

PUBLIC EMPLOYMENT RELATIONS COMMISSION

OPINION AND AWARD

In the Matter of the Interest Arbitration

between

TOWNSHIP OF MONTGOMERY

and

MONTGOMERY SUPERIOR OFFICERS ASSOCIATION  
PBA LOCAL 355

PERC Docket No. IA 96-121.

BEFORE : Barbara Zausner, Arbitrator

AWARD DATED: February 20, 1998

APPEARANCES

Ruderman & Glickman  
Attorneys for the Township  
By, Steven S. Glickman, Esq.

Loccke & Correia  
Attorneys for the Association  
By, Richard D. Loccke, Esq.

## PROCEDURAL BACKGROUND

I was appointed interest arbitrator by PERC on August 2, 1996. I met with the parties on July 31 and October 23, 1997. I held a formal hearing on October 23 and closed the record on receipt of the parties' briefs. The parties agreed to extend the due date of the award to February 23, 1998. The decision is by conventional arbitration.

## FINAL OFFERS

### Township

- 1- Term: January 1, 1995 through December 31, 1998
- 2- Wages: 4% salary increase effective January 1, 1995  
4% salary increase effective January 1, 1996  
3% salary increase effective January 1, 1997  
3% salary increase effective January 1, 1998
- 3- Salary Guide: Effective January 1, 1997, for all officers promoted into the rank of Lieutenant, a three step guide shall be developed by taking the January 1, 1997 salaries for Lieutenant and Sergeant and creating three steps of equal percentage difference between these ranks.

### SOA

- 1- Term: January 1, 1995 through December 31, 1997
- 2- Wages: Effective January 1, 1995, 5% increase  
Effective January 1, 1996, 5% increase  
Effective January 1, 1997, 5% increase
- Longevity: Implement a longevity program as follows:
  - 3% upon completion of 24 years of service
  - 2% upon completion of 20 years of service,
  - 1% upon completion of 16 years of service

To be paid with base wage and used for all computations.

## DISCUSSION AND OPINION

### *EVIDENCE AND ARGUMENT*

Aside from the term of the contract, both final offers consist of one overall economic issue, wages. The issue as to the term of the contract is separately discussed below. That issue is also economic in nature.

The bargaining unit consists of two lieutenants. The SOA relies primarily on the interest arbitration award affecting the other PBA unit in the Township, patrol officers and sergeants. Arbitrator Brent awarded increases of 4% per year for 1995 and 1996 and 5% for 1997, all effective January 1. Other economic benefits, such as an additional vacation day, a change in the medical plan and a reduction in steps on the guide, were also awarded. The SOA maintains that the lieutenants must receive an equivalent economic package. It argues that "pay equity between ranks is proper and appropriate." (Brief, p. 9).

The Employer's wage offer would create a salary guide for lieutenants in order to correct the "unreasonably high" ranking of lieutenants compared with other police department personnel and in light of "the demographic concerns enumerated above." (Brief, p. 17). The impact of the guide proposal would not be felt by the two employees in the unit but would affect employees promoted to lieutenant after January 1, 1997.

The Township argues that it is in a better position than the bargaining unit to determine how best to serve the interests and welfare of the public (insofar as lieutenants' compensation affects them) and that, therefore, its offer should be awarded. "Arbitrator Brent did not have the same current data available to him as has been presented [here]." (Brief, p. 17-18).<sup>1</sup>

Montgomery Township is located in Somerset County, New Jersey. The Employer describes it as a "moderately sized municipality with respect to ratables" whose residents "are 'saddled' with a moderate to high equalized tax rate, a high tax levy per

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<sup>1</sup> The Township also argues that Arbitrator Brent erred in his assumptions.

capita, and the highest debt service per capita in Somerset County." (Brief, p. 13, T-2).

The SOA describes Montgomery Township as "one of the wealthiest in the area." (Brief, p. 5, P-21, a demographic study). The Township is in a period of "rapid and dynamic growth" which will result in "an increased obligation on the municipal police department." (Brief, p. 6). Exhibit P-3 shows an increasing workload. According to the SOA, the two lieutenants in this unit "are effectively responsible for the entire operation on a round-the-clock basis." (Brief, p. 7).

