ORDINANCE NO. 1-88

AN ORDINANCE OF THE TOWNSHIP OF MIDDLESEX CREATING A PENSION FUND AND PLAN FOR THE BENEFIT OF THE TOWNSHIP'S POLICE OFFICERS, AUTHORIZING THE ESTABLISHMENT OF A CORPORATE FIDUCIARY, CREATING A PENSION FUND AND PROVIDING FOR ITS MANAGEMENT AND MAINTENANCE, PROVIDING ADMINISTRATIVE PROCEDURES, ESTABLISHING REQUIREMENTS AND CRITERIA FOR COVERAGE, BENEFITS, VESTING AND RIGHTS OF PARTICIPANTS.

WHEREAS, the Board of Supervisors (the "Board") of Middlesex Township, Cumberland County, Pennsylvania (the "Township") desires to establish a Pension Plan and Pension Fund for the benefit of full-time police officers of the Township; and

WHEREAS, the Board of Supervisors desires to enact the Pension Plan and Pension Fund, pursuant to the Act of May 29, 1956, P.L. 1804, as amended (Act No. 600 of 1956; 53 P.S. Section 767 *et seq.*).

NOW, THEREFORE, BE IT ORDAINED AND ENACTED by the Board of Supervisors of Middlesex Township that the provisions of a Pension Plan and Pension Fund for the benefit of full-time police officers of the Township be as follows:

Section 1. Establishment of Pension Plan and Pension Fund.

There is hereby established in the Township a Pension Plan and Pension Fund for the benefit of full-time police officers of the Township. The Pension Plan shall be known as the "Middlesex Township Police Pension Plan" (hereinafter "Plan"). The Pension Fund shall be known as the "Middlesex Township Police Pension Fund" (hereinafter "Fund").

Section 2. Establishment of Corporate Fiduciary.

The Board is hereby authorized to enter into an agreement of trust with a corporate fiduciary, which agreement of trust shall permit the fiduciary to manage and operate the Fund and to receive, hold, invest and disburse any sum or sums as may be necessary to carry out the Plan. The Board shall determine the form and terms of any such agreement of trust.

Section 3. Creation and Maintenance of the Pension Fund.

The Middlesex Township Police Pension Fund shall be created and maintained in the following manner:

(a) All funds on deposit and held for the pension or retirement benefits of the Middlesex Township police officers shall be transferred to the Pension Fund created hereby subject to any liabilities which may exist against such Fund.

(b) The allocation by the Board of payments made by the Treasurer of the Commonwealth from monies received from taxes paid upon premiums by foreign casualty insurance companies and foreign fire insurance companies pursuant to the General Municipal Pension System State Aid Program.

(c) Payments made by contributions of the police officers in accordance with the Middlesex Township Police Pension Plan as may be in effect from time to time.

(d) Payments made by other gifts, grants, devises or bequests made to the Fund.

(e) Such other payments as may, from time to time, be made by the Board to the Fund from the general revenue of the Township.

All such payments received shall be deemed to be part of the Pension Fund and shall not be applied to any other account or disbursed in any manner except as provided herein.

Payments required under the Plan shall be a charge only upon the Police Pension Fund and not upon other monies or funds of the Township.

Section 4. Application of Certain Receipts.

The amounts of the payments made by the Treasurer of the Commonwealth from the monies received from taxes paid upon premiums by foreign casualty insurance companies and foreign fire insurance companies, which are determined by the Board to be deposited in the Pension Fund, shall be used and applied as follows:

(a) To pay expenses incurred for the administration of the Pension Fund and the Pension Plan,

(b) To reduce any unfunded liability, defined as the present value of liability of the Fund on account of retirement benefits payable under this ordinance to police officers for service prior to the date upon which they first made contributions to the plan, offset by the value of any assets in the Fund; or after such liability has been funded,

(c) To apply against the annual obligation of the Township for future service cost, defined as the amount of money required to be contributed annually into the Fund on account of benefits payable under the Pension Plan to police officers for service subsequent to the date of the establishment of the Plan; or to the extent that the payment made be in excess of such obligation,

(d) To reduce member contributions.

Any other monies paid into the Fund shall be applied equally against the member and Township obligations for future service cost.

