 2021.

2. **Article I, Salaries.**

2019 2.25% plus \$1,000 adjustment to top step retroactive to January 1, 2019

2020 2.25% plus \$1,000 adjustment to top step

2021 2.25% plus \$1,000 adjustment to top step

2018	2019	2020	2021	Step	
41774	42,713	43,674	44,657	1	Schedule A-1
50791	51,933	53,102	54,296	2	
59801	61,146	62,522	63,929	3	
68816	70,364	71,947	73,566	4	
77831	79,582	81,372	83,203	5	
86844	88,797	90,795	92,838	6	
95858	99,037	102,288	105,612	7	
42158	43,106	44,076	45,068	1	Schedule A-2 Jan-11
48535	49,627	50,743	51,885	2	
55295	56,539	57,811	59,112	3	
62056	63,452	64,879	66,339	4	
68816	70,364	71,947	73,566	5	
75577	77,277	79,016	80,794	6	
82338	84,190	86,084	88,021	7	
89098	91,102	93,152	95,248	8	
95858	99,037	102,288	105,612	9	

40955	41,876	42,818	43,782	Acad	6 mo. Schedule A-3 Jan-13
42158	43,106	44,076	45,068	1	
48535	49,627	50,743	51,885	2	
55295	56,539	57,811	59,112	3	
62056	63,452	64,879	66,339	4	
68816	70,364	71,947	73,566	5	
75577	77,277	79,016	80,794	6	
82338	84,190	86,084	88,021	7	
89098	91,102	93,152	95,248	8	
95858	99,037	102,288	105,612	9	
40154	41,057	41,981	42,925	Acad	6 mo. Schedule A-4 Jan-16
43804	44,789	45,797	46,827	1	
48537	49,629	50,745	51,887	2	
53270	54,468	55,694	56,947	3	
58002	59,307	60,641	62,005	4	
62715	64,126	65,568	67,044	5	
67469	68,987	70,539	72,126	6	
72202	73,826	75,487	77,186	7	
76934	78,665	80,434	82,244	8	
81667	83,504	85,383	87304	9	
86400	88,344	90,331	92,364	10	
91133	93,183	95,280	97,423	11	
95858	99,037	102,288	105,612	12	

3. Article XIII, Medical Insurance.

Section E - Add the following language:

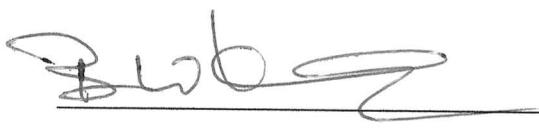
All employees shall continue to contribute towards health benefits at the Tier IV/Year 4 rates as set forth in the health benefit contribution charts in the contract.

4. Article XI, College Credits

Add new language: stipend of \$500 associate degree, stipend of \$500 for honorable service in the United States Military, stipend of \$1000 for bachelor's degree.

5. All other proposals by the Town and the PBA not awarded herein are denied and dismissed.
6. All provisions of the existing agreement shall be carried forward except for those which have been modified by the terms of this Award.
7. Pursuant to N.J.S.A. 34:13A-16(f), I certify that I have taken the statutory limitation imposed on the local tax levy cap into account in making the award. The Award also explains how the statutory criteria factored into my final determination.
8. I have also calculated the net, annual economic change in base salary, including step increments over the three (3) year term of the new agreement, as follows: 2019-\$92,727; 2020-\$93,988 and 2021-\$92,041.

Dated: August 14, 2019
Jersey City, New Jersey


Brian W. Kronick, Esq.
Interest Arbitrator

State of New Jersey }

County of Hudson } ss:

On this 14th day of August 2019, before me personally came and appeared Brian W. Kronick 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.

