

# **Public Employment Relations Commission**

In the Matter of the Interest Arbitration

between

**BOROUGH OF WALDWICK**

**OPINION AND AWARD**

and

**PBA Local 217**

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PERC Docket No. **IA-2003-030**

Before: Barbara Zausner, Arbitrator

Award Dated: May 14, 2004

## **APPEARANCES**

For the Borough: Ruderman & Glickman  
Attorneys for the Borough  
By, Mark S. Ruderman, Esq.  
Ellen M. Horn, Esq., on the brief

For the Union: Loccke & Correia  
Attorneys for the Union  
By, Richard D. Loccke, Esq.

## **PROCEDURAL HISTORY**

The bargaining unit consists of thirteen patrol officers, five sergeants, and one lieutenant. The predecessor contract expired on December 31, 2002. I was appointed interest arbitrator on February 23, 2003 and met with the parties on May 7, and July 23,

2003. I held a formal interest arbitration hearing on July 23 that was transcribed.

The parties resolved a number of issues through direct negotiations. These agreements are in evidence as Joint Exhibit 2. Both parties propose a three year agreement.

The decision is made under a conventional arbitration procedure.

After the hearing was concluded the Union filed a Scope of Negotiations petition before PERC contending that the Borough's longevity proposals are not mandatorily negotiable. The Borough wrote to me seeking to withdraw the part of its proposal that guarantees longevity for current employees for the life of their employment with the Borough. Because the parties did not mutually agree to permit revisions, I denied the Township's request pursuant to N.J.S.A. 19:16-5.7(f),

The arbitrator may accept a revision of such offer at any time before the arbitrator takes testimony or evidence or, if the parties agree to permit revisions and the arbitrator approves such an agreement, before the close of the hearing. Upon taking testimony or evidence, the arbitrator shall notify the parties that their offers shall be deemed final, binding and irreversible unless the arbitrator approves an agreement between the parties to permit revisions before the close of the hearing.

PERC held that the Borough's longevity proposals are mandatorily negotiable. Therefore, the PBA's arguments that the proposals cannot, by law, be awarded are disregarded in the discussion below.

## FINAL OFFERS

### **PBA's final offer**

Effective January 1, 2003	5% increase
Effective January 1, 2004	5% increase
Effective January 1, 2005	5% increase

### **Borough's final offer**

#### Salaries:

Effective January 1, 2003	4.5% increase
Effective January 1, 2004	4.5% increase
Effective January 1, 2005	4.5% increase

#### Longevity:

All Employees hired after July 1, 2003 shall not be eligible for longevity benefits and guarantee current employees get longevity until retire.

Freeze longevity at 2003 current levels (i.e. Millburn settlement).

## DISCUSSION AND OPINION

### *The Statute*

This decision is based on an application of the criteria set forth in N.J.S.A.34:13A-16g:

The arbitrator or panel of arbitrators shall decide the dispute based on a reasonable determination of the issues, giving due weight to those factors listed below that are judged relevant for the resolution of the specific dispute. In the award, the arbitrator or panel of arbitrators shall indicate which of the factors are deemed relevant, satisfactorily explain why the others

are not relevant, and provide an analysis of the evidence on each relevant factor:

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

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

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

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

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

(3) The overall compensation presently received by the employees, exclusive of direct wages, salary, vacations, holidays, excused leaves, insurance and

pensions, medical and hospitalization benefits, and all other economic benefits received.

(4) Stipulations of the parties.

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

(6) The financial impact on the governing unit, its residents and taxpayers. When considering this factor in a dispute in which the public employer is a county or a municipality, the arbitrator or panel of arbitrators shall take into account, to the extent that evidence is introduced, how the award will affect the municipal or county purposes element, as the case may be, of the local property tax; a comparison of the percentage of the municipal purposes element or, in the case of a county, the county purposes element, required to fund the employees' contract in the preceding local budget year with that required under the award for the current local budget year; the impact of the award for each income sector of the property taxpayers of the local unit; the impact of the award on the ability of the governing body to (a) maintain existing local programs and services, (b) expand existing local programs and services for which public moneys have been designated by the governing body in a proposed local budget, or (c) initiate any new programs and services for which public moneys have been designated by the governing body in a proposed local budget.

