# NEW JERSEY PUBLIC EMPLOYMENT RELATIONS COMMISSION

in the Matter of Interest Arbitration Between the:	
BOROUGH OF MIDLAND PARK	
"Public Employer"	
-and- MIDLAND PARK PBA LOCAL NO. 79	INTEREST ARBITRATION DECISION AND AWARD
"Union."	
Docket No. IA-2005-049	
	Poforo

James W. Mastriani **Arbitrator** 

## **Appearances:**

For the Borough:

Raymond R. Wiss, Esq. Wiss, Cooke & Santomauro, P.C.

For the PBA:
Richard D. Loccke, Esq.
Loccke & Correia PA

I was appointed arbitrator by the New Jersey Public Employment Relations Commission on March 8, 2005 in accordance with P.L. 1995, c. 425, in this matter involving the Borough of Midland Park [the "Employer" or "Borough"] and Midland Park PBA Local 79 [the "PBA"]. Pre-arbitration mediation sessions were held. Because the impasse could not be resolved voluntarily, a formal interest arbitration hearing was held on October 5, 2005. Testimony was received from Patrol Officer and Vice President of PBA Local 79 Albert Maas and Mayor Ester Vierheiling. Extensive documentary evidence was submitted into the record by both parties. Post-hearing briefs were submitted and received on or about December 12, 2005.

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

The Borough and the PBA submitted the following final offers:

#### The PBA

- Wage Increase The PBA proposes a wage increase of five (5%) percent, across-the-board, effective January 1<sup>st</sup> of each successive year of a four (4) year contract.
- Hazardous Duty/Longevity Pay The PBA proposes a modification of the contract at Article IV by modifying the benefit to one percent (1%) of base pay for each six (6) years of completed service. Service would be defined consistent with the New Jersey State Police and Fire Pension Law.
- 3. Schedule Committee The PBA proposes an addition to current Article IX of the most recent contract by adding a paragraph as follows:

The parties shall form a joint Scheduling Committee to meet and negotiate regarding an improved work schedule which is intended to improve public service.

#### The Borough of Midland Park

- 1. <u>Wage Increases</u> (Article III, Appendices A and A-1) The Borough has proposed a 2.5% increase at all levels for each year of the contract.
- 2. <u>Term</u> (Article I) The Borough has proposed a four (4) year term from January 1, 2005 to December 31, 2008.
- 3. <u>Salary Steps</u> (Article III, Appendix A-1) The Borough has proposed an increase of two (2) additional steps on the salary guide for new hires effective January 1, 2006.
- 4. <u>Educational Incentive</u> (Article XXXIII) The Borough has proposed eliminating the educational incentive payment effective January 1, 2006 and "rolling" the same into base wages.
- 5. <u>Insurance</u> The Borough has proposed modifying the language contained in Article XXVIII (A) to read as follows:

In the event that any present insurance carrier shall refuse to continue such insurance or in the event the Borough should elect to place such coverage with a different insurance carrier, become self insured, join a pool or fund, or otherwise effectuate a transfer of coverage, such transfer shall maintain substantially similar coverage and benefits to the employee and/or his/her dependents. Any and all increases in premium payments for covered active employees and their dependents and/or the costs of such insurance shall be borne exclusively by the Borough. In the event that a decrease in coverage and/or benefits takes place as a result of the Borough's election to change insurance carriers, etc., and if an employee and/or any member of the employee's suffers an adverse change in coverage and/or benefits as a result, then the Borough shall make prompt payment to the employee in the amount of the difference between the benefits as covered under the pre-existing insurance program and the benefits as covered under the new plan.

#### **BACKGROUND**

Midland Park is a municipality located in northwest Bergen County. It consists of less than 1.6 square miles. Midland Park has a population of approximately 6,947 residents. It is primarily residential in character with 2,613 households and a total of 2,650 housing units. Most of the units are single family residences. The municipality consists mostly of local roadways. The population has actually decreased over the last thirty years. The municipality is almost fully developed with less than three acres of land not developed. The median income of residents in 2000 was \$76,462.

Midland Park has experienced some economic development, but due to the lack of open space, much of it is attributed to replacing or updating existing structures such as banks and supermarkets. A new housing development, the Kentshue Project, was built to address the Borough's Mount Laurel obligations, although this project makes payment in lieu of taxes (PILOT).

Mayor Ester Vierheiling offered testimony on the nature and character of the Borough. She characterized the Borough as a stable community with 16% of the population over the age of 65. She described the location of the Borough as being within a 13-town area that is often referred to as northwest Bergen County consisting of the municipalities of Saddle River, Franklin Lakes, Ho-Ho-Kus, Upper Saddle River, Allendale, Ridgewood, Glen Rock, Wyckoff, Ramsey, Oakland, Mahwah, Waldwick and Midland Park. Mayor Vierheiling described the

Borough as being less affluent than all of the Northwest Bergen County municipalities except for Waldwick, the only municipality that has a lower median income level than Midland Park. She described the Borough's approach to finance as being austere and as having to cope with budget caps, less municipal aid and with primary reliance on residential taxes for revenue.

The Midland Park Police Department is composed of fourteen (14) sworn police officers including the Chief of Police; two (2) Lieutenants, two (2) Sergeants, and nine (9) Patrolmen. The PBA bargaining unit represents all police officers excluding the Chief of Police. The department, as well as the community, has not grown in size during the recent past. The department, as reflected in the testimony of Patrolman Albert Maas, has reaped the benefits of investments that have been made in technology, specialized training and resources. This has increased the efficiency and productivity of the police force and the ability to respond to increased call volume. Patrolman Maas confirmed that the community is stable, close knit and religious. The PBA is involved in contributing to many community organizations and activities. The vast majority of the bargaining unit are residents of Midland Park. The PBA offers extensive documentation reflecting its view that the terms and conditions of employment for the Borough's police officers compare unfavorably with municipalities in Northwest Bergen County and the County in general.

Against this general backdrop, the PBA and the Borough offer the following arguments in support of their respective positions.

#### **POSITIONS OF THE PARTIES**

#### The PBA

Addressing the interest and welfare of the public, the PBA indicates that the Borough is an "active and growing community lying in northwest Bergen County and that the department serves the public well." The PBA contends that there has been residential and commercial property development. This, coupled with enhanced and expanded police services, has resulted in increased work loads. The PBA asserts that the department is highly productive. It has a staff size that has remained essentially unchanged since 1983 despite broadened services offered to the community.

The PBA compares wages and terms and conditions of employment of Midland Park police officers with other departments in Bergen County. The PBA contends that this unit is one the poorest paid in Bergen County and is also the poorest paid in the Borough's comparison group consisting of Northwest Bergen police departments. The PBA refers to the Northwest Bergen communities cited in the Borough's exhibits in support of its position:

#### Northwest Bergen County "Top Cop" Base Pay, 2002-2004

	Town	2002	2003	2004
1	Franklin Lakes	88,200	91,508	95,168
2	Mahwah	84,226	87,636	91,053
3	Waldwick	83,879	87,234	90.723
4	Wyckoff	82,117	85,402	88,818
5	Upper Saddle River	81,520	84,732	88,079
6	Ramsey	81.500	84.354	87.306

7	Saddle River	81,076	84,927	88,961
8	Glen Rock	79,613	82,790	86,101
9	Allendale	78,273	81,404	84,660
10	Midland Park	77,765	80,681	83,707
11	Ridgewood	77,514	81,002	82,622
12	Ho-Ho-Kus	77,426	80,717	84,349
13	Oakland	77,000	80,000	83,450

The PBA also refers to countywide comparisons:

## "TOP COP" BASE PAY

	Town	2004 (\$)
1	Paramus	97,791
2	Franklin Lakes	95,168
3	Tenafly	91,389
4	Mahwah	91,053
5	Waldwick	90,723
6	Elmwood Park	89,434
7	Closter	89,246
8	Saddle River	88,961
9	Upper Saddle River	88,079
10	Wyckoff	87,966
11	Ramsey	87,306
12	Saddle Brook	86,746
13	Hackensack	86,346
14	3	86,323
15		86,101
16	Norwood	85,671
17	Harrington Park	85,152
18	Allendale	84,660
19		84,349
20		83,707
21	Old Tappan	83,608
22	Oakland	83,450
23	Ridgewood	82,622
24	Demarest	82,229
25	Edgewater	81,929
26		81,691
27		81,391
28	Northvale	81,066
29	Oradell	80,536
30	Cresskill	80,254

31	Township of Washington	79,888
32	Woodcliff Lake	79,348
33	Hawthorne	79,072
34	Westwood	79,003
35	New Milford	78,413
36	Emerson	77,875
37	River Vale	77,080
38	Haworth	74,831
39	Park Ridge	

The PBA further projects base pay comparisons into future years calculating Midland Park's salaries based upon the Borough's offer of 2.5%.

