SNYDER TOWNSHIP POLICE PENSION PLAN

JEFFERSON COUNTY

COMPLIANCE AUDIT REPORT

FOR THE PERIOD

JANUARY 1, 2006, TO DECEMBER 31, 2008

JACK WAGNER
AUDITOR GENERAL

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BACKGROUND

On December 18, 1984, the Pennsylvania Legislature adopted the Municipal Pension Plan Funding Standard and Recovery Act (P.L. 1005, No. 205, as amended, 53 P.S. § 895.101 et seq.). The act established mandatory actuarial reporting and funding requirements and a uniform basis for the distribution of state aid to Pennsylvania's public pension plans. Section 402(j) of Act 205 specifically requires the Auditor General, as deemed necessary, to make an audit of every municipality which receives general municipal pension system State aid and of every municipal pension plan and fund in which general municipal pension system State aid is deposited.

Pension plan aid is provided from a 2 percent foreign casualty insurance premium tax, a portion of the foreign fire insurance tax designated for paid firefighters and any investment income earned on the collection of these taxes. Generally, municipal pension plans established prior to December 18, 1984, are eligible for state aid. For municipal pension plans established after that date, the sponsoring municipality must fund the plan for three plan years before it becomes eligible for state aid. In accordance with Act 205, a municipality's annual state aid allocation cannot exceed its actual pension costs.

In addition to Act 205, the Snyder Township Police Pension Plan is also governed by implementing regulations adopted by the Public Employee Retirement Commission published at Title 16, Part IV of the Pennsylvania Code and applicable provisions of various other state statutes including, but not limited to, the following:

Act 69 - The Second Class Township Code, Act of May 1, 1933 (P.L. 103, No. 69), as reenacted and amended, 53 P.S. § 65101 et seq.

The Snyder Township Police Pension Plan is a single-employer defined benefit pension plan locally controlled by the provisions of Ordinance No. 51, as amended. Ordinance No. 88, enacted April 24, 1997, clarified that the plan operates pursuant to Act 69.

JACK WAGNER

AUDITOR GENERAL

Board of Township Supervisors
Snyder Township
Jefferson County
Brockway, PA 15824

We have conducted a compliance audit of the Snyder Township Police Pension Plan for the period January 1, 2006, to December 31, 2008. The audit was conducted pursuant to authority derived from Section 402(j) of Act 205 and in accordance with *Government Auditing Standards* applicable to performance audits issued by the Comptroller General of the United States. Those standards require that we plan and perform our audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

The objectives of the audit were:

1. To determine if municipal officials took appropriate corrective action to address the findings contained in our prior audit report; and

2. To determine if the pension plan was administered in compliance with applicable state laws, regulations, contracts, administrative procedures, and local ordinances and policies.

Our audit was limited to the areas related to the objectives identified above.

Township officials are responsible for establishing and maintaining effective internal controls to provide reasonable assurance that the Snyder Township Police Pension Plan is administered in compliance with applicable state laws, regulations, contracts, administrative procedures, and local ordinances and policies. In conducting our audit, we obtained an understanding of the township's internal controls as they relate to the township's compliance with those requirements and that we considered to be significant within the context of our audit objectives, and assessed whether those significant controls were properly designed and implemented. Additionally, we tested transactions, assessed official actions, performed analytical procedures and interviewed selected officials to the extent necessary to satisfy the audit objectives.

The results of our tests indicated that, in all significant respects, the Snyder Township Police Pension Plan was administered in compliance with applicable state laws, regulations, contracts, administrative procedures, and local ordinances and policies, except as noted in the following findings further discussed later in this report:

Finding No. 1 – Noncompliance With Prior Audit Recommendation – Incorrect Pension Calculation

Finding No. 2 – Noncompliance With Prior Audit Recommendation – Return Of Unused Monies To The Commonwealth

The accompanying supplementary information is presented for purposes of additional analysis. We did not audit the information and, accordingly, express no form of assurance on it.

The contents of this report were discussed with officials of Snyder Township and, where appropriate, their responses have been included in the report.

May 20, 2009

JACK WAGNER
Auditor General

SNYDER TOWNSHIP POLICE PENSION PLAN
STATUS OF PRIOR FINDINGS

Status Of Prior Audit Recommendation

- Plan's Governing Ordinance Improperly Amended By Resolution

  The township's adoption of Resolution No. 01-2005 has been incorporated into the criteria of Finding No. 1 contained in this audit report. Therefore, there is no need to repeat this prior audit finding.