(7) The cost of living.

(8) The continuity and stability of employment including seniority rights and such other factors not confined to the foregoing which are ordinarily or

traditionally considered in the determination of wages, hours, and conditions of employment through collective negotiations and collective bargaining between the parties in the public service and in private employment.

### *Positions of the parties*

The Borough's proposal would eliminate longevity for employees hired after July 1, 2003; freeze the existing longevity benefit at the 2003 level in flat dollars, and would guarantee "continuation of current employees' longevity, unless and until it is changed through future negotiations or interest arbitration." <sup>1</sup>

The PBA argues that the Employer cannot justify eliminating the longevity benefit for new hires. Longevity is a common form of compensation "paid in virtually every police contract across the state, and certainly in Bergen County." The PBA argues that the maximum longevity benefit in Waldwick "is identical to the area average" which the PBA calculates at 10% after 21.6 years. <sup>2</sup> (Brief, p. 23). The PBA describes various tradeoffs that were made in seven other departments when longevity was modified or eliminated.

In Hillsdale, the contract provides for a one time payment of \$3,000 as a quid pro quo for eliminating longevity. (Employer's exhibit 20, p. 43). Springfield's longevity program changed seven years ago. Longevity was not eliminated there but was reduced to 10% which is the maximum longevity payment in Waldwick. (Employer exhibit 25, p. 126). In Dumont, the arbitrator imposed a 12% maximum.

The PBA's evidence shows that eight area municipalities have an average maximum longevity payment of 10% which is reached in an average 21.6 years. In Waldwick, it takes 23 years to reach the 10% level. (Chart 8, p. 23).

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<sup>1</sup> It is based on that explanation that PERC found the clause guaranteeing longevity to be mandatorily negotiable.

<sup>2</sup> The average is derived using the level of benefit in Wyckoff, Ridgewood, Allendale, Oakland, Paramus, Upper Saddle River, and Woodcliff Lake.

The PBA also points out that the Borough will not achieve any savings during the term of the contract by eliminating longevity for new hires. Even an employee hired in 2003 would not be eligible for the first step of the longevity benefit for several years and at least two successive contract terms.

According to the PBA, "the loss of longevity and creating a two tier standard of benefits will have a major negative impact on the bargaining unit." "One cannot justify two police officers doing essentially the same job in the future with different levels of compensation being paid." "There is little doubt that when the 'have nots' take over a majority of the PBA then they will respond appropriately to the 'haves' with longevity." The PBA predicts that "conflict and disaster" would result. (Brief, pp. 24-25).

The Borough argues that its proposals "more reasonably reflect the statutory criteria than the PBA's demands." (Brief, p. 78). It points to arbitration awards on the subject. It claims about one half dozen Bergen County towns have eliminated longevity. Interest arbitration awards in Paramus and New Providence eliminated longevity for new hires. Eight or ten jurisdictions have two-tiered programs. Waldwick is in the top 10% of the area in terms of pay. The top patrolman salary in the Borough is \$83,879.

The Borough also points out that existing unit members will be protected through their retirement (unless subsequent negotiations change the agreement).

#### *Comparative costs of the proposals*

The PBA calculates the cost of one percentage point at \$16,328, a figure derived by multiplying base pay for each unit member. It claims the difference between the parties is only .5% or \$8,164. Compared with a total municipal expenditure of \$6,207,842, the difference "is insignificant." (Brief, p. 37).

The Borough provides the following data and analysis. The PBA's 5% per year salary demand would result in an increase (with compounding) of 15.76% over the term of the agreement. The maximum patrol officer's salary would increase from \$83,879 to \$97,101 in 2005; an increase of \$13,222. Over the three year term,

the cost of increments will amount to \$78,983, an increase of 5.04%. The total increase over 2002 is 20.80%. (Brief, pp. 7-8, Exhibit 2 attached to the brief).