### *THE STATUTORY CRITERIA*

#### *Interest and Welfare of the Public*

There is no evidence that the interest and welfare of the public would be affected at all by the outcome of this award. As a general proposition, I believe that my award, which attempts to balance the parties' competing interests, better serves the public interest than either party's final offer. The SOA's demand would cost considerably more per unit member than the benefit to the average rank and file bargaining unit members of the recent interest arbitration award. The Employer's offer, 4% for 1995 and 1996, is the same increase as awarded to the other police unit. The parties differ by 2% for 1997.

The Employer's proposal to add steps to the guide is very appealing because it solves problems further discussed below. The future savings are substantial and the cost to unit members is non-existent. Overall, it seems reasonable to award increases of 4% in each year which will help to reduce pay differentials in the Township. The 1% above that offered by the Township serves as token consideration to members of this unit who present evidence that they have faced an increased workload and added responsibilities over the years. This professional and productive bargaining unit is entitled to maintain its high ranking as compared with other police employees.

#### *Stipulations of the parties*

There are no stipulations affecting this decision.

## *Comparisons*

The most significant comparisons in this decision are those with other police employees in the Township and within Somerset County. The actual cost of the award is very small and, therefore, not dependent on comparison of economic cost data or the relative ability of various communities to fund interest arbitration awards.

The SOA argues that the "best comparisons are [with those] in the same department [working] for the same employer." The SOA asserts a "history of parallel [contract duration] between the PBA ... and SOA contracts." It contends that Arbitrator Brent "made clear rulings consistent with the revised statutory criteria." (Brief, p. 10). His "decision should have great weight in considering the rights of the parties" in this matter. (Brief, p. 11).

With regard to the longevity issue, the SOA points to Brent's conclusion that "some recognition" must be given that benefit "in order to maintain comparability." (P-1, p. 12). There is a range of longevity benefits in Somerset County collective bargaining agreements. (P. Brief, p. 12). Municipal police salaries have increased by percentages ranging around 4.5% in 1996 and 1997 for those jurisdictions reported. These percentage raise comparisons provide no guidance as they are not tied to overall compensation.

The Township opposes adding a longevity program. "Four of nineteen Somerset County municipalities, including the Township, do not have longevity." Five have eliminated the benefit for new hires, and five have a "flat dollar" benefit. The Township has a deferred compensation benefit, the value of which must be considered.

In response to the Township's argument that the rank differential should be reduced, the SOA argues that "referring to rank differential only .... is deceptive because a lower paid person in the subordinate rank would unfairly skew the rank differential upward." (Brief, p. 15). Comparison with other lieutenants is preferable. The SOA argues that these lieutenants are in a "below average position." (Brief, p. 15). The SOA also cites differences between PBA and SOA benefits. (Brief, p. 16-17).

In 1994, the lieutenant's base wage (\$65,388) was higher, by over \$3,000, than the next highest paying municipality (North Plainfield). The Montgomery Township sergeant had a base wage of \$53,146 that year, more than \$12,000 below the lieutenant's base. The top rate in the County for lieutenants in 1995 is \$66,548. In 1996, it is \$69,542 and \$72,672 in 1997 (with 10 municipalities in the comparison universe). If the percentage increase offered by the Township are applied to the 1994 base, the rate by 1997 would be \$72,845. That amount would maintain Montgomery's competitive standing among lieutenants and would also reduce the extremely large differential between sergeants and lieutenants in Montgomery.

The differential between maximum sergeant's pay and maximum lieutenant's pay is 23% in 1994. The range in the County (among 11 municipalities) is from 5 to 15%. (T-2). Through 1997, among the reported municipalities, the differential remains no higher than 15%. The average is considerably lower.

The Township points out that the wage increases it proposes for lieutenants would be "far in excess of [the Township's] equalized ratable, per capita income, median family income and median household income rankings." The SOA's offer "would create an even greater disparity between the Township's lieutenants and other lieutenants in Somerset County. (T-2,3).

### *Private Sector*

This criterion is irrelevant for this decision. There are no comparable private sector employees and there is no evidence that public sector wages or wage increases would provide any guidance in deciding this matter. The increases awarded are more in line with public sector than with private sector changes but private sector increases, for the years covered, are close.

### *Internal Comparisons*

The Township provides an exhibit comparing the 1997 actual salaries of various employees with the 1994 base lieutenant salary of \$65,388. Only three salaries, those of the Township administrator (\$86,909), the chief financial officer (\$67,051), and the chief of police (\$78,598) are higher in 1997 than lieutenants earned three

years earlier. Other salaries, including those for managerial and supervisory jobs, range from about \$37,000 to \$63,000.

