

ORDINANCE NO. 61- 1992

AN ORDINANCE OF THE TOWNSHIP OF CENTRE, BERKS COUNTY, PENNSYLVANIA AMENDING ORDINANCE 42-1990 WHICH ESTABLISHED A POLICE PENSION SYSTEM UNDER ACT 120, AND FURTHER PROVIDING FOR THE ESTABLISHMENT OF A POLICE PENSION FUND UNDER ACT 120, PROVIDING FOR FUNDING, MANAGEMENT OF FUNDS, ACTUARIAL STUDIES, ESTABLISHING STANDARDS FOR PARTICIPATION IN PROGRAM INCLUDING HOURS PER WEEK OF WORK, PROVIDING AGE AND SERVICE REQUIREMENTS OF TWENTY (20) YEARS SERVICE ESTABLISHING A MILITARY LEAVE CREDIT FOR OFFICERS EMPLOYED AT LEAST SIX (6) MONTHS AND WHO RETURNS TO TOWNSHIP WITHIN SIX (6) MONTHS FROM SEPARATION FROM MILITARY SERVICE, ESTABLISHING NORMAL RETIREMENT BENEFITS EQUAL TO THREE QUARTERS (3/4) OF MONTHLY SALARY AS RE-DEFINED, PLUS SERVICE INCREMENT AS RE-DEFINED, ESTABLISHING DISABILITY BENEFITS AS A PERCENTAGE OF RETIREMENT BENEFITS, PROVIDING FOR A COST OF LIVING INCREASE AS DEFINED, PROVIDING BENEFITS IN THE EVENT OF DEATH FOR SURVIVING SPOUSE OR CHILDREN AS RE-DEFINED, PROVIDING FOR A RETURN OF INELIGIBLE MEMBER CONTRIBUTIONS WITH INTEREST AT FOUR PERCENT (4%), PROVIDING FOR VESTING AFTER TEN (10) YEARS, PROVIDING FOR PAYMENTS INTO FUND BY MEMBER CONTRIBUTIONS, PROVIDING FOR PAYMENTS INTO FUND BY TOWNSHIP, PROVIDING FOR PAYMENT OF ADMINISTRATIVE EXPENSES, PROVIDING THAT PENSIONS ARE NOT SUBJECT TO ATTACHMENT OR EXECUTION, PROVIDING FOR POLICE RESERVE SERVICE IN TIME OF EMERGENCY, PROVIDING FOR MODIFICATION OF EXISTING PLAN AND ESTABLISHING AN EFFECTIVE DATE FOR IMPROVED BENEFITS AS OF JANUARY 1, 1992, PROVIDING FOR SEVERABILITY IN THE EVENT OF ILLEGALITY, PROVIDING FOR REPEAL OF INCONSISTENT ORDINANCES, PROVIDING FOR REVERTER TO PREVIOUS PENSION SYSTEM UPON HAPPENING OF CERTAIN EVENTS AND SETTING AN EFFECTIVE DATE AS THE EARLIEST DATE ALLOWED BY LAW.

THE BOARD OF SUPERVISORS OF THE TOWNSHIP OF CENTRE HEREBY ENACTS AND ORDAINS AS FOLLOWS:

SECTION 1. Title. This Ordinance shall be known as "The Amended Township of Centre Police Pension Ordinance".

SECTION 2. Background and History. Township of Centre ("Township") established in 1976 a police pension plan by resolution under Act 600 which resolution has been amended and

revised on several occasions as follows: Resolution of October, 1976, Resolution of July 11, 1984, Resolution of March 9, 1988 Ordinance No. 42-1990, and this amendment being Ordinance No. _____, 1992. Township has contracted with adjacent Municipalities for police services and entered into an Intergovernmental Agreements with the said Municipalities. In 1990 the Township placed its pension plan and pension fund under Act 120. In 1990 certain changes were made to the plan which is set forth in Ordinance No. 42-1990. The present ordinance makes additional changes to the plan affecting those employees presently employed. Any police officer who is no longer working for the Township and is eligible for a pension in the future shall have his/her benefits determined by the provisions of the ordinance in effect at the time the officer ceased working for the Township.

SECTION 3. Establishment of Police Pension Fund. A Municipal Police Pension Fund ("Fund") be and the same is hereby established for the Township of Centre, Berks County, Pennsylvania, pursuant to the terms and provisions of the Act of Assembly of May 12, 1943, P.L. 259, as amended, 72 P.S. Section 2263.1 et. seq., known as Act 120, the said Fund to be maintained by (1) a charge against each " full time police officer", as that term is defined in section 6 herein, (2) by annual appropriations made by the Township, (3) by payments made by the State Treasurer to the Treasurer of the Township from moneys received from taxes paid upon premiums by foreign casualty

insurance companies for purposes of pension retirement for policemen, and (4) by gifts, grants, devises or bequests granted to the said Fund.

SECTION 4. Management.

(a) The Board of Supervisors of the Township and the Township Secretary shall constitute the Police Pension Fund Committee ("Committee").