"Top Cop" Base Pay Projections\*

	Town	2005 (\$)	2006 (\$)	2007 (\$)	2008 (\$)
1	Paramus	101,703	105,771	110,002	
2	Franklin Lakes	98,975	102,934	106,794	110,799
3	Tenafly	95,045	98,847	102,801	106,913
4	Mahwah	94,695	98,578		,
5	Waldwick	94,352			
6	Saddle River	93,187			
7	Elmwood Park	93,011	96,732	100,795	
_ 8	Closter	92,815	96,528	100,389	
9	Wyckoff	92,370	96,065	99,908	
10	Upper Saddle River	91,558	95,175		
11	Bergenfield	91,375	95,766	100,367	
12	Saddle Brook				
13	Ramsey	90,362	93,525		
14	Hackensack	89,800	93,392	97,128	101,013
15	Glen Rock	89,545	93,127		,
16	Norwood	89,097	92,661	96,368	100,222
17	Harrington Park	88,558	92,100	95,785	99,616
18	Allendale				
19	Ho-Ho-Kus	88,145	92,332		
20	Ridgewood	88,142	92,062	96,158	100,435
21	Oakland	87,000	90,900		1
22	Old Tappan	86,744			
23	Woodcliff Lake	86,232	89,250	92,374	95,838
24	Edgewater	85,956			00,000
25	Midland Park	85,800	87,945	90,143	92,397
26	Demarest	85,518	89,153	92,942	96,892

27	Montvale				
28	Hillsdale	84,754	87,932	91,230	94,651
29	Northvale	84,309	87,681		01,001
30	Oradell	83,758			
31	Township of Washington	83,044	86,324		
32	Hawthorne	82,235	85,524		<u> </u>
33	Emerson	80,990	88,390	92,465	96,916
34	Westwood				00,010
35	New Milford				
_36	Cresskill	80,254	83,424	86,719	90,144
37	River Vale				,,,,,,,
38	Haworth	78,123	81,561		
39	Park Ridge				<del> </del>
	Park Ridge				

<sup>\*</sup>Based upon a base pay rate increase for Midland Park of 2.5% per annum for 4 years.

The PBA points out that when its overall compensation and benefits package is evaluated it notes that the Borough does not offer its officers such benefits as senior officer differential, night shift differential or other special allowances. The PBA indicates that the only monetary benefit the Borough offers aside from base pay is "hazardous duty pay" which the PBA essentially considers to be a form of longevity. The PBA maintains that this benefit is below average as well because it is offered at a flat rate of \$130.00 per year of service rather than as a benefit attached to base pay on a percentage basis. The PBA presents a comparison chart comparing its hazardous duty pay to the maximum longevity value at 25 years of service in various county departments:

CHART NO. 3

MAXIMUM LONGEVITY VALUE AT 25 YEARS BASED ON PBA EXHIBITS

(A)	(B) Longevity @ 25 Years	(C)
Allendale	8,466	10%
Alpine	8,923	10%

Bergenfield	7,044	8%
Closter	7,434	No Max 1% Every 3 Years
Demarest	9,689	10%
East Rutherford	10,625	12%
Edgewater	10,314	12%
Elmwood Park	7,155	8%
Emerson	7,289	9%
Englewood	8,363	9.5%
Garfield	7,435	9%
Harrington Park	5,961	7%
Hasbrouck Heights	9,197	10%
Haworth	5,986	8%
Paramus	9,779	10%
Prospect Park	7,803	10%
Ridgewood	8,460	10%
Rutherford	8,782	10%
Saddle Brook	9,043	10%
South Hackensack	9,225	10%
Wayne	9,123	12%
Wood Ridge	10,442	12.25%
Wyckoff	7,105	8%
Hawthorne	7,907	10%
Lodi	10,354	12%
Northvale	8,430	10%
Oakland	10,440	12%
Average	\$8,547	·
Midland Park	\$3,250	25 years x 130 per year
Midler d Davis	(A = 00T)	hazardous pay increment
Midland Park compared to Average	(\$5,297)	

Pointing to the above, the PBA contends that its benefit of \$3,250 is \$5,297 less than the average of \$8,547. This represents a 6.3% shortfall when compared to the Borough top step patrolman salary of \$83,707 for 2004. The PBA emphasizes that the longevity benefit for officers outside of the Borough will continue to increase as their base salary increases while the annual amount for hazardous duty pay for Midland Park police officers remains fixed. For these

reasons, the PBA contends that its proposals for base pay and longevity/hazardous duty pay are amply supported and should be awarded.

The PBA goes on to compare several benefits within its comparison group. The PBA analyzes maximum vacation benefits:

CHART NO. 4
VACATION DAY COMPARISONS BASED ON PBA EXHIBITS

(A)	(B) Maximum Vacation Days
Oakland	30
Hasbrouck Heights	30
Allendale	25
Alpine	24
Bergenfield	25
Closter	25
Demarest	23
East Rutherford	. 26
Edgewater	23
Elmwood Park	30
Emerson	30
Englewood	22
Englewood SOA	28
Garfield	28
Glen Rock	25
Hackensack	26
Harrington Park	25
Haworth	26
Paramus	30
Prospect Park	25
Ridgewood	30
Rutherford	24
Saddle Brook	30
South Hackensack	25
Wayne	30
Wood Ridge	25
Hawthorne	25
Lodi	30
Northvale	26

AVERAGE	26.9 Vacation Days
Midland Park	21 Vacation Day Max.
Midland Park Compared	(5.9 Vacation Days)
to Average	(27.94%)

The PBA contends that its maximum benefit of 21 vacation days is the lowest among the comparisons and 5.9 days below the average.

The PBA also compares the annual holiday benefit:

CHART NO. 5
ANNUAL HOLIDAY COMPARISONS BASED ON PBA EXHIBITS

Municipality	# of Holidays
Oakland	14
Haworth	13
Harrington Park	13
Closter	13
Bergenfield	13
Allendale	12
Alpine	14
Demarest	13
East Rutherford	15
Edgewater	13
Elmwood Park	14
Emerson	13
Englewood	13
Englewood SOA	13
Garfield	14
Glen Rock	13
Hackensack	13
Hasbrouck Heights	14
Hawthorne	14
Paramus	12
Prospect Park	13
Ridgwood	13
Rutherford	15
Saddle Brook	14
South Hackensack	13
Wayne	13

Wood Ridge	14
Lodi	13
Northvale	13
AVERAGE	13
Midland Park	12 Annual Holidays
Midland Park Compared	(1)
to Average	(8%)

According to the PBA, the holiday benefit is one (1) day below the comparison average.