Noncompliance With Prior Audit Recommendations

Snyder Township has not complied with the prior audit recommendations concerning the following as further discussed in the Findings and Recommendations section of this report:

- Incorrect Pension Calculation

- Return Of Unused Monies To The Commonwealth

Finding No. 1 – Noncompliance With Prior Audit Recommendation – Incorrect Pension Calculation

Condition: As disclosed in the prior audit report, a police officer terminated his employment with the township on August 5, 1992. At that time, the police officer was 42 years old with 13 years of service. The plan's governing document in effect at the time, Ordinance No. 79 dated July 25, 1991 at Section 9, states:

> Benefits shall be computed at sixty-five percent (65%) of the monthly average salary including overtime of such member during the last thirty-six (36) months of employment. The benefits payable under this provision shall be a Joint and 50% Survivor Annuity payable only until the death of the retiree and reducing 50% with benefits provided to a widow who has not remarried, or else to the children under age eighteen (18), of a policeman who dies after having obtained eligibility to receive a pension benefit. The amount of the pension is to be set at one-half (1/2) of the pension the officer was receiving or would have been entitled to receive had he been retired when he died.

In addition, Ordinance No. 79 at Section 6, states:

> The minimum period of total service required for retirement under Fund of Snyder township shall be the aggregate of twenty (20) years of service with Snyder Township and at attainment of age fifty-five (55). If the township later desire to change the age of retirement and/or to reduce the number of years of service necessary, and the law of the Commonwealth so allows, then same may be accomplished by resolution. (Emphasis added)

Furthermore, the collective bargaining agreement between the township and its police officers for the period January 1, 1989, to December 31, 1991, at Article XIII, Section 2 states:

> Base pension on the last thirty-six (36) months wages prior to retirement, eliminate the Social Security offset elective, provide retirement at twenty (20) years of service and age fifty-five (55), and provide full pension at sixty-five percent (65%) of determined wages. (Emphasis added)

Finding No. 1 – (Continued)

Regarding vested pension benefits, Ordinance No. 51 dated February 27, 1981, at Section 23, states:

> Should a member, before completing superannuation retirement age and service requirements, but after having completed twelve (12) years of total service, for any reason cease to be employed as a full-time police officer by the municipality, he shall be entitled to vest his retirement benefits by filing with the Governing Body within ninety (90) days of the date he ceases to be a full-time police officer a written notice of this intention to vest. <u>Upon reaching the date which would have been his superannuation retirement age, if he had continued to be employed as a full time police officer, he shall be paid a partial superannuation retirement allowance determined by applying the percentage his years of service bears to the years of service which he would have rendered, had he continued to work until his superannuation retirement date</u> to the gross pension determined from his last 60 months average salary. (Emphasis added)

Pursuant to these governing documents, the township calculated the police officer was due a vested pension benefit of $790 per month payable on February 1, 2005. This calculation was based on 65% of the member's final average salary multiplied by 13/25.

In 2005, the township adopted Resolution No 01-2005, which increased the police officer's monthly vested benefit of $790 to $1,003 per month. This calculation was based on 65% of the member's final average salary multiplied by 13/20. The resolution was signed by the retiree in question who was also the Chairman of the Board of Township Supervisors at the time.

Section 6 of Resolution No. 01-2005, states:

> The minimum period of total service required for retirement under Fund of Snyder Township shall be twenty (20) years of service with Snyder Township, payable <u>at</u> attainment of age fifty-five (55). (Emphasis added)

In addition, the board of township supervisors granted annual cost of living adjustments (COLA's), to the aforementioned retiree, based on the incorrect pension calculation, for the years 2006 through 2008.

<u>Criteria</u>: In *Thelin v. Warren,* 118 Pa. Cmwlth. 336, 338, 544 A.2d 1135, 1136 (1998), the Commonwealth Court, citing *Koehnein v. Allegheny County Employees' Retirement System*, 373 Pa. 535, 97 A.2d 88, 92 (1953), stated that "a municipality cannot raise a former employee's retirement benefits after that employee's service to the municipality has ended." The Commonwealth Court went on to say that "[to] do so could adversely affect the plan's actuarial soundness, thus depriving contributing members of their pension benefits."

Finding No. 1 – (Continued)

Furthermore, Section 22 of Ordinance No. 51, states that a cost of living increase may be provided, but the increase may not exceed the percentage increase in the Consumer Price Index with total COLA benefits capped at thirty percent (30%).

Therefore, the retired police officer was entitled to the benefit originally calculated by the township pursuant to the governing documents in effect at the time of his retirement plus applicable COLA increases.

Finally, in Wynne v. Lower Merion Township, 181 Pa. Superior Ct., 524, the Pennsylvania Superior Court held that an ordinance may be amended only by another ordinance and not by a resolution.

Cause: Plan officials failed to comply with the prior audit recommendation because they felt the adoption of Resolution No. 01-2005 justified the increased benefit paid to the retiree.