Section 5. Management of the Pension Fund.

The Pension Fund shall be deposited with, managed and invested by a corporate trustee, designated by the Board, which shall carry out its responsibilities in accordance with the terms of the Trust Agreement and further subject to such investment policy and guidance as the Board shall, from time to time, give to the Trustee for the investment of the Pension Fund assets.

Section 6. Administration of the Plan.

(a) The Plan shall be administered by the Board.

(b) The Township Secretary shall keep minutes of the proceedings and all dates, records and documents pertaining to the administration of the Plan. The Board may employ and suitably compensate such actuarial and consulting services and advisory, clerical or other employees and attorneys as it may deem necessary for the performance of its duties. The expenses of the administration of the Plan shall be paid from the assets of the Fund.

(c) The action of the Board shall be determined by the vote or other affirmative expression of a majority of its members.

(d) The Board shall make available to participants of the Plan, for examination during business hours, such of its records as pertain only to the participant involved. The Board shall make its records available to proper governmental officials during business hours and members of the general public upon twenty-four (24) hours' notice.

(e) The Board, on behalf of the participants of the Plan, shall enforce the Plan in accordance with the terms of this ordinance and shall have all powers necessary to accomplish that purpose including, but not limited to, the following:

(1) To determine all questions relating to the eligibility of employees of becoming participants;

(2) To compute and certify to the fiduciary the amount and kind of benefits payable to participants;

(3) To select any issuing company and annuity contract which, in the opinion of the Board, will best carry out the purposes of the Plan; and

(4) To make and publish such rules and regulations for the administration of the Plan as are not inconsistent with the terms of this Ordinance.

(f) The Township shall supply full and timely information to the Board on all matters relating to the pay of all members of the Middlesex Township Police Pension Plan, their retirements, deaths or other causes for termination of employment and such other pertinent data as the Board may require, and the Board shall advise the fiduciary with reasonable dispatch of such of the foregoing facts as may be pertinent to the fiduciary's administration of the Fund.

Section 7. Coverage.

This agreement shall cover all full-time police officers of Middlesex Township, hereinafter referred to as "member." Every full-time police officer employed by the Township shall, upon the commencement of his employment, be a member covered under this agreement and entitled to the benefits provided hereunder.

Section 8. Normal Retirement Date.

The normal retirement date of a member shall be the day on which the member has attained fifty-five (55) years of age and has completed twenty-five (25) years of service.

Section 9. Basic Benefits.

The basic monthly pension benefit shall be fifty percent (50%) of the monthly average salary of such member during the last sixty (60) months of employment. Such pension benefit for any month shall be computed as the sum of (a) seventy-five percent (75%) of primary benefits under Federal Social Security Laws for which the police officer may be eligible because of age and (b) benefits from this Pension Fund to the extent necessary to bring the total benefits in any month up to one-half the aforesaid monthly average salary. Such monthly retirement benefits shall be payable during the lifetime of the retiring police officer.

Police officers retiring under the Pension Plan established by this Ordinance shall be subject to service, from time to time, as police reserves, in case of riot, tumult or preservation of the public peace until unfitted for such service, when they may be finally discharged by reason of age or disability.

Section 10. Survivor's Pension Benefit.

Upon the death of a retired member, or upon the death of an active member who was eligible for retirement at the time of death, the surviving spouse (or the surviving minor children in the absence of a spouse or upon the re-marriage of the surviving spouse) will receive a pension equal to fifty percent (50%) of the pension which such retired member was receiving or which such active member was eligible to receive if he had been retired at the time of death.

Section 11. Disability Retirement.

If a member is totally and permanently disabled, he may, upon application or on application of one acting in his behalf, be retired by the Board on a disability pension prior to his normal retirement date if the physician designated by the Board, after medical examination of the member made at the place of residence of the member or at a place mutually agreed upon, shall certify to the Board that the member is unable to engage in any gainful employment and that said member ought to be retired.

The disability benefit shall be equal to fifty percent (50%) of the member's monthly average salary during the last sixty (60) months of employment. The disability benefit shall be reduced by seventy-five percent (75%) of primary benefits under Federal Social Security laws for which the police officer may be eligible because of his disability.

Section 12. Members' Contributions.