The PBA further maintains that its annual uniform allowance is also below average:

CHART NO. 6
ANNUAL CLOTHING ALLOWANCE COMPARISONS
BASED ON PBA EXHIBITS

Municipality	Clothing Allowance
Wyckoff	\$1,000
Haworth	1,050
Allendale	800
Alpine	700
Bergenfield	950
Closter	750
Demarest	1,000
East Rutherford	1,350
Edgewater	800
Elmwood Park	675
Emerson	750
Garfield	600
Hackensack	850
Harrington Park	650
Hasbrouck Heights	1,550
Paramus	600
Rutherford	650
Saddle Brook	900
South Hackensack	750
Wayne	750

Wood Ridge	1,000
Wyckoff	700
Lodi	550
Northvale	625
Oakland	1,200
AVERAGE	\$848
Midland Park	700
Midland Park Compared	(\$148)
to Average	(21.1%)

In sum, the PBA contends that Borough officers receive a total compensation package that is far below the average. The PBA also emphasizes the fact that Borough officers work 2,080 hours and work an additional sixteen (16) days per year compared to officers in other departments who work a 4-2 or 5-2/5-3 work schedule.

The PBA urges rejection of the Borough's wage proposal of 2.5% and terms it inadequate. The PBA cites data reflecting base wage changes on a percentage basis for 2005-2008 within Bergen County:

CHART NO. 7
ANNUAL BASE RATE CHANGES BASED ON PBA EXHIBITS

Municipality	2005	2006	2007	2008
Rutherford	4.25 (2/2.25)	4.25 (2/2.25)	4.25 (2/2.25)	
Haworth	4.4	4.4	4.4	
Demarest	4	4.25	4.25	4.25
Alpine	4	4	4	4
Bergenfield	4.75 (2.75/2)	4.75 (2.75/2)	4.75 (2.75/2)	4.75 (2.75/2)
Closter	4	4	4	
East Rutherford	4	4	5 (2/3)	5 (2/3
Edgewater	5	5		

Elmwood Park	4	4	4.2	
Englewood	4.1	4.1		
Englewood SOA	4.1	4.1		
Garfield	4.2	4.5	4.2	
Glen Rock	4	4		
Hackensack	4	4.	4	4
Harrington Park	4	4	4	4
Hasbrouck Heights	4	4	4	4
Hawthorne	4	4		
Paramus	4	4	4	
Prospect Park	4	4	- 4	
Ridgewood	4.4 (2/2.4)	4.4 (2/2.4)	4.4 (2/2.4)	4.4 (2/2.4)
Saddle Brook	4.5	4.5	4.5	
South Hackensack	4	4	4	4
Wood Ridge	4	4	4	
Wyckoff	4	4	4	
Lodi	4			
Northvale	4	4	4	
Oakland	4.25	4.5		
AVERAGE	4.141%	4.178%	4.37%	4.24%

The PBA calculates the annual base rate changes in the above communities to be 4.141% for 2005, 4.178% for 2006, 4.37% for 2007, and 4.24% for 2008. The PBA contends the above chart supports its wage proposal given the below average wages it asserts the Borough's officers currently receive coupled with the longevity benefit that officers outside of the Borough will continue to increase compared to the hazardous duty pay that is provided within the Borough.

As to its non-economic proposal, the PBA maintains that it simply seeks "an opportunity to meet and negotiate ways to improve" the current work schedule.

The PBA rejects the Borough's use of private sector comparisons arguing that there is no comparable private sector job. The PBA distinguishes the work of the police officer by the many statutory requirements applied to police work and the fact that police officers must be prepared to act and may be armed at all times. The PBA urges greater reliance upon local comparisons in law enforcement.

The PBA acknowledges that an award must be within the lawful authority of the employer. The PBA contends that the awarding of its proposal will not cause the Borough to exceed its CAP. Pointing to the 2005 budget, the PBA makes the following argument with respect to the CAP Law:

The 2005 Midland Park Municipal Budge (P-19) was adopted well within the Cap Law limitations. The total of all covered items under the Cap Law and the necessary calculations are all set forth in the Budget document at Sheet 3b. At Sheet 3b of the Exhibit in the right hand column at mid-page is a line stating "Total Allowable Appropriations within 'Cap'" and said amount is stated as Four Million Four Hundred Twenty-Eight Thousand Seven Hundred Thirty-Eight (\$4,428,738.00) Dollars. Directly below said line is another line stating "Appropriations in the 2005 Budget within 'Cap'" which is stated as Four Million Eighty-Two Thousand Nine Hundred (\$4,082,900.00) Dollars. On its face the Midland Park Municipal Budget for 2005 is over Forty Thousand (\$40,000.00) Dollars under Cap. While the PBA is not suggesting that this under Cap amount is cash money available for expenditure on PBA wages, some

perspective is provided by this sum when one considers the amount at issue in this case.

The PBA addresses the costs of its proposals. It presents a chart representing the bargaining unit base pay:

CHART NO. 8
BARGAINING UNIT BASE PAY (12/31/04)

Lieutenant	2	\$92,079	\$184,158
Sergeant	2	\$87,892	\$175,784
Patrolmen*	8	\$83,707	\$669,656
Totals	12		\$1,029,598
			1% = \$10,295

<sup>\*</sup>Does not count probationary officer who had not received tenure

The PBA indicates that the value of one base percentage point for this unit is \$10,295 and that the excess CAP flexibility in the 2005 budget approximates the amount needed to fund the PBA's entire proposal.

Addressing the impact on the taxpayers and residents, the PBA maintains that adoption of its proposals would not negatively impact the governing body or its taxpayers and residents. The PBA points to the increased departmental case load despite a static level of manpower as evidence of the efficiency of the police officers. The PBA indicates that the Borough has a significant tax base of \$1,023,625,769 and that the Borough's effective tax rate of \$2.02 is not high. The PBA points out that the bargaining unit's base pay represents only 4.9% of the total municipal levy (\$1,029,598 compared to \$20,719,342), or \$294 on an

average municipal tax bill of \$6,000. The PBA indicates that court fines, grants and funds aid in offsetting the total cost of police services. The PBA submits an analysis of relevant budget documents to support its claim that the Borough's finances are well run and can accommodate the PBA proposals without negative impact:

- The results of operations (Report of Audit P-22, Sheet 22), shows that for the year 2004 there was left \$1,016,886.00. This indicates the Borough clearly has the ability to regenerate surplus as indicated in said chart. This is a positive indication of financial strength.
- There were excess Budget Revenues (AFS, P-20, Sheet 17) in 2004 of \$457,092.00. The amount realized was substantially in excess of the amount anticipated. This again is part of the regeneration of surplus and documents financial strength.
- The unexpended Appropriation Reserves (AFS, P-19, Sheet 19) show an amount in the year 2004 from the year 2003 of \$84,383.00. Appropriation Reserves are Budget Appropriations that remain unspent and by statute one year later automatically cancel to surplus <u>N.J.S.A.</u> 40A:14-60. This is another component of the regeneration of surplus. They are unspent Budget Appropriations that provide budget flexibility.
- There are significant fund balances (2004 Report of Audit, P-22) that provide excess funds available for use as revenue in the Budget to reduce the Tax Levy. Over the last five (5) years, the following amounts were noted:

Year	Balance	Utilized in Budget
2004	\$2,121,298	\$1,000,000
2003	\$2,154,413	\$1,050,000
2002	\$1,772,071	\$1,000,000
2001	\$1,568,504	\$800,000
2000	\$1,542,196	\$820,000

• The consistency of surplus and surplus utilization to reduce the tax rate is evidenced by a stable tax rate.