Effect: The township purchased an annuity contract to provide the increased monthly pension benefit to the retiree, at a total cost to the pension plan of $180,748. Furthermore, during the current audit period, the township purchased 3 additional annuity contracts to pay the annual COLA's at a total cost of $13,876 to the pension plan.

Recommendation: We again recommend that municipal officials consult with their solicitor to determine if the annuity contract providing the unauthorized benefit can be cancelled. If the contract is cancelled, the plan should be reimbursed for the initial cost of the contract, less the aggregate amount of benefit the retiree was entitled to through the date of cancellation plus applicable interest, and the retiree's benefit should be adjusted prospectively to the amount originally calculated plus any COLA's granted by the municipality not to exceed 30% of the employees vested benefit of $790 per month. If cancellation of the annuity contract is not considered feasible, we recommend that municipal officials determine what the cost would have been to purchase an annuity for the retiree, based on the original calculations plus COLA's. The plan should be reimbursed the difference between that amount and the $180,748 cost of the original annuity contract and the $13,876 cost of the three annuity contracts for the COLA's, plus applicable interest.

Management's Response: Municipal officials disagreed with the finding. Their position is that in 1991 a collective bargaining agreement between the police and the township was amended to reflect the service requirements set forth in Resolution 1-2005 (20 years of service payable at the attainment of age 55) and that Resolution 1-2005 was adopted because it wasn't until the year 2005 that it was discovered that the 1991 collective bargaining agreement amendment had never been reduced to writing.

Finding No. 1 – (Continued)

Because the collective bargaining agreement and its amendment were in place prior to the member's termination, it is the township's position that the vested benefit shall not be reduced by 25 years (his years of service which he would have rendered had he continued to work until his superannuation age) but shall be reduced by 20 years, the normal retirement service requirement. Furthermore, township officials indicate they were acting on the advice of their solicitor and feel they acted in good faith by recalculating the pension benefit.

Auditors Conclusion: The municipality was not able to provide a copy of the 1991 amendment to the collective bargaining agreement cited in the management response. Consequently, it remains the Department's position that the pension benefit should be determined pursuant to the governing documents in effect at the time of the member's retirement as originally determined by the township. Therefore, the finding and recommendation remain as stated.

Finding No. 2 – Noncompliance With Prior Audit Recommendation – Return Of Unused Monies To The Commonwealth

Condition: As disclosed in the prior audit report, the township has not employed a full-time paid police officer since November 6, 1992, and the police force was disbanded on February 25, 1993. On February 1, 2005, the township purchased an annuity for the only former member of the plan eligible to receive a retirement benefit. Since then, the township has retained assets in the police pension plan which, as of December 31, 2008, totaled $287,058.

Criteria: Municipalities that have received state aid allocations pursuant to Act 120, and which do not employ at least one full-time paid police officer, must return unused funds to the Commonwealth pursuant to the provisions of Act 120, at 72 P.S. 2263.3, which states, in part:

> All monies distributed under the terms hereof, that are not used for the purposes set forth herein within two years after receipt thereof by the treasurers of several cities, boroughs, towns and townships, shall be returned to the General Fund for distribution…

Cause: Plan officials failed to establish adequate internal control procedures to ensure compliance with the prior audit recommendation.

Effect: The township is improperly retaining unneeded funds that should be returned to the Commonwealth for redistribution to eligible municipalities for reimbursement of eligible pension costs.

Finding No. 2 – (Continued)

Recommendation: We again recommend that township officials, with the assistance of their solicitor and the plan's actuary, determine the municipal contributions that are included in the pension plan's assets. After accounting for the municipal contributions that can be retained and resolving the outstanding Finding No. 1 audit recommendation, the remaining police pension plan assets should be returned to the Commonwealth. A check, along with any applicable calculations used in determining the amount reimbursed, should be made payable to the Commonwealth of Pennsylvania and submitted to: Department of the Auditor General, Municipal Pensions & Fire Relief Programs Unit, 1205 Pittsburgh State Office Building, 300 Liberty Avenue, Pittsburgh, PA 15222.

Management's Response: Municipal officials agreed with the finding without exception. The township is negotiating with Principal Life Insurance for the return of the unused monies to the Commonwealth.

Auditor Conclusion: Compliance will be evaluated during our next audit of the plan.

SNYDER TOWNSHIP POLICE PENSION PLAN
POTENTIAL WITHHOLD OF STATE AID

If it is determined during our next audit of the plan that conditions such as those reported by Finding Nos. 1 and 2 contained in this audit report are not complied with, it may lead to a total withholding of the township's state aid allocation attributable to its nonuniformed pension plan unless those findings are corrected. However, such action will not be considered if sufficient written documentation is provided to verify compliance with this department's recommendation. Such documentation should be submitted to: Department of the Auditor General, Bureau of Municipal Pension Audits, 406 Finance Building, Harrisburg, PA 17120.