(b) The Committee shall keep full and accurate accounts of all transactions and may make rules for the transaction of business, the application, care, management, investment and disposal of the funds and property of the Fund and the time and place of meetings of said Committee.

(c) The Committee has created a Police Pension Investment Account ("Account") and shall invest for the credit of the Account the surplus money accumulated in the Fund in excess of such sums as may be determined by the Committee to be necessary to pay expenses of one year and to pay such pensions as directed by this Ordinance during the same year. If at any time, sufficient funds are not available for the payment of all pensions in full, the Committee may sell securities which it holds in the Account and use the proceeds thereof to meet such deficiencies. All moneys invested for the credit of the Account shall be in securities which are legal for the investment of trust funds under the laws of the Commonwealth of Pennsylvania. All such securities shall be

deposited with the Treasurer of the Committee for the credit of the Account.

(d) The Fund may be funded in whole or in part by the purchase from funds available in the fund of such annuity or endowment insurance contracts as are issued by any reputable life insurance company as shall be designated from time to time by the Committee, the ownership whereof shall remain in the name of the Township or the Fund. No such annuity or endowment insurance contracts shall be purchased that are not permitted to be acquired by law or regulation of any State, or Federal law, or agency applicable to or having jurisdiction over such Fund.

(e) The Committee may appoint an Investment Advisor, Trustee and/or Custodian for the investment and/or custody of all or part of the Fund.

SECTION 5. Actuarial Study. Whenever the Committee shall determine or the law requires that an actuarial study is necessary or is required by law, the Committee shall have the power to so recommend.

SECTION 6. Eligibility for Participation in Program. All full-time police officers employed by the Township shall become a participating member of the Fund immediately upon the effective date of this Ordinance. All full-time police officers hired by the Township after the effective date of this Ordinance shall become participating members thereof as of the date of their employment upon the conclusion of their probationary period of

employment which in no event shall exceed one (1) year after their employment as a full-time police officer. The term "full-time police officer" for the purpose of this section shall mean those police officers who devote at least forty (40) hours per week to the duties of the police force. All such police officers on full-time service shall be deemed to be members of the Fund.

SECTION 7. Age and Service Requirements. Each participant who has been in the employ of the Township as a Township employee as above set forth for twenty (20) years in the aggregate or has attained the age of fifty-five (55) years and is vested may retire and shall, upon his actual retirement from his employment with the Township, be entitled to receive pension or retirement benefits as are hereinafter provided.

SECTION 8. Military Leave Credit. Any police officer employed by the Township who has been a full-time police officer of the Township for a period of at least six (6) months and who thereafter shall enter into the military service of the United States shall have credited to his employment record for pension or retirement benefits all of the time spent by him in such military service, if such person returns or has heretofore returned to his employment as a full-time police officer within six (6) months after his separation from the service.

SECTION 9. Retirement or Pension Benefits. Each eligible participant shall be entitled to normal retirement benefits as herein provided, by making written application to the

Committee advising that he desires to retire and receive such normal retirement benefits to which he is then entitled. The pension or retirement benefits shall be payable during the balance of the participant's life following actual retirement, and after fulfillment of the service requirements set forth in section 7. The monthly benefit shall be a sum equal to three-quarters (3/4) of the highest twelve (12) months of earnings which shall include regular pay, overtime, bonuses, holiday pay, equipment or clothing allowance, accrued vacation, and sick days up to a maximum of thirty (30) days. Any member shall accrue an additional benefit of Fifty and 00/100 Dollars (\$50.00) per month for each additional year of service over Twenty (20) years with a maximum benefit for this service increment of up to Five Hundred and 00/100 Dollars (\$500.00) per month. Payments shall be made under this plan on the first day of the month.

SECTION 10. Disability Benefits. Whenever the Committee shall determine that any full-time police officer, who shall have been in continuous service since his appointment, has become totally and permanently disabled physically or mentally, such police officer shall receive the following pension during his lifetime so long as the Committee shall determine such incapacity does exist. "Total and permanent disability" shall mean a physical or mental condition of a participant which qualifies him for disability benefits under the Social Security law of the United States.

(a) Thirty-five percent (35%) of average monthly salary to such police officer who shall have served continuously for less than five (5) years, based on his average salary over the period of his service following his appointment as a full-time police officer in the Township.

(b) Forty percent (40%) of average monthly salary to such full-time police officer who shall have served continuously for more than five (5) years but less than eight (8) years, based on his average salary over the last thirty-six (36) months of his service as a Township police officer.

(c) Forty-five percent (45%) of average monthly salary to such full-time police officer who shall have served continuously for more than eight (8) years but less than twelve (12) years, based on his average salary over the last thirty-six (36) months of his service.

(d) Seventy-Five percent (75%) of average monthly salary to such full-time police officer who shall have served continuously for twelve (12) years or more, based on the method of calculation set forth in Section 9 for a police officer with twenty (20) years of service.

Provided, however, that the Fund payments shall be offset by all monies received by such full-time police officer from or on behalf of the Township or any other governmental agency or unit, by insurance, workmen's compensation or otherwise for such disability. And further provided that in the event a full-time

police officer becomes eligible to retire from active duty, pursuant to the provisions hereof, and such full-time police officer does not retire but continues on active duty as a full-time police officer, if such police officer shall subsequently become disabled, the provisions of this section regarding disability benefits shall not apply, but such full-time police officer shall receive normal retirement as provided herein.