The reserve for uncollected taxes (See 2004 Report of Audit, P-22) reflects significant and very high percentages of regular collection.
Over the last three (3) years reported there have been very high rates of collection, and in fact the rates are increasing each year as is indicated below:

Year	Rate
2004	99.10%
2003	98.89%
2002	98.77%

- The debt service data for Midland Park is exceptional (2004 Annual Debt Statement (B-61). On an equalized valuation basis, the debt ceiling of 3.5% provides for a borrowing power of \$32,638,748.00. As is reflected on the Annual Debt Statement the net debt for this Municipality is zero (0). The remaining borrowing power therefore is \$32,638,748.00. The Borough of Midland Park has not debt. This is most unusual and not likely seen in any other Municipality. This provides the Borough with a great deal of budgetary flexibility and financial strength. While the PBA is not suggesting that the Borough borrow funds to pay for an award or settlement, it is clear that this is a fiscally strong municipality.
- The cash balances are significant (Annual Financial Statement, P-20, Sheet 19). The Fund Balance in the current Fund as of December 31, 2004 was \$7,850,397.00. The Fund Balance in the Capital Fund as of the same date was \$800,383.00. This Borough clearly does not have a cash flow problem as it evidenced by these cash balances.

The PBA indicates that the Borough's budget contains enough flexibility in the line item entitled "Police, Salaries and Wages" to actually fund 29 percentage base wage points inasmuch as \$132,789 from the 2004 operations was reserved into 2005.

With respect to the continuity and stability of employment, the PBA refers to the concepts of "area standards" and "prevailing rate". The PBA relies upon its analysis of base wages and longevity and emphasizes the below average

benefits the bargaining unit receives. The PBA points out that its proposal to meet and negotiate an improved work schedule has no cost to the Borough.

Based upon the above, the PBA urges adoption of its last offer in its entirety.

#### The Borough

The Borough contends that its last offer is the more reasonable proposal and should be adopted in its entirety. The Borough maintains that the interests and welfare of the public will be served by the adoption of its wage proposal because it presents a fair balance between providing reasonable salary increases to the bargaining unit while protecting the Borough's interest in limiting the costs of the department and keeping tax rates as low as possible. The Borough points to Mayor Vierheiling's testimony that the Borough desires to be "externally competitive" but "internally consistent." The Borough asserts that its proposal is compatible with this goal while the PBA's is not. The Borough emphasizes the Legislature's 2004 amendment to the CAP law reducing permissible budget increases from 5% to 2.5% is strong evidence of an effort to control the cost of local government.

With respect to the impact upon residents and taxpayers, the Borough points out that property taxes are a major political concern in the community and

that it has undertaken many efforts to control the costs of government. The Borough points out that it has reduced it public works' workforce by 50% and has required Borough employees to perform additional duties. The Borough contends that its effort to control spending must fall upon it police department as well. The Borough indicates that the PBA's last contract exceeded the Consumer Price Index in 2 of the last 3 years. The Borough maintains the salary increases in the successor agreement cannot exceed the CAP otherwise it will be necessary to further reduce "other important and essential municipal needs and services." The Borough contends that it seeks to avoid the creation of an unfair and inequitable disparity between its officers and other Borough employees.

The Borough asserts that its proposal enables the bargaining unit to maintain its relative standing among the 39 municipalities the Borough considers to be comparable. The Borough refers the 2004 maximum base salaries provided in its exhibits:

"TOP COP" BASE PAY [B. Ex. #74]

	Town	2004 (\$)
1	Paramus	97,791
2	Franklin Lakes	95,168
3	Tenafly	91,389
4	Mahwah	91,053
5	Waldwick	90,723
6	Elmwood Park	89,434
7	Closter	89,246
8	Saddle River	88,961
9	Upper Saddle River	88,079
10	Wyckoff	87,966

11	Ramsey	87,306
12	Saddle Brook	86,746
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15	Glen Rock	86,101
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27	Montvale	81,391
28	Northvale	81,066
29	Oradell	80,536
30	Cresskill	80,254
31	Township of Washington	79,888
32		79,072
33	Hawthorne	79,072
34	Westwood	79,003
35	New Milford	78,413
36		77,875
37	River Vale	77,080
38	Haworth	74,831
39	Park Ridge	

## "Top Cop" Base Pay Projections\* [B. Ex. #75]

	Town	2005 (\$)	2006 (\$)	2007 (\$)	2008 (\$)
1	Paramus	101,703	105,771	110,002	
2	Franklin Lakes	98,975	102,934	106,794	110,799
3	Tenafly	95,045	98,847	102,801	106,913
4	Mahwah	94,695	98,578		
5	Waldwick	94,352			
6	Saddle River	93,187			
7	Elmwood Park	93,011	96,732	100,795	<u> </u>
8	Closter	92,815	96,528	100,389	
9	Wyckoff	92,370	96,065	99,908	
10	Upper Saddle River	91,558	95,175		
11	Bergenfield	91,375	95,766	100,367	

12	Saddle Brook				
13	Ramsey	90,362	93,525		
14	Hackensack	89,800	93,392	97,128	101,013
15	Glen Rock	89,545	93,127		
16	Norwood	89,097	92,661	96,368	100,222
17	Harrington Park	88,558	92,100	95,785	99,616
18	Allendale				
19	Ho-Ho-Kus	88,145	92,332		
20	Ridgewood	88,142	92,062	96,158	100,435
21	Oakland	87,000	90,900		
22	Old Tappan	86,744			
23	Woodcliff Lake	86,232	89,250	92,374	95,838
24	Edgewater	85,956			
25	Midland Park	85,800	87,945	90,143	92,397
26	Demarest	85,518	89,153	92,942	96,892
27	Montvale				
28	Hillsdale	84,754	87,932	91,230	94,651
29	Northvale	84,309	87,681		
30	Oradell	83,758			
31	Township of Washington	83,044	86,324		
32	Hawthorne	82,235	85,524		
33	Emerson	80,990	88,390	92,465	96,916
34	Westwood				
35	New Milford				
36	Cresskill	80,254	83,424	86,719	90,144
37	River Vale				
38	Haworth	78,123	81,561		
39	Park Ridge				

<sup>\*</sup>Based upon a base pay rate increase for Midland Park of 2.5% per annum for 4 years.

With respect to overall compensation, the Borough points out that the top step patrol officer in Midland Park in 2004 earned a total compensation package of \$113,353 excluding overtime and private duty pay. The Borough produces a charge providing a cost analysis for existing benefits:

Analysis of Benefits (The Total Cost of 1 Top Step Patrol Officer)		
Base Salary 2004 excluding overtime	\$83,707	
Personal Days (3 Days)	983	
Holiday Pay (6 Days)	\$1,968	
Hazard Pay (12 Years)	\$1,560	
Clothing Allowance	\$700	
Health Benefits Annually (traditional family coverage)	\$14,248	
Dental	\$200	
Pension Contribution	\$1,571	
Social Security	\$6,916	
EMT Stipend	\$1,500	
Total Estimated Cost for 1 Top Step Patrol Officer	\$113,353	
Hourly Rate	40.99	
Time and ½	61.49	

The Borough indicates that its proposal to increase the number of salary steps to the top step would be a cost-effective means of providing savings to the Borough.

Addressing the Borough's lawful authority, the Borough indicates there is "limited opportunity to develop new tax ratables" in Midland Park due to the lack of open space and the existence of many houses of worship and schools. Thus, any wage increase to this bargaining unit beyond the 2.5% index rate would not be fiscally responsible. The Borough refers to the Interest Arbitration Award Arbitrator Pierson issued in the Borough in 1996:

Utilizing full lawful authority would not be fiscally responsible, especially if the reason for exceeding the CAP "index" was to accommodate an "unjustified" 6% salary increase for the PBA ... The Arbitrator must agree with the position and arguments of the Borough --- to increase the CAP to the full limit --- would neither be fiscally prudent nor managerially responsible.

In assessing the lawful authority of the Employer, this Arbitrator will not presume that the Borough should be required to make full use of Cap limits and flexibility. Indeed, the Borough has operated within the lawful confines of the applicable statute.