### *Lawful Authority of the Employer and Financial Impact on Governing Unit...*

Effective January 1, 1993, the base salary for lieutenants was \$60,854. The two lieutenants now earn a base wage of \$65,388 which was effective January 1994. The current base payroll for the unit is about \$130,000. A percentage point is around \$1300. A 3% difference over the three year term would cost less than \$4000. The SOA cites Mr. Raynor's statement that while it could afford to pay the Union's economic demand, the "money ... is intended for other purposes." It also quotes testimony that there is "no cap problem." (Brief, p. 17-18).

The economic impact of the award in this matter is not felt in the actual dollar difference between the parties but in the impact the raises proposed by the SOA would have on the internal wage structure of the police department. The Township has a budget greater than \$12 million and could absorb an extravagant increase for this unit if one were warranted. (P-25, 1997 budget). There would be very little impact on the municipal tax levy if the SOA's demands were awarded. The actual award has minimal impact.

### *Current compensation*

Current compensation in the unit is adequate to meet the public need for competent and motivated employees. Wages in this unit are higher than any employees for whom comparison data are available. This criterion is given considerable weight in the decision to reject the SOA's wage offer.

### *Cost of Living*

The cost of living has increased less than the increase offered by the Employer and has little bearing on this decision.

## Continuity and Stability of Employment

There is no evidence that continuity or stability of employment would be affected by an award of either party's offer. Therefore, the criterion is irrelevant for this decision.

## CONCLUSIONS

TERM: January 1, 1995 through December 31, 1997.

I have concluded that the term of the agreement should be as proposed by the SOA. The record provides clear and objective guidance as to the years through 1997 but sheds little light on what would be reasonable for 1998 and succeeding years. The SOA asserts a history of coterminus agreements within the police department and I find no basis for creating further distinctions between the rank and file and the two officers in this unit. I have relied on the Employer's assertion that the most important aspect of this decision is to reduce the differential compensation within the Township. Therefore, it makes more sense that wages for both units be negotiated starting with the same year for the next round.

The rationalization of the police department's compensation scheme, among its own employees and in comparison with other Township employees, is a laudable goal which can be accomplished by this award without compromising any other statutory factor. Given the bargaining history and the relative size of this unit, an additional year would not solve any long term problem and is not likely to create greater labor harmony or stability.

### WAGES:

#### *Wage Increase*

Effective January 1, 1995, 4% increase across the board.

Effective January 1, 1996, 4% increase across the board.

Effective January 1, 1997, 4% increase across the board.

The sum of the reliable evidence, when considered in light of the statutory criteria discussed above, supports the conclusion that wages should be increased by 4% each year.



### *Salary Guide*

The Employer's demand to create a salary guide is a good idea which is supported by several criteria as discussed above. The evidence supports the Township's claim that the differential between this unit and other police employees (to say nothing of the differential between this unit and other managerial and supervisory employees) is unreasonably large. The proposal would reduce the problem without adversely affecting job incumbents. That is so clearly in the public interest that I rely primarily on that factor for the decision to award the Employer's proposal for a three step guide.

### *Longevity*

The existing differential and the 2% deferred compensation plan now provide substantial extra compensation to long service lieutenants. There is no basis for adding a new level of compensation which could only increase differentials. Further, comparison suggests that such "seniority" rate increases are being eliminated or negotiated downward.

## AWARD

The term of the contract shall be from January 1, 1995 through December 31, 1997.

Salaries shall be increased as follows:

Effective 1/1/96	4% across the board
Effective 1/1/97	4% across the board
Effective 1/1/98	4% across the board

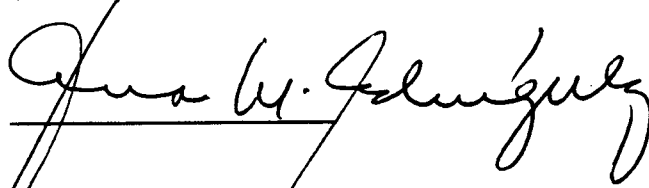
Effective January 1, 1997 the Employer shall develop a three step guide for lieutenants by taking the January 1, 1997 salaries for lieutenant and sergeant and creating three steps of equal percentage difference between the ranks.

By:

  
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Barbara Zausner

New Jersey  
Hudson

Sworn to and affirmed before me on February 20, 1998

  
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**ANA M. RODRIGUEZ**  
NOTARY PUBLIC OF NJ  
My Commission Expires 3-15-2000