SNYDER TOWNSHIP POLICE PENSION PLAN
SUPPLEMENTARY INFORMATION
(UNAUDITED)

SCHEDULE OF FUNDING PROGRESS

Historical trend information about the plan is presented herewith as supplementary information. It is intended to help users assess the plan's funding status on a going-concern basis, assess progress made in accumulating assets to pay benefits when due, and make comparisons with other state and local government retirement systems.

The actuarial information is required by Act 205 biennially, except for distressed pension plans, for which annual reporting was required through January 1, 2003. The historical information, beginning as of January 1, 2003, is as follows:

	(1)	(2)	(3)	(4)	(5)	(6)
Actuarial Valuation Date	Actuarial Value of Assets (a)	Actuarial Accrued Liability (AAL) - Entry Age (b)	Unfunded (Assets in Excess of) Actuarial Accrued Liability (b) - (a)	Funded Ratio (a)/(b)	Covered Payroll (c)	Unfunded (Assets in Excess of) Actuarial Accrued Liability as a % of Payroll [(b-a)/(c)]
01-01-03	$ 398,132	$ 157,770	$ (240,362)	252.3%	None	N/A
01-01-05	432,461	192,439	(240,022)	224.7%	None	N/A

Generally accepted accounting principles require the above data to be presented as of the plan's actuarial valuation dates for the past six consecutive fiscal years. Since the township purchased an annuity in 2005 to fund the pension benefit being paid to the retiree, a 01-01-07 actuarial valuation report was not prepared.

SNYDER TOWNSHIP POLICE PENSION PLAN
SUPPLEMENTARY INFORMATION
(UNAUDITED)

The comparability of trend information is affected by changes in actuarial assumptions, benefit provisions, actuarial funding methods, accounting policies, and other changes. Those changes usually affect trends in contribution requirements and in ratios that use the actuarial accrued liability as a factor.

Analysis of the dollar amount of the actuarial value of assets, actuarial accrued liability, and unfunded (assets in excess of) actuarial accrued liability in isolation can be misleading. Expressing the actuarial value of assets as a percentage of the actuarial accrued liability (Column 4) provides one indication of the plan's funding status on a going-concern basis. Analysis of this percentage, over time, indicates whether the system is becoming financially stronger or weaker. Generally, the greater this percentage, the stronger the plan.

Trends in unfunded (assets in excess of) actuarial accrued liability and annual covered payroll are both affected by inflation. Expressing the unfunded (assets in excess of) actuarial accrued liability as a percentage of annual covered payroll (Column 6) approximately adjusts for the effects of inflation and aids analysis of the plan's progress made in accumulating sufficient assets to pay benefits when due. Generally, where there is an unfunded actuarial accrued liability, the smaller this percentage, the stronger the plan. However, when assets are in excess of the actuarial accrued liability, the higher the bracketed percentage, the stronger the plan.

SNYDER TOWNSHIP POLICE PENSION PLAN
SUPPLEMENTARY INFORMATION
(UNAUDITED)

SCHEDULE OF CONTRIBUTIONS FROM EMPLOYER
AND OTHER CONTRIBUTING ENTITIES

Year Ended December 31	Annual Required Contribution	Percentage Contributed
2003	None	N/A
2004	None	N/A
2005	None	N/A
2006	None	N/A
2007	None	N/A
2008	None	N/A

SNYDER TOWNSHIP POLICE PENSION PLAN
SUPPLEMENTARY INFORMATION
NOTES TO SUPPLEMENTARY SCHEDULES
(UNAUDITED)

The information presented in the required supplementary schedules was determined as part of the actuarial valuation at the date indicated. Additional information as of the latest actuarial valuation date follows:

Actuarial valuation date	January 1, 2005
Actuarial cost method	Entry age normal
Amortization method	N/A
Remaining amortization period	N/A
Asset valuation method	Contract value
Actuarial assumptions:	
Investment rate of return *	4.25%
Projected salary increases *	5.0%
* Includes inflation at	Not disclosed
Cost-of-living adjustments	None assumed

JACK WAGNER

AUDITOR GENERAL

SNYDER TOWNSHIP POLICE PENSION PLAN
REPORT DISTRIBUTION LIST

This report was initially distributed to the following:

The Honorable Tom Corbett
Governor
Commonwealth of Pennsylvania

Snyder Township Police Pension Plan
Jefferson County
P.O. Box 39
Brockway, PA 15824

Mr. Fred Barefield	Chairman, Board of Township Supervisors
Mr. John Patton	Township Supervisor
Mr. Thomas Sedlock	Township Supervisor
Ms. Mary Fremer	Secretary/Treasurer

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