As to the financial impact upon the Borough, its residents and taxpayers, the Borough points out that the police department's 2005 budget currently represents 25.1% of the total municipal budget (\$1.921 million out \$7.654) and that 86% of the police budget currently goes towards police salary, wages and health benefits. The Borough indicates that health care premium costs have increased by 18.63% in 2002, 19.29% in 2003 and 29.87% in 2004. The Borough maintains that these premium increases amount to over \$40,000 from 2002 to 2004. The Borough emphasizes that taxpayers rejected a proposed school bond of \$25 million in December 2000, approved a lesser \$12 million school bond in March 2003, and voted down the proposed annual school budget on April 20, 2004. These actions are said to reflect concern by the public over expenditures.

According to the Borough, consideration must be given to the fact that it has the fourth highest tax rate in Northwest Bergen County but the second lowest median household income:

## COMPARISON OF NORTHWEST BERGEN COUNTY TAX RATE (2004) [B. Ex. #57]

Taxing Districts	General Tax Rate (2004)
Waldwick	3.74
Oakland	3.35
Ridgewood	2.46
Midland Park	2.43
Wyckoff	2.43
Glen Rock	2.41
Ho-Ho-Kus	2.41
Franklin Lakes	2.15
Allendale	2.05
Ramsey	1.91
Upper Saddle River	1.72
Mahwah	1.55
Saddle River	0.75

# NORTHWEST BERGEN COUNTY MEDIAN INCOME COMPARISON [B. Ex. #46]

	Town	Median Household Income
1	Saddle River	134,289
2	Franklin Lakes	132,373
3	Ho-Ho-Kus	129,900
4	Upper Saddle River	127,635
5	Allendale	105,704
6	Ridgewood	104,286
7	Glen Rock	104,192
8	Wyckoff	103,614
9	Ramsey	88,187

Oakland	86,629
Mahwah	79,500
Midland Park	76,462
Waldwick	75,532
	Oakland  Mahwah  Midland Park  Waldwick

\*Information gathered from US Census 2000 by way of Answers.com

The Borough points to the fact that the Borough's tax rate has increased 33% from \$1.93 in 2000 to \$2.54 in 2005. According to the Borough, the "a taxpayer owning the "average" priced house in the Borough (\$307,672) saw his or her taxes increase from \$6,040 in 2000 to \$7,620 in 2005 ---- an increase of \$1,580 or 26%." The Borough stresses that it has increased its reliance upon its surplus to reduce the tax impact. The Borough indicates that it used \$400,000 of its surplus in 1996 and that this amount has increased to \$1,050,000 in 2004.

The Borough maintains that its health care proposal to change carriers while continuing to provide substantially similar coverage to its officers would offer the potential for a significant and positive financial impact upon its taxpayers without reducing coverage to its police officers.

With respect to the cost of living, the Borough refers to the Consumer Price Index for New York-Northeastern New Jersey of 3.10% for 2002, 3.21% for 2003, and 3.76% for 2004. The Borough points out that the PBA's wage proposals far exceed the recent increases in the CPI.

The Borough contends that the adoption of its final offer will maintain the continuity and stability of employment of its police officers. The Borough emphasizes that its proposal to increase the number of steps to the top salary guide would have no impact upon current employees but offer savings to the Borough in the future.

The Borough asserts that the PBA's wage proposals are wholly unjustified when compared to the wage increases its officers have received in the past compared to its other employees:

<u>Year</u>	<u>PBA</u>	Non PBA Employees
2002	3.75%	3.0%
2003	3.75%	3.5%
2004	3.75%	3.5%
2005	N/A	2.5%

The Borough indicates that the top step DPW laborer in 2004 earned \$43,773 compared to the top step officer of \$83,707. The Borough emphasizes that all other Borough employees received increases of 2.5% for 2005.

For the reasons stated above, the Borough urges acceptance of its proposals in their entirety.

#### **DISCUSSION**

The Borough and the PBA have offered argument, testimony and considerable documentary evidence in support of their final offers. I am required to make a reasonable determination of the above issues giving due weight to those factors set forth in N.J.S.A. 34:13A-16g(1) through (8) which I find relevant to the resolution of these negotiations. These factors, commonly called the statutory criteria, are as follows:

- (1) The interests and welfare of the public. Among the items the arbitrator or panel of arbitrators shall assess when considering this factor are the limitations imposed upon the employer by (P.L. 1976, c. 68 (C. 40A:4-45.1 et seq.).
- (2) Comparison of the wages, salaries, hours, and conditions of employment of the employees involved in the arbitration proceedings with the wages, hours, and conditions of employment of other employees performing the same or similar services and with other employees generally:
  - (a) In private employment in general; provided, however, each party shall have the right to submit additional evidence for the arbitrator's consideration.
  - (b) In public employment in general; provided, however, each party shall have the right to submit additional evidence for the arbitrator's consideration.
  - (c) In public employment in the same or similar comparable jurisdictions, as determined in accordance with section 5 of P.L. 1995. c. 425 (C.34:13A-16.2) provided, however, each party shall have the right to submit additional evidence concerning the comparability of jurisdictions for the arbitrator's consideration.

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

at the service of the

- (5) The lawful authority of the employer. Among the items the arbitrator or panel of arbitrators shall assess when considering this factor are the limitations imposed upon the employer by the P.L. 1976 c. 68 (C.40A:4-45 et seq ).
- The financial impact on the governing unit, its (6) residents and taxpayers. When considering this factor in a dispute in which the public employer is a county or a municipality, the arbitrator or panel of arbitrators shall take into account to the extent that evidence is introduced, how the award will affect the municipal or county purposes element, as the case may be, of the local property tax; a comparison of the percentage of the municipal purposes element, or in the case of a county, the county purposes element, required to fund the employees' contract in the preceding local budget year with that required under the award for the current local budget year; the impact of the award for each income sector of the property taxpayers on the local unit; the impact of the award on the ability of the governing body to (a) maintain existing local programs and services, (b) expand existing local programs and services for which public moneys have been designated by the governing body in a proposed local budget, or (c) initiate any new programs and services for which public moneys have been designated by the governing body in its proposed local budget.
- (7) The cost of living.
- (8) The continuity and stability of employment including seniority rights and such other factors not confined to the foregoing which are ordinarily or traditionally considered in the determination of wages, hours and conditions of employment through collective negotiations and collective bargaining between the parties in the public service and in private employment.

In interest arbitration proceedings, the party seeking modifications to terms and conditions of employment has a burden to prove the basis for change. I will apply that principle as part of my analysis to each of the issues in dispute. The burden to be met must be at a level beyond merely a request for change without sufficient evidentiary support. The issues in dispute are both economic including salary, hazardous duty pay/longevity, educational incentive, salary schedule structure and non-economic including work scheduling committee and health insurance language. Each proposal will be addressed individually but I will give consideration to the totality of the changes that the award makes to the existing agreement. This consideration is consistent with the statutory requirement that the arbitrator must determine total net annual economic changes for each year of the agreement. Any decision to award or deny any individual issue in dispute will include consideration as to the reasonableness of that individual issue in relation to the terms of the entire award.

#### **Duration**

The Borough and the PBA each propose a contract term effective January 1, 2005 to December 31, 2008. I receive their proposals as a stipulation pursuant to N.J.S.A. 34:13A-16g(4). The duration of the new agreement shall be January 1, 2005 to December 31, 2008.

#### **Work Schedule Committee**

The PBA has proposed to establish a joint schedule committee on the issue of work schedules. The PBA refers to recent developments on this issue within the department that it believes now requires the work schedule issue to be explored further between the parties. The language proposed states:

The parties shall form a joint Scheduling Committee to meet and negotiate regarding an improved work schedule which is intended to improve public service.

The Borough does not object to establishing a joint scheduling committee. However, it points out that the establishment of any such committee should not be deemed a waiver of any reserved managerial prerogative it seeks to retain and further, that the committee not be empowered to "negotiate" the issue within the lawful meaning of that term.