Under the Borough's salary proposal the maximum patrolman's salary would increase to \$95,720 in 2005 (\$1381 less than the PBA's offer would generate.) The bargaining unit would receive a 14.12% increase over three years. The total cost increase would be 19.16% including increments.

Borough Exhibit 1 attached to the brief shows that the total difference between the Borough's wage proposal (at 4.5%) and the PBA's is \$51,553. The difference between 3.5% and 5% would be slightly over \$150,000 using the Borough's figures.

Freezing longevity at existing levels and a flat dollar amount would save the Borough money in the long run. "The savings to the Borough under its proposal cannot be calculated because they depend upon the salary increases awarded in this interest arbitration." (Borough Brief, p. 10). Eliminating longevity for new hires will not generate any savings during the term of the contract. The Union points to this fact as an argument against the Employer's proposal. "The Employer's attack on the longevity program is problematic in that it will not save any money whatsoever during the term of this contract." (Brief, p. 24).

The Borough argues that its offer of 4.5% per year "significantly exceeds the 'going rate' " and is "'compensation' for the ... proposal to eliminate longevity for new hires and establish flat dollar longevity at 2003 rates." Its salary offer without the longevity proposals is a 3.5% increase in each contract year.

The PBA claims that the parameters for a wage increase are 4.5% at the lowest and 5% at the highest and maintains that an award must fall between those two points. The Borough made clear at the hearing and in its brief that 4.5% is not the appropriate increase based on comparisons unless the Borough's longevity proposals are awarded. The 4.5% offer is the quid pro quo for the proposed longevity changes.



*The Interests and welfare of the public.*

This criterion generally is reviewed in terms of the Employer's fiscal constraints, the economic impact of an arbitration award on the public, and the need to have a stable, professional and motivated police department. The PBA points to the level of service enjoyed by the public in Waldwick. There has been considerable growth in town, both commercial real estate and high end housing. The growth in population will increase the demand for services and bring in added revenue.

Waldwick has the highest population density among ten neighboring towns.<sup>3</sup> (PBA Brief, p. 9, Chart 1, PBA Exhibit 3). "Another measure of demand for service and police activity specifically is increased traffic activity." (Brief, p. 9, PBA Exhibit 7). Traffic will increase with planned improvements and increased capacity at the Waldwick Train Station." (PBA Exhibit 15). There have been substantial increases in law enforcement activity and in criminal conduct. (Charts 2, 3, PBA Exhibits 4 & 6). Waldwick is above average in criminal activity as compared with Midland Park, Wyckoff, Allendale, Hohokus, Upper Saddle River, and Franklin Lakes.

The PBA cites testimony that the police department has improved services and facilities for the public. Increased training results are documented. The department interacts in a number of important areas with the New Jersey State Police. These services are provided despite a "force [that] has remained static over many years." Staffing patterns were reduced causing a "significant impact on current police personnel." (Brief, p. 14). Workload and demand for services has increased. Career path opportunities have also been reduced. Notwithstanding these changes, "the Waldwick Police Department remains a highly productive, proficient and professional police operation." (Brief, p. 16).

As further discussed below, comparison of this unit with others that are similarly situated strongly indicates an award of across the

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<sup>3</sup> Waldwick, Ridgewood, Midland Park, Wyckoff, Paramus, Hohokus, Allendale, Upper Saddle River, Franklin Lakes and Saddle River.

board increases at the level of what both parties see as the going rate.

My application of this criterion results in a compromise between the economic offers. I have concluded that the public interest is best served by maintaining the status quo with respect to the longevity benefit. The Borough has not met its burden of proving the need for a change. The salary increase awarded is based primarily on comparisons and serves the public interest by maintaining the department's relative standing.

*Comparisons  
private employment in general*

The PBA argues that this criterion is entitled to little weight for a variety of reasons: no comparable private sector job; no "portability of pension", physical requirements and training, full time responsibilities, the hazards of the job, etc. It points to numerous labor and employment statutes that distinguish police officers from private sector employees. (Brief, pp. 29-31). In the PBA's view, comparison with local police employees makes the most sense.

