

**RESOLUTION 20-142**

**A RESOLUTION HIRING AND ESTABLISHING THE TERMS  
AND CONDITIONS OF EMPLOYMENT FOR THE  
FRANKLIN TOWNSHIP POLICE CHIEF**

**PREAMBLE**

WHEREAS, the Board desires to employ Byron C Smith as Police Chief and establish the terms and conditions of his employment; and

WHEREAS, it is in the best interest of the Township and its residents to provide certain benefits to the Police Chief as a form of compensation;

**RESOLUTION**

**NOW THEREFORE**, be it resolved by the Board of Trustee of Franklin Township, Franklin County, Ohio that the following Resolution be and hereby is adopted:

**RESOLVED**, that effective 1/1/2020 and subject to his acceptance hereof the Township hereby employs Byron C Smith as the Police Chief of the Franklin Township Police Department, subject to the following terms and

1. **Job Description and Duties.** The Police Chief shall serve as the Police Chief for the Township on an indefinite basis and shall perform and discharge faithfully, diligently and to the best of his ability, the responsibilities of Police Chief, a general description of which is attached hereto as "Attachment A" and incorporated herein. The Police Chief shall also perform such other tasks and undertake such duties as the Board or its designee may from time to time request.
2. **Rules and Regulations.** The Police Chief shall observe and administer such rules, regulations and procedures as may from time to time be adopted by the Board, including, but not limited to, rules governing the operation and personnel of the Franklin Township Police Department and its dispatching operations, and the protection of property and lives, all applicable federal, state and local laws and regulations.
3. **Continuing Employment Qualifications.** The Police Chief shall obtain and maintain a current Ohio driver's license, current OPOTA certification and such other certifications and/or licenses as may, from time to time, be required by the Board. The Police Chief shall also be and remain insurable under the terms of the Township's automobile liability insurance policy and shall provide proof of such insurability, from time to time as required by the Board and/or the Township's automobile liability insurer. THESE QUALIFICATIONS ARE MANDATORY AND CONTINUING AND FAILURE TO MAINTAIN THESE QUALIFICATIONS WILL RESULT IN IMMEDIATE DISCIPLINE INCLUDING POSSIBLE TERMINATION.  
The Police Chief will be required to attend yearly continuing/ongoing education pertaining to his position and with the board's approval.
4. **Probationary Period.** N/A

5. **Longevity pay.** The Police Chief, will be eligible to receive a longevity bonus based upon the number of completed consecutive years of continuous full-time active service with the Police Department. The police chief receives \$800.00 Longevity pay annually. **To be paid in accordance with Police Contract Article 15.5.**
6. **Work Hours.** The Police Chief's full working time and effort shall be devoted to his employment as the Franklin Township Police Chief. His regularly scheduled hours of work shall total forty (40) hours per week, but he shall also work such other or additional hours as may, from time to time be necessary to fulfill his duties as Franklin Township Police Chief and as may, from time to time, be requested by the Board of Trustees.
7. **Compensation.** The police chief will receive a 3.5 % cost of living increase and a 1.5% merit increase on the anniversary date of this agreement (January 1, 2020).
8. **Use of Vehicle.** The Police Chief is hereby authorized to use a Township owned or leased vehicle as designated by the Board, provided that such use shall be subject to and consistent with the provisions of the Franklin Township Employee Policies and Procedures manual, except that such vehicle must be used by the Police Chief for commuting to and from his Township employment and to respond directly from home to an emergency and/or other work-related situation.
9. **Use of cell phone.** The Township will provide the employee a cell phone to be used for Township related communication. It is understood that a small percentage of communication received on the cell phone may be of a personal nature. It is understood that the cell phone and all its contents remain the property of the Township.
10. **Vacation Time.** The vacation year shall end at the close of business on the last day of the first pay period that ends in January. The Police Chief working an average 40-hour week shall accrue vacation leave by pay period . To determine the appropriate accrual rate, the higher rate of accrual will begin on the first day of the pay period in which a year of active service is completed. The chief will accrue vacation at the rate of 12 hours per pay period which will load on the anniversary date of this mou (Jan 1). **Note: The total amount of vacation time that can be cashed out upon separation of employee and township is capped at 750 hours.**
11. **Holiday Compensation.** While in active service with the Township the Police Chief shall be entitled to eight (8) hours of holiday credit for each holiday referred to in Ohio Revised Code 511.10, which time shall accrue on a calendar year basis and be credited on each January 1<sup>st</sup>. **Refer to Police Contract, Article 21.3.**
12. **Sick Leave.** The Police Chief shall accrue sick leave with pay at the rate of 4.616 hours for each completed pay period. **Refer to Police Contract, Article 23.**
13. **Injury Leave.** **Refer to Police Contract, Article 24.**
14. **Disability Leave.**
15. **Family & Medical Leave.** **Refer to Police Contract, Article 23.**
16. **Bereavement Leave.** **Refer to Police Contract, Article 25.3.**

17. **Jury Duty Leave.** Refer to Police Contract, Article 25.2.