The establishment of a joint schedule committee furthers the interests and welfare of the public based upon its proposed intent to cover issues relating to an improved work schedule designed to improve the delivery of police services. Such discussions could also yield positive results on issues relating to staffing, supervision, work hours and work days. The concern noted by the Borough concerning its managerial prerogatives need not be addressed given the fact that purpose of the joint committee, unless agreed otherwise, is not intended to limit any managerial prerogatives of the Borough that already may exist in the collective negotiations agreement. In other words, whatever rights that are

Agreement remain unaffected by the establishment of a joint committee. The only modification that I award to the PBA's proposal is to substitute "discuss" for the term "negotiate," inasmuch as this award is not intended to create a negotiations re-opener on this issue during the term of the Agreement absent mutual agreement between the parties. Accordingly, I award the following:

The parties shall form a joint Scheduling Committee to meet and discuss an improved work schedule which is intended to improve public service. The committee shall have a maximum of four representatives of each party and shall convene within sixty (60) days of the award.

#### **Insurance**

The Borough has proposed modifying the language contained in Article XXVIII (A) to read as follows:

In the event that any present insurance carrier shall refuse to continue such insurance or in the event the Borough should elect to place such coverage with a different insurance carrier, become self insured, join a pool or fund, or otherwise effectuate a transfer of coverage, such transfer shall maintain substantially similar coverage and benefits to the employee and/or his/her dependents. Any and all increases in premium payments for covered active employees and their dependents and/or the costs of such insurance shall be borne exclusively by the Borough. In the event that a decrease in coverage and/or benefits takes place as a result of the Borough's election to change insurance carriers, etc., and if an employee and/or any member of the employee's suffers an adverse change in coverage and/or benefits as a result, then the Borough shall make prompt payment to the employee in the amount of the difference between the benefits as covered under the pre-existing insurance program and the benefits as covered under the new plan.

Article XXVIII (A) currently states that "the current medical benefits program shall be continued." The Borough's proposal would allow it to elect to place its health insurance coverage with a different insurance carrier so long as the Borough maintains substantially similar coverage and benefits to the employee and/or his/her dependents and that any and all increases in premium payments be borne exclusively by the Borough. The Borough further would pay the amount of cost difference if an adverse change in coverage and/or benefits results from a transfer of coverage to another insurance carrier.

The Borough has established that its health care premium costs have, on average, increased by more than 20% per year during 2002, 2003 and 2004. This has resulted in over \$40,000 in premium increases during this period of time. Given the protective language that the Borough has included in its proposal, I conclude that the interests and welfare of the public would be furthered by allowing the Borough to secure medical insurance without being barred by limiting the language that presently exists in Article XXVIII (A). Accordingly, the Borough's proposal is awarded.

## **Educational Incentive**

The Borough has proposed to eliminate the educational incentive payments contained in Article XXXIII effective January 1, 2006 and "rolling" the

educational incentive payments into base wages. The PBA has not agreed to this proposal but states no specific objections.

The Agreement, at Article XXXIII – Educational Incentive, now provides yearly stipends in the amounts of \$600, \$1,200 and \$1,500 for the attainment of Associate's, Bachelor's and Master's degrees in the fields of Criminal Justice, Police Science, Public Safety or Police Administration. One stipend is received at the highest level of attainment. In addition, an officer who attains an E.M.T. certification is entitled to receive a yearly stipend of \$1,500. For those who qualify, both the education and the E.M.T. stipend can be received. The form of payment is a stipend received each December. It is not included in base pay for the purpose of computing an officer's overtime rate, longevity payment or any other benefit determined by the application of base pay.

Mayor Vierheiling's testimony reflects that the Borough now strives to hire police officers who have a college degree and that incentives to attain one are not needed for new employees. The Borough views the college degree as a requirement of the position rather than an add-on.

There is merit to the Borough's proposal. The Borough, while not bound to hiring police officers with college degrees or certifications, has represented that it pursues employees with high standards of qualifications. The existing provision does reward degrees and certifications, but does so separately in a

manner not reflected in a police officer's base pay. The distinction between receiving a stipend and having the payment in base pay is no longer necessary or warranted. I award the Borough's proposal with modifications designed to preserve the ability of current employees to receive the same payments in base pay in the event they meet existing qualifications in the future.

Article XXXIII shall be eliminated from the Agreement and replaced with the following article:

Any unit employee employed on the date of this Award who is currently receiving, or who may qualify in the future for the receipt of a stipend for having attained a college degree and/or EMT certification pursuant to the requirements set forth in Article XXXIII of the Agreement that expired on December 31, 2004 shall, effective January 1, 2006 or thereafter, have such stipend placed into his or her base pay for all calculation purposes. Except for the continued application of the requirements and stipend amounts set forth in Article XXXIII of the Agreement that expired on December 31, 2004 for employees employed on the date of this Award, Article XXXIII shall be eliminated from the Agreement.

## **Hazardous Duty Increment**

The PBA has proposed to change Article IV by modifying the hazardous duty increment to the payment of one percent (1%) of base pay for each six (6) years of completed service. Service would be defined consistent with the New Jersey State Police and Fire Pension Law.

Presently, Article IV provides for the following benefit:

In recognition of the hazardous nature of their employment, each Police Officer shall receive an annual bonus, calculated as follows:

- A. In 2002, each completed year of service shall be multiplied by \$110.00;
- B. In 2003, each completed year of service shall be multiplied by \$120.00;
- C. In 2004, each completed year of service shall be multiplied by \$130.00.
- D. All of the above calculations shall be effective on January 1 of each year at a prorated amount for the year.
- E. The maximum number of years shall be capped at 30 and multiplied by the applicable amount according the above schedule.
- F. Employees hired after 1/1/99 will receive the hazardous duty increment upon the completion of year seven (7).

The Borough urges rejection of the PBA's proposal. It argues that "The PBA's proposal to replace the flat dollar presently paid to officers for hazardous duty pay with a figure calculated by way of a percentage of their pay is simply a vehicle being proposed to increase their pay in an amount that cannot be supported."

I note that the PBA expresses this benefit as "hazardous duty/longevity pay" but the Agreement only defines the payments as hazardous duty increments. The benefit, however, is similar to a longevity scheme in that the payments increase based upon additional years of employment until a police officer achieves thirty years of service.

A conversion from dollar payments to percentages cannot be justified based solely upon the fact that many, if not a majority, of Bergen County municipalities have percentage longevity schedules. The history in Midland Park reflects longstanding agreements to reward service through a unique program causing the value of increments to increase by dollar amount after each year of service. The record reflects that longevity payments vary greatly among the municipalities and some, though few, have no longevity. However, the record does establish that, on average, among those who have schedules, the payments are greater than in Midland Park.

In the prior Agreement, the parties negotiated increases of \$10 for each year of completed service for those who qualified. By January 1, 2004, the annual credit was \$130 for each year of service up to thirty (30) years. Although I have denied the PBA's demand for a percentage longevity schedule, a similar dollar adjustment to the schedule is warranted during the terms of this Agreement. This will maintain a reasonable relationship between the value of the increment and base salary as well as total compensation relationships among county law enforcement units. Article IV shall be modified to read:

In recognition of the hazardous nature of their employment, each Police Officer shall receive an annual bonus, calculated as follows:

- A. In 2005, each completed year of service shall be multiplied by \$140.00;
- B. In 2006, each completed year of service shall be multiplied by \$150.00;

- C. In 2007, each completed year of service shall be multiplied by \$160.00.
- D. In 2008, each completed year of service shall be multiplied by \$170.00.
- E. All of the above calculations shall be effective on January 1 of each year at a prorated amount for the year.
- F. The maximum number of years shall be capped at 30 and multiplied by the applicable amount according the above schedule.
- G. Employees hired after 1/1/99 will receive the hazardous duty increment upon the completion of year seven (7).