The Borough claims that "wage and benefit packages in the private sector highlight the reasonableness of the Borough's proposals in comparison to the PBA's demands." (Brief, p. 25). Nation-wide, wage increases are considerably less than the 5% the PBA seeks. The Borough's evidence shows average increases of 3.4% in the first half of 2003 compared with 4.2% for the same period in 2002. Median first year increases also fell from 3.7% to 3.1%. (Employer's exhibit 28). "National settlement trends support the reasonableness of a 3.5% per year increase." (Brief, p. 25).

The Borough also points out that most private sector employees contribute toward the cost of their health benefits. Many are limited to managed care. Small employers "are severely reducing health benefits." (Brief, p. 27). "Despite rapidly rising costs, the Borough provides its officers and their families with comprehensive medical, dental, and prescription benefits at no cost to the employee." (Brief, p. 29). Waldwick will see increases of over 20% in the cost of the benefits it provides. (E-30).

This criterion has little relevance in view of the small difference between the parties' offers. Private sector wages continue to increase at levels beyond increases in the CPI. There is no evidence that the award will have any adverse impact on the Borough's ability to attract competent personnel or on its ability to provide services. In fact, the award will cost less over its term than the Borough's proposed increase.

*public employment in general*

The Borough cites statistics from 35 public sector voluntary settlements under the Interest Arbitration Reform Act. The average salary increase generated for 2001 was 3.91%. The average of 17 awards issued in 2001 is 3.75%. A CWA unit of 34,000 state workers settled for a four year contract with a one year wage freeze, 2.9% in July 2004, 2% in July 2005, 2% in January 2006 and 2.3% in January 2007. The unit also agreed to increase contributions toward health insurance and pensions.

IFPTE and the Turnpike Authority negotiated increases of 11.5% over four years with a wage freeze in the first year. An arbitration award in Springfield Township eliminated longevity benefits for new hires. The increases awarded are 3.5% in January 2001, 3.9% in January 2003, and 4% in January 2004. In East Orange, the FOP was awarded a seven year contract that averaged 3.67% wage increases for 2003 through 2005.

The Borough cites a number of other interest arbitration awards with average increases slightly under 4%. The Borough concludes, "recent settlements and awards in the public sector in New Jersey support the reasonableness of the Borough's wage offer and demonstrate that it well exceeds the 'going rate'." (Brief, p. 35).

The PBA claims that "towns in the area ... provide total compensation programs far superior to that found in Waldwick." Brief, p. 16). It points out that the guide has ten steps to top rate. "No other department in the county has more steps than Waldwick ..." (Brief, p. 17). The PBA specifies benefit packages. For example, Waldwick police officers do not receive medical benefits on retirement while police officers in nineteen other towns do. (Chart,

4 p. 18). The clothing allowance (a form of reimbursement) is \$235 below the average, 42.8%. (Chart 5, p. 19). Fifteen departments pay an educational incentive allowance while there is no such stipend in Waldwick. (Chart 6, p. 20). The detective differential is far below that paid in other departments -- \$948 below average. (Chart 7, p. 21).

In Paramus, for the 97-99 contract, Arbitrator Hammer awarded a reduction in the longevity benefit for new hires by 50%. (The borough proposed to eliminate longevity). No specific rationale is offered for making any change in longevity. He found that "the Paramus benchmark ranks first in Bergen County" and that the difference between the first and second ranks "is so great, there is no reason why the police in Paramus must be awarded a sum equal to the average [County] settlement ...." He found "room for a little 'catch up' "by departments who were behind Paramus in compensation. (E-22, p. 14).

In Allendale, Arbitrator Glasson did not award the borough's proposal to eliminate longevity for new hires. He pointed to evidence that employees were leaving for better compensation. He reviewed some of the evidence that is also in this record. He gave less weight to comparison with the borough's DPW unit than to "comparability with other police officers in Bergen County." He quoted Arbitrator Mastriani's decision in the award for Allendale's predecessor contract when he declined to eliminate longevity for new hires: "the small size of the department would yield little in the way of savings and any savings must be weighed against the adverse effects that a dual compensation system might yield between employees who must work together on behalf of the public's welfare and safety." (P-17, Tab 1, p. 42). The department in Waldwick is also small.