All members of the Plan shall pay into the Fund monthly, two and seventy-five hundredths percent (2.75%) of compensation on which Social Security taxes are payable, plus five percent (5.0%) of compensation in excess of that on which Social Security Taxes are payable.

Section 13. Adjustment of Member Contributions.

If an actuarial study shows that the condition of the Fund is such that payments into the Fund by members may be reduced below said minimum percentages or eliminated, and that if such payments are reduced or eliminated, contributions from the General Fund of the Township will not be required to keep the Fund actuarially sound, the Board may, by Ordinance or Resolution, on an annual basis, reduce or eliminate payments into the Fund by members.

Section 14. Vesting.

If a member before reaching his normal retirement date and having completed twelve (12) years of total service, for any reason ceases to be a police officer of the Township, he shall be entitled to vest his retirement benefits until his normal retirement date by filing with the Board a written notice of his intention to vest, within ninety (90) days of the date of his termination. Upon reaching the date which he would have been eligible for retirement if he had continued to be employed as a full-time police officer, he shall be paid a partial retirement benefit determined by applying the percentage his years of service bear to the years of service which he would have rendered had he continued to work until his normal retirement date to the gross pension, which he would have earned had he continued as a full-time police officer to his normal retirement date, using however, the monthly average salary during the appropriate period prior to his termination of employment.

Section 15. Refund of Contributions.

Upon termination of full-time employment before completion of twelve (12) years of service or upon the death of a police officer before commencement of monthly pension benefits, a refund shall be made of any monies paid by such police officer, with interest at the rate of five percent (5.0%) per annum. In the case of death, such refund shall be paid to his designated beneficiary, or, in the absence of such designation, to his estate.

Should a police officer die before he, his widow or his children have received his total contributions to the Fund accumulated with interest, then such remaining amount shall be paid to his beneficiary or his estate.

Section 16. Payments to be Free From All Claims.

All payments under the Plan shall be, to the fullest extent permitted by law, free and clear of any debts, contracts, engagements, anticipations or liability to levy, attachment, execution or sequestration against the recipient, and shall not be subject to sale, assignment, transfer, claim, judgement or bankruptcy proceedings against the recipient of such payments, whether voluntary or involuntary.

Section 17. Rights of Participants.

Any member of the Plan shall have the right to:

(a) Inquire of the Board as to his or her status or condition in the Plan, including prospective benefits to which such member may be entitled in the future;

(b) To examine records of the Board pertaining to his or her pension records;

(c) To appear personally before the Board with or without counsel and to be heard on any matter pertaining to his or her rights under the Plan.

Section 18. Modification.

The Plan and Fund established by this Ordinance may be discontinued, modified, alternated, terminated or repealed according to law, by Ordinance or Resolution.

Section 19. Severability.

The provisions of this Ordinance are severable, and if any of its provisions shall be held to be illegal, invalid or unconstitutional, the decisions of the Court so holding shall not affect or impair any of the remaining provisions of this Ordinance. It is hereby declared to be the intent of the Board of Supervisors of Middlesex Township that this Ordinance would have been adopted if such illegal, invalid or unconstitutional provision or provisions had not been included herein.

Section 20. Revocation of Prior Enactments.

Any and all Ordinances and/or Resolutions heretofore enacted by the Township providing for pension and/or retirement benefits for police officers of the Township are hereby repealed, and any Ordinance, Resolution or any part thereof conflicting with the provisions of this Ordinance shall be, and the same are, hereby repealed, in so far as the same affects this Ordinance. Any police officer who shall have terminated employment before the effective date of this Ordinance, and any dependent or beneficiary shall be entitled to the benefits, if any, they were previously receiving.

Section 21. Effective Date.

The terms and conditions of this Ordinance shall become effective as of January 1, 1987.

ORDAINED AND ENACTED this 2nd day of March, 1988, at a regular meeting of the Board of Supervisors of Middlesex Township, Cumberland County, Pennsylvania, upon motion of Mr. Robert M. Eppley, seconded by Mr. David D. Hukill and passed upon a vote of 2 to 0:

ATTEST:

MIDDLESEX TOWNSHIP

B. E. Rausher
Secretary

Robert M. Eppley
Vice Chairman