I next calculate the costs of the new Hazardous Duty Increment schedule. The base salary for unit employees in year 2004, based upon Borough exhibits is \$999,032 and based upon PBA exhibits is \$1,029,598. For the purpose of calculating costs, I will assume that a 1% increase is \$10,000. The additional costs of the award in the Hazardous Duty Increment approximates between \$1,200 and \$1,500 in annual new money depending upon the status of the roster. This cost is valued at .15% for each year of the four year Agreement.

# Salary Steps

The Borough has proposed an increase of two (2) additional steps on the salary guide for new hires effective January 1, 2006. Appendix A-1 provides a basic wage scale for employees hired after January 1, 1999 that contains seven (7) steps, the last step being achieved after the sixth year of service. The Agreement also provides for an Appendix A for employees hired prior to July 1, 1999.

The Borough asserts that its proposal would provide moderate economic relief with minor impact upon the PBA. The Borough also points out that creation of an eight step salary guide is consistent and comparable with other Northwest Bergen County municipalities noting that seven (7) have an eight (8) step salary guide including Franklin lakes, Ho-Ho-Kus, Upper Saddle River, Allendale, Ridgewood, Ramsey and Oakland. The Borough further points out that one municipality, Waldwick, has an eleven (11) step salary guide.

Given the salary increases provided in this award over a four year period, it is reasonable for the negotiated salary schedule to contain one additional step for new hires, especially since the above municipalities have salary schedules with greater length. This will cause each new employee to have an additional year of service prior to reaching patrolman maximum. Given the parties' phrasing of their salary schedule, the added step will be after the seventh year of service.

#### <u>Salary</u>

I next turn to the issue of salary. The respective positions of the Borough and the PBA deviate substantially from one another. In evaluating these proposals, I find that all of the statutory criteria are relevant. The most significant weight must be given to the interests and welfare of the public due to the importance of this factor alone and its interrelationships with many of the others. The public interest is served by an award that maintains a productive and

effective police department at an affordable cost. The parties disagree on what constitutes affordable costs and they may be higher than sought by the Borough and lower than sought by the PBA. Among the considerations include the relative but not absolute costs of comparative increases that do not exceed the Borough's statutory obligations or cause adverse financial impact, and the maintenance of continuity and stability of employment within the department.

The PBA sees a 5% annual increase as required in order to maintain salary comparability within the County and to adjust the salary schedules to offset what it claims are unfavorable overall terms and conditions received in Midland Park compared to other municipalities in Bergen County. For this latter reason, the PBA contends that even an average increase that it has calculated as being slightly over 4% is insufficient. The PBA relies heavily on a comparison of terms and in doing so urges that its proposal for wage increases be adopted. The PBA asserts that its wage proposal can be awarded within the Borough's cap and without adverse financial impact on the Borough. The PBA discounts the Borough's efforts to depict its financial condition in less favorable terms. The PBA seeks less or no weight to be given to the cost of living and to internal comparisons with Borough employees.

The Borough sees its proposal as consistent, if not required, by the 2004 legislative amendment that reduced permissible overall budget increases to 2.5%. This is the percentage amount it has provided for all other Borough employees. It also points to a need to ease the property tax burden for its

taxpayers and to avoid reducing or eliminating municipal expenditures in non-police areas. This, it asserts, cannot be accomplished if it is required to fund an award at the levels sought by the PBA. The Borough also cites significant increases it has borne in its health insurance program. The Borough also contends that the PBA negotiated increases in recent past have outstripped cost of living data and that the PBA's proposal far exceeds recent increases in the CPI. The Borough rejects the PBA comparability evidence pointing to existing compensation that is "near the middle of comparable municipalities" and one that it asserts would be maintained even if its 2.5% wage increase were to be awarded.

After review of the very comprehensive and articulate presentations each party has made on the salary issue. I have considered all of the evidence and argument that each party has offered on the statutory criteria as well as the relationship between salary and the economic changes in the overall terms that have been awarded. I am persuaded that increases of 3.5% in 2005, 4.0% in 2006, 4.0% in 2007, and 3.75% in 2008 represent a reasonable determination of the salary issue in this particular jurisdiction.

The existing Agreement contains an Appendix A, a base wage scale for employees hired prior to January 1, 1999 and an Appendix A-1, a base wage scale for employees hire after January 1, 1999. Because everyone hired under Appendix A is at maximum, there is no longer a need for the old Appendix A. Based upon the salary increases awarded, Appendix A-1 shall read as follows:

<u>Patrolman</u>	<u>2005</u>	<u>2006</u>	<u>2007</u>	2008
During 1 <sup>st</sup> Year	27,717	28,826	29,979	31,103
During 2 <sup>nd</sup> Year	40,234	41,843	43,517	45,148
During 3 <sup>rd</sup> Year	49,514	51,495	53,555	55,563
During 4 <sup>th</sup> Year	58,795	61,147	63,593	65,978
During 5 <sup>th</sup> Year	68,075	70,798	73,630	76,391
During 6 <sup>th</sup> Year	77,356	80,450	83,668	86,806
After 6 <sup>th</sup> Year	86,637	90,102	93,706	97,220
Sergeant	90,968	94,607	98,391	102,081
Lieutenant	95,302	99,114	103,078	106,944

For employees hired after the date of the Award, there will be a new Appendix A-2 that shall read as follows:

<u>Patrolman</u>	<u>2006</u>	2007	2008
During 1 <sup>st</sup> Year	28,826	29,979	31,103
During 2 <sup>nd</sup> Year	37,580	39,083	40,549
During 3 <sup>rd</sup> Year	46,333	48,186	49,993
During 4 <sup>th</sup> Year	55,087	57,290	59,439
During 5 <sup>th</sup> Year	63,840	66,394	68,883
During 6 <sup>th</sup> Year	72,594	75,498	78,329
After 6 <sup>th</sup> Year	81,348	84,602	87,774
After the 7 <sup>th</sup> Year	90,097	93,706	97,220
Sergeant	94,607	98,391	102,081
Lieutenant	99,114	103,078	106,944

First, I note that the addition of a salary step, the elimination of the educational incentive program and the flexibility provided to the Borough by

awarding its health insurance language will help it to address its desire to be financially responsible and to further its interest in maintaining a productive police force in an efficient and cost effective manner. I am also mindful that a salary increase must be evaluated in the context of overall net annual economic change. This includes the actual and potential cost offsets that have been awarded as well as the annual increases in the hazardous duty increments. The increases calculate to 15.25% in the salary schedule, an average of 3.81% per year or 15.85% in total net annual economic change or 3.96% per year when factoring in increases in the Hazardous Duty Increment. The averages are somewhat higher than the 3.76% increase in the CPI during 2004, but are generally consistent when all relevant evidence is considered and applied.

The evidence clearly supports a salary award at a level below that proposed by the PBA but at a level above that proposed by the Borough. The increases cannot be set by a mechanical application of one piece of evidence to the exclusion of all other areas. The Borough sees an increase equivalent to its 2.5% cap level and the 2.5% increase it provided to all other Borough employees. On the other hand, the PBA points to increases in twenty-seven (27) county municipalities that it calculates as averaging 4.141%, 4.178%, 4.37% and 4.24% over the same time period. It seeks these level of increases supplemented by an even greater increase due to what it terms comparison "shortfalls" in existing levels of longevity, clothing allowance, paid holidays and vacation days.

The Borough supports its proposed linkage to other Borough employees by referencing the fact that the PBA received greater increases than other Borough employees in 2002, 2003 and 2004. This consideration must be given weight but it is not dispositive of the salary issue. The evidence reflects that no identical pattern has existed between the Borough's law enforcement and nonlaw enforcement groups. I decline to apply such direct parity in the face of other evidence including the absence of financial emergency and the substantially higher increases than 2.5% that have been received in all of the law enforcement departments in Bergen County municipalities in addition to a comparison in the overall benefit levels that exist between the PBA in Midland Park and the other law enforcement departments. An additional consideration is the fact that the terms of the PBA Agreement, as modified by the terms of this Award, reflect terms and changes that are unique to the work of law enforcement personnel. This does not dictate an award at the level of PBA's proposal but justifies an award at a higher level than that proposed by the Borough.