*public employment in the same or similar comparable jurisdictions*

The Borough's other unionized group, public works employees, received a 4% increase for each year of a three year contract. The group agreed to eliminate longevity for employees hired after 1992. The Borough agreed "to preserve the longevity benefit for those hired prior to January 1, 1992 in subsequent contracts." The Borough also eliminated longevity benefits for new

hires for all non-unionized employees. The Borough asserts an internal pattern. (Brief, p. 37). The Borough also cites PERC's decision in Union County and Union County Corrections Officers for the proposition that an interest arbitrator must "carefully consider evidence of internal settlements and settlement patterns." (Brief p. 37, quoting from the decision).

The Borough compares Waldwick with all Bergen County municipalities. It argues its "comparability data represent a comprehensive County-wide analysis" and the PBA "randomly select[ed] slightly under one-third of Bergen County's PBA units for analysis." (Brief, p. 39). According to the Borough's figures, Waldwick has the sixth highest base wage exceeded only in Paramus, Franklin Lakes, Rochelle Park, Tenafly and Mahwah. The Borough maximum patrolman salary in 2002 is 8.05% higher than the average which is \$77,625. (E-1). That figure ranges from \$67,035 in Cliffside Park to \$90,413 in Paramus.

In 2003, with a 4.5% increase, Waldwick's base will be \$87,653.56 and will rank 4<sup>th</sup> among 45 municipalities. Waldwick's salary would be almost 8% higher than the County average. Salaries range from \$69,381 in Cliffside Park to \$94,030 in Paramus.

Increases for 2003 among 59 Bergen County municipalities averaged 3.98%. (E-4). In 2004, among 17 municipalities, increases averaged 4.04%. (E-8). The Borough lists 2003 and 2004 maximum patrolman salaries. (E-5). Six municipalities have contracts for 2005. The average percentage increase is 3.91%. (E-6).

The Borough asserts that its salary offer would continue to improve Waldwick's rank among other Bergen County municipalities. In 1995, Waldwick ranked 11<sup>th</sup> highest. (E-2). By 2002, It ranked 6<sup>th</sup>. (E-1). The starting salary in Waldwick, \$36,365 in 2002, was third highest in the county. (E-3).

With respect to the longevity proposal, the Borough cites comparisons with other Bergen County municipalities. A patrolman at the 13<sup>th</sup> year of service would have a base salary of \$87,234.16, 7<sup>th</sup> highest among 58 municipalities in the county. Several

municipalities have eliminated longevity benefits.<sup>4</sup> Franklin Lakes and Midland Park have no longevity benefit. Fifteen municipalities have a two-tiered longevity system. Benefits have also been reduced by delayed payments and by imposing or increasing caps for new employees.

The Borough claims that numerous Bergen County municipalities have eliminated longevity for new hires, including Rochelle Park, Wallington, Hillsdale, and Hackensack. Waldwick officers are better paid and the Borough's offer of 4.5% is at least as much as the increases that other municipalities paid in exchange for a two-tiered system. Other agreements guarantee existing employees' longevity benefits for the life of their employment with the municipality.

Some municipalities have a reduced longevity benefit for new hires. Arbitrator Mastriani awarded a modification of longevity benefits and an average 4% increase per year. "The Hasbrouck Heights award reduced longevity benefits for new hires." (Brief, p., 49). The award also increased steps on the guide and reduced the starting salary for new hires. In 1998, Arbitrator Hammer imposed a two-tiered longevity program. (E-22, p.28). There were other "give backs" and the increases were below the "going rate." (Brief, p. 50). Arbitrator Mastriani imposed a two-tiered longevity schedule in Dumont in 2001 and awarded an average of 4.12% per year. (E-23), pp 58-59.) He awarded a two-tiered longevity schedule in Bogota with average increases of 3.98% over five years.

The Borough distinguishes its situation from Allendale where Arbitrator Glasson declined to eliminate longevity benefits. (P-17, Tab.1). Allendale police officers have "below average salaries," Allendale offered no incentive for existing employees to agree to eliminate longevity for new hires, Allendale rolled longevity for DPW employees into base resulting in a 14.9% increase, and Allendale's department has been losing officers to nearby departments with more competitive salaries. Many municipalities in the State have eliminated longevity for new hires. (E-16, Somerset and Union County).