SECTION 11. Surviving Spouse or Children's Benefits.

(a) In the event of the death of a member who was receiving a pension benefit or who had qualified for a retirement pension benefit but had not retired, the surviving spouse shall be entitled, during the surviving spouse's lifetime or so long as she does not remarry, to receive a pension equal to seventy-five percent (75%) of the pension the member was receiving or would have been receiving had the member been retired at the time of death. In the event there is no surviving spouse, but there is a child or children, the child or children shall be entitled to collectively receive a pension of fifty (50%) percent of the pension the member received or would have been entitled to up to the later of age eighteen (18) or for a period of ten (10) years.

(b) The term "surviving spouse" as used herein shall not be construed to include the spouse of any member who shall be legally separated or divorced from the police officer at the time of the police officer's death. Payment to the surviving spouse shall cease upon receipt by the Committee of information

disclosing that the spouse is remarried or is living with another person in the status of a common law marriage or any type of meretricious relationship. The Committee is hereby empowered to hear and consider the application of any person claiming as a surviving spouse, and the decision as to whether such claimant comes within any of the provisions of this Ordinance and section shall be final and conclusive.

SECTION 12. Return of Member Contributions With Interest. Any member of the police force who, for any reason whatsoever, shall be ineligible to receive a pension after having contributed any charges to the Fund established pursuant to this Ordinance and/or to a police pension fund of the Township existing prior to the effective date of this Ordinance shall be entitled to a refund of all such moneys paid by him into such police pension fund, plus interest earned on such monies calculated at the rate of four percent (4%) immediately upon discontinuance of his employment with the Police Department. If any former police officer who received said refund is again employed by the Township as a full-time police officer, he shall be reinstated as a participating member of the Fund and receive credit for past service upon contributing to the Fund the amount of the refund and interest, if any, received by him when employed.

SECTION 13. Vesting. Any full-time police officer shall be one hundred percent (100%) vested after ten (10) years of service in the benefit accrued to the date of termination. The

monthly benefit shall be a sum equal to one-half (1/2) of the average monthly salary of the participant during the last thirty-six (36) months of his employment times a percentage computed by dividing his years of actual service by the years of service which if he did not render twenty (20) years, he would have rendered had he continued to work until he had twenty (20) years service. Vesting is not retirement.

SECTION 14. Contributions by Participants. All participants shall make contributions which shall be five percent (5%) of their total compensation, but may be reduced or eliminated if permitted by law and if an actuarial study indicates that if such contributions were reduced or eliminated, contributions by the Township will not be required to keep the Fund actuarially sound. Any reduction or elimination of contributions shall be authorized on an annual basis by Resolution or Ordinance of the Board of Supervisors of the Township.

SECTION 15. Township Funding. The Township shall comply with all funding standards set forth in the Act of December 18, 1984, P.L. 1005, No. 205, 53 P.S. Section 895.101 et seq.

SECTION 16. Administrative Expenses. All expenses of managing and administering the Police Pension Fund, shall be paid from the Fund with appropriations made for that purpose.

SECTION 17. Pension Benefits not Subject to Legal Process Generally. The pension payments herein provided for shall not be subject to attachment, execution, levy, garnishment or other legal

process, and shall be payable only to the member or his designated beneficiary and shall not be subject to assignment or transfer.

SECTION 18. Police Reserve. Any participating member who shall retire from the Township police force and qualify for pension benefits as provided herein, shall be subject to service, from time to time, as a police reserve in case of riot, tumult or preservation of the public peace until such time as he or she becomes unfit for such service by reason of mental or physical disability.

SECTION 19. Effective Date of Benefits. The effective date of these improved benefits shall be January 1, 1992.

SECTION 20. Severability. All provisions of this Ordinance shall be deemed severable, and if any of the provisions shall be held unconstitutional, illegal or invalid, such decisions shall not affect the validity of any of the remaining provisions of this Ordinance. It is hereby declared as the legislative intent of the Board of Supervisors of the Township that such unconstitutional, illegal or invalid provisions have not been included herein. If such illegality or invalidity renders any of the benefits authorized herein illegal or invalid or causes the whole or any portion of the Fund to be returned to the Commonwealth, then this entire Ordinance is a nullity and the Township reverts to the Act 600 resolution which was in effect immediately prior to the passage of this Ordinance.

SECTION 21. Inconsistent Ordinances. All prior inconsistent ordinances or resolutions are hereby repealed except that such repeal shall not invalidate the provision of severability herein.

SECTION 22. Effective Date. This ordinance shall be effective on the earliest date allowed by law.

ENACTED AND ORDAINED AS AN ORDINANCE OF THE TOWNSHIP OF CENTRE THIS 11th DAY OF March, 1992.

Attest:

George C. Siefert
Secretary

Albert W. Buehner, Jr.
Chairman

Harold A. Spatz
Supervisor

Nancy E. Kachel
Supervisor