The Borough's proposal, if awarded, would result in substantial erosion in the relative standing of its police department over the four contract years and have potential negative impact on the continuity and stability of its work force. One hired and trained, the loss of a police officer to another department represents lost resources to the Borough and the loss of a trained and experienced police officer to the public, whose health, welfare and safety is

enhanced by a productive and efficient police department. The terms awarded maintain the Borough's relative standing within the County without a rigid application of a result that is based upon the averaging of all terms and conditions of employment that exist throughout the County.

In rendering the terms of this Award I have also considered the overall compensation (including benefits) presently received by a Midland Park police officer. Although characterized as unfavorable by the PBA, the overall compensation and benefits for police officers in Midland Park are reasonable and will remain so under the terms of the Award.

I am required to consider the Borough's statutory spending limitations and the financial impact of the terms awarded. For these purposes I have calculated the costs of the Award. The changes in Hazardous Duty Increment approximate \$1,200 to \$1,500 in new money cost annually. Using approximate cost of \$10,000 per 1% increase, the additional salary costs are \$35,000 in 2005, \$41,000 in 2006, \$43,000 in 2007 and \$42,000 in 2008. Although these costs exceed those proposed by the Borough, there is no evidence that the costs cannot be met within the Borough's lawful spending requirements or without adverse financial impact on the governing body and its residents or taxpayers. This conclusion is fully supported by the official budget documents submitted into the record.

The Borough is in sound financial condition and expends much effort in striving to maintain this posture. It is true that police salary and benefits comprise a significant portion of the total municipal budget but a change in this burden can only be achieved by a reduction in force or a new agreement that would compare so unfavorably to those in the County that there could be potentially negative effects on the continuity and stability of employment and the interests and welfare of the public. An examination of the official budget documents reflects that the Borough has a relatively reasonable effective tax rate, has a demonstrated ability to regenerate surplus and utilize that surplus towards tax relief, has a very high rate of tax collection and virtually no debt. The financial evidence offered by the Borough has been considered and weighs heavily against awarding the PBA's proposals. These include its low ranking in median income level among its neighboring municipalities, its high percentage of residential ratables, the little room it has for expansion to improve its low level of industrial and commercial ratables, its increasing reliance upon surplus to offset the rate of tax increases, and reductions in state and federal aid. All of these competing considerations have been balanced and weighed in rendering a reasonable determination of the issues in dispute including salary.

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

#### **AWARD**

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

#### 2. **Duration**

The effective date of this Agreement shall be January 1, 2005 to December 31, 2008.

## 3. Work Schedule Committee

The parties shall form a joint Scheduling Committee to meet and discuss an improved work schedule which is intended to improve public service. The committee shall have a maximum of four representatives of each party and shall convene within sixty (60) days of the award.

## 4. Health Insurance

Article XXVIII (A) shall be modified to read as follows:

In the event that any present insurance carrier shall refuse to continue such insurance or in the event the Borough should elect to place such coverage with a different insurance carrier, become self insured, join a pool or fund, or otherwise effectuate a transfer of coverage, such transfer shall maintain substantially similar coverage and benefits to the employee and/or his/her dependents. Any and all increases in premium payments for covered active employees and their dependents and/or the costs of such insurance shall be borne exclusively by the Borough. In the event that a decrease in coverage and/or benefits takes place as a result of the Borough's election to change insurance carriers, etc., and if an employee and/or any member of the employee's suffers an adverse change in coverage and/or benefits as a result, then the Borough shall make prompt payment to the employee in the amount of the difference between the benefits as covered under the pre-existing insurance program and the benefits as covered under the new plan.

# 5. Article XXXIII - Educational Incentive

Article XXXIII shall be eliminated from the Agreement and replaced with the following article:

Any unit employee employed on or prior to September 25, 2006 who is currently receiving, or who may qualify in the future for the receipt of a stipend for having attained a college degree and/or EMT certification pursuant to the requirements set forth in Article XXXIII of the Agreement that expired on December 31, 2004 shall, effective January 1, 2006 or thereafter, have such stipend placed into his or her base pay for all calculation purposes. Except for the continued application of the requirements and stipend amounts set forth in Article XXXIII of the Agreement that expired on December 31, 2004 for employees employed on the date of this Award, Article XXXIII shall be eliminated from the Agreement.

# 6. <u>Hazardous Duty Increment</u>

Article IV shall be modified to read:

In recognition of the hazardous nature of their employment, each Police Officer shall receive an annual bonus, calculated as follows:

- A. In 2005, each completed year of service shall be multiplied by \$140.00;
- B. In 2006, each completed year of service shall be multiplied by \$150.00;
  - C. In 2007, each completed year of service shall be multiplied by \$160.00.
  - D. In 2008, each completed year of service shall be multiplied by \$170.00.
  - E. All of the above calculations shall be effective on January 1 of each year at a prorated amount for the year.
  - F. The maximum number of years shall be capped at 30 and multiplied by the applicable amount according the above schedule.
  - G. Employees hired after 1/1/99 will receive the hazardous duty increment upon the completion of year seven (7).

# 7. Salary Schedules and Steps

Effective September 25, 2006 an additional step shall be added to the salary schedule. To the extent that Appendix A is no longer relevant, it shall be deleted from the Agreement.

## 8. Salary

The salary schedule for employees employed prior to September 25, 2006 shall be increased at each step of the salary schedule by 3.5% effective January 1, 2005, 4% effective January 1, 2006, 4% effective January 1, 2007 and 3.75% effective January 1, 2008 and be retroactive to their effective dates. The salary schedules shall be modified to read as follows based upon the salary adjustments that have been awarded:

<u>Patrolman</u>	2005	<u>2006</u>	2007	2008
During 1 <sup>st</sup> Year	27,717	28,826	29,979	31,103
During 2 <sup>nd</sup> Year	40,234	41,843	43,517	45,148
During 3 <sup>rd</sup> Year	49,514	51,495	53,555	55,563
During 4 <sup>th</sup> Year	58,795	61,147	63,593	65,978
During 5 <sup>th</sup> Year	68,075	70,798	73,630	76,391
During 6 <sup>th</sup> Year	77,356	80,450	83,668	86,806
After 6 <sup>th</sup> Year	86,637	90,102	93,706	97,220
Sergeant	90,968	94,607	98,391	102,081
Lieutenant	95,302	99,114	103,078	106,944

For employees hired after September 25, 2006, there will be a new Appendix A-2 that shall read as follows:

<u>Patrolman</u>	2006	2007	2008
During 1 <sup>st</sup> Year	28,826	29,979	31,103
During 2 <sup>nd</sup> Year	37,580	39,083	40,549
During 3 <sup>rd</sup> Year	46,333	48,186	49,993
During 4 <sup>th</sup> Year	55,087	57,290	59,439
During 5 <sup>th</sup> Year	63,840	66,394	68,883
During 6 <sup>th</sup> Year	72,594	75,498	78,329

After 6 <sup>th</sup> Year	81,348	84,602	87,774
After the 7 <sup>th</sup> Year	90,097	93,706	97,220
Sergeant	94,607	98,391	102,081
Lieutenant	99,114	103,078	106,944

Dated: September 25, 2006

Sea Girt, New Jersey

ames W. Mastriani

State of New Jersey County of Monmouth

) }ss:

On this 25<sup>th</sup> day of September, 2006, before me personally came and appeared James W. Mastriani to me known and known to me to be the individual described in and who executed the foregoing instrument and he acknowledged to me that he executed same.

**GRETCHEN L. BOONE** 

NOTARY PUBLIC OF NEW JERSEY

My Commission Expires 8/13/2008