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<sup>4</sup> Hillsdale, Old Tappan, Rochelle Park, and Wallington.

The Borough cites Mediator Tener's recommendation in Millburn that was accepted by the parties. The Borough's offer is modeled on its terms. (E-17). Millburn police are paid significantly less than in Waldwick. My January 6, 1998 award in New Providence is also cited. Arbitrator Mastriani eliminated longevity for new hires in Springfield. (E-25). In all those cases, increases at or below the going rate were awarded. Arbitrator Sands reduced the longevity benefit for new hires in Springfield in his award for contract years 1997 through 2000.

The Borough argues that "salary comparability data and recent settlements and awards in Bergen County support the reasonableness of the Borough's fair and final offer." (Brief, p. 63).

The PBA claims that longevity is "a common form of compensation paid in virtually every police contract across the state, and certainly in Bergen County." (Brief, p. 22). Its other arguments against eliminating longevity are summarized elsewhere.

Comparison of police employees with other public safety employees in the area remains one of the best objective indicators in this record of the appropriate level of compensation and benefits. Both parties' presentations focus heavily on comparison with other police departments. The criterion gets significant weight in this decision, as it has in many of the awards in evidence. The comparisons show that most Bergen County municipalities continue to pay a longevity stipend and that average raises are about 4% per year.

The Borough's pattern argument is based on one other bargaining unit of blue collar employees and its non-union workforce. The latter group has no bargaining power and must accept the terms and conditions set by the municipality. Police compensation has not followed a parallel line with the Borough's other employees. Rather, compensation in the police department has tended to follow County-wide trends.

## *Overall Compensation*

Both parties' exhibits show that overall, Waldwick police officers are compensated at levels that are above average. Benefits are similar to those in other County municipalities.

## *Stipulations*

See the list of prior agreements set forth in Joint Exhibit 2. Both parties propose a three year agreement.

## *Lawful authority of the Employer and Financial Impact*

This criterion requires consideration of Cap Law limitations. The Borough claims the PBA's total package averages 6.93% per year and exceeds the index rate. The Borough would be required to "reduce other expenditures which fall within the Cap to the extent the cost of the economic demands exceed the index rate." (Brief, p. 69).

The Borough asserts that its offer "considers the financial impact its [offer] will have on the governing unit, its residents and taxpayers because it takes into account the Borough's specific economic condition." (Brief, p. 70). The Borough details factors of the state economy that affect the Borough's ability to raise taxes to fund salary increases for police employees. These include rising unemployment, layoffs caused by the economic downturn, and plant closings.

The Borough argues that its "economic demographics support the reasonableness of its offer. Its per capita income is 17.76 % below the county average. Wealthier municipalities pay lower salaries than Waldwick. Waldwick's median household income is 2.53% below the county average.

Waldwick "has experienced a steady increase in the municipal tax rate. It has increased an average of 3.86% per year since 1996. (E-32).

The PBA contends the municipal budget (P-16) is under Cap and "contains significant flexibility well within the cap." (Brief, p. 35).



It compares various figures to the dollar difference between the parties' offers to show a de minimis impact of awarding the PBA's proposed increases. It points to savings achieved by the Borough. It concludes the award of the PBA's position will have no adverse effect on the public and the tax payers. The PBA also points to indicators of the Borough's good economic health. (Brief, pp. 38-40).

As noted in more detail below, the cost difference between the parties' economic offers is relatively small. As far as this record reveals, funding either offer (or a compromise award) would have a negligible impact on the Borough's ability to provide services and an insignificant effect on the taxpayers. The compromise award will cost less than the Borough's wage proposal.

### *Cost of Living*

The Borough cites CPI figures. The index increased by 1.9% in 2003. The increase in 2002 was 2.4%. The increase for 2004 is expected to be around 2%.

This criterion is entitled to little weight in this decision. Bargaining gains over the past decade have raised public sector wages to respectable levels compared with increases in the cost of living. Both parties' offers considerably exceed increases in the CPI.

### *Continuity and Stability of Employment*

The Borough claims its proposal "will best allow [it] to maintain and continue a stable work force ...." The Borough claims its proposal "more reasonably protects the police officers' stability and continuity of employment than the PBA's demands." (Brief, p. 77).

The PBA asserts that there "must be the strongest of showings and the most cogent of arguments supported by strong evidence" to justify removing the longevity benefit. As noted above, it is vehemently opposed to creating a divisive distinction between new hires and the rest of the unit.

This criterion bears on the longevity proposals. It does not get considerable weight because there is no evidence of a problem in

this area. Two-tiered systems have their place but they are more likely to have a negative than a positive effect on stability within the unit.

### *Conclusions*

The 2002 salary cost for this unit, including longevity, increments, EMT stipends, and college credits was \$1,650,351. (E-39). Using the Borough's estimate of the overall increases under each party's offer, the PBA's proposal would result in an increase over the three years of 20.8%, \$343,273. The Borough's offer would result in an increase of 19.16%, \$316,207. The difference between the parties' offers for the three contract years is \$27,066. Other figures supplied by the Borough show a cost difference of \$51,553 applying percentages to base salaries. (Exhibit 1 attached to the brief). The amount is very small compared with the overall budget.

The burden of proving the need for a change in terms and conditions of employment is on the party seeking the change. The decisions in this matter are whether or not to award any of the longevity changes sought by the Employer and what should be the wage increase in each year of the contract. As this is a conventional arbitration procedure, I am not confined to either party's final offer but have the flexibility to fashion a compromise. If the Borough's proposals on longevity were to be awarded then the wage increase would not be lower than the 4.5% offered by the Borough as a quid pro quo for the longevity changes. However, if there are no longevity changes, the appropriate range to consider is between 3.5 and 5%.

The Borough has the burden of establishing a need to modify longevity, an important aspect of compensation. Except for a potential savings that will not be realized during the term of this agreement or in the foreseeable future), there is little support for imposing a change. There is no evidence that the Borough is in economic difficulties, in fact the evidence cited by the PBA is to the contrary and the Borough does not argue that it needs dramatic relief. In any case, the Borough's package offer is .5% higher than the increase awarded below.

From the PBA's perspective, even a wage increase that is above average does not offset for this bargaining unit the damage it anticipates from creating a two-tiered benefit. Some of the proposed changes that were agreed to or that were imposed in other jurisdictions were made under the unique circumstances that prevail in those localities.

In New Providence the record supported eliminating longevity for new hires in order to fund a wage increase that would raise salaries that "lagged considerably behind most other municipalities and was well below the average top salary...." (Employer exhibit 14, p. 9). There is no showing in this record that some sacrifice is necessary in order to fund an adequate and reasonable wage increase.

Application of the relevant statutory criteria lead me to the conclusion that the longevity benefit should not be modified in this interest arbitration proceeding.

The PBA's proposal of 5% increases in each year is unrealistically high. The average increase in the area, in the County, and in other public employment in the State is closer to 4%. In Bergen County, the average wage increase among police departments was 3.98% in 2003, 4.04% in 2004 and 3.91% in 2005. The average for 2005 is based on only six agreements.

Based on an application of all of the relevant statutory criteria, I conclude that wages should be increased by 4% per year across the board for each year of the contract term. The Borough's longevity proposals are rejected.

## AWARD

Wages shall be increased as follows:

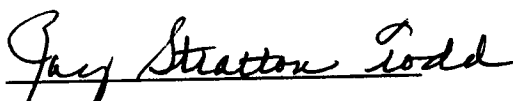
Effective January 1, 2003	4% increase
Effective January 1, 2004	4% increase
Effective January 1, 2005	4% increase

By:   
Barbara Zauser

New York

Ulster

Sworn to and affirmed before me on May 14, 2004

  
Roy Stratton Todd  
Notary Public, State of New York  
Qualified in Delaware County No. 4669163  
My Commission Expires Jan. 31, 19 2007