18. **Group Health Insurance Coverage.** Refer to Police Contract, Article 22.

19. **Uniforms.** Refer to Police Contract, Article 19.

20. **Pension.** Unless exempted by applicable law, rule or regulation the Police Chief shall be eligible for participation in the OPERS Disability and Pension Fund (“the Fund”) under such rules and in such manner as the Fund may, from time to time, establish.

(a) **Contributions.** Township agrees to pay the employee portion of the benefit

(b) **No Guarantee of Interest.** The Township does not in any way guarantee the Fund or any accounts held thereunder from loss or depreciation, nor is eligibility or payment guaranteed to the Fire Chief or any other person.

(c) **Determinations and Interpretations.** To the fullest extent permitted by law, all determinations and interpretations relating to the Fund, including, but not limited to those dealing with eligibility and contributions, shall be made by the Board, whose decision shall be final.

21. **Disciplinary Actions.** The Township through the Board is authorized to take such disciplinary actions as deemed necessary in the event the Police Chief does not fulfill his employment duties, or in cases of unexcused absence, tardiness, or excessive absenteeism or in such other cases as the Board may determine.

22. **Termination of Employment.** Except as otherwise provided in Section 4, above, the Police Chief’s employment with the Township may be terminated pursuant to the removal procedures provided in Ohio Revised Code 505.49 and 733.39 through 733.39. If the Police Chief’s employment with the Township is terminated, the Police Chief shall surrender to the Township in good condition any and all records, keys, and all other Township property and equipment. There shall be no payment of any benefit upon termination except what is accumulated in sections (10), (11) and (12).

23. **Status of Employment.** The Police Chief is employed by the Township on an indefinite basis until such time as he or the Board terminates his employment. The Resolution shall not be construed as creating any contract of employment between the Township and the Police Chief.

24. **Definitions.**

(a) **Active service** shall mean the time during which the Police Chief is employed by the Township on a full-time basis as the full-time Police Chief appointed pursuant to Ohio Revised Code Section 505.49 and is paid or entitled to payment, for the performance of duties for the Township, including that time of period of which he is paid, or entitled to payment, on account of a period of time during which no duties are performed due to regularly scheduled nonworking days, vacation, and leaves of absence with pay. Notwithstanding anything to the contrary contained in this

Resolution and unless otherwise specifically required by law, in no event shall the time spent in active service

with the Township. Time spent on unpaid leave shall not be deemed to be time spent in active service with the Township.

**(b) Anniversary date** shall mean the first day following the first 365 days of active service by the Police Chief with the Township.

**(c) Break in service** shall mean the period of time commencing on the date on which the Police Chief is not entitled to payment for the performance of duties for the Township or on the date on which the Police Chief's employment with the Township is terminated. Upon a break in service involving an unpaid leave of absence, whether or not approved, no further vacation, holiday and/or sick leave time shall accrue or be credited unless and until the Police Chief is in active service with the Township.

**(d) Immediate family** shall, unless otherwise provided in this Resolution, mean the Police Chief's spouse, children, stepchildren, grandchildren, step-grandchildren, father, mother, current stepfather and stepmother, brother, sister, brother-in-law, sister-in-law, son-in-law, daughter-in-law, half brother, half sister, current stepbrother, current stepsister, grandmother, grandfather, current step-grandfather, current step-grandmother, current mother-in-law, current father-in-law, current grandparents-in-law, and any other such person may be determined to constitute "immediate family".

**(e) Regular hourly rate** shall mean that figure obtained by dividing the Police Chief's annual base salary by 2.080 hours.

**(f) Retirement. Refer to Police Contract.**

**(g) Township** shall mean Franklin Township, Franklin County, Ohio.

**(h) Year of active service** shall mean 12 consecutive full calendar months during which the Police Chief is in active service with the Township.

**(i) Years of continuous active service** shall mean the number of consecutive 12 full calendar month periods during which the Police Chief is in active service.

**25. Entire Understanding.** Unless otherwise changed or modified by the Board after the effective date of this Resolution, or unless otherwise specifically required by applicable law, this Resolution constitutes the entire compensation and benefits afforded to the Police Chief if and while this individual continues to serve on a full-time basis as the Police Chief of Franklin Township, and for these purposes, all prior Resolutions, understandings, directives, and practices establishing or relating to any such benefits or compensation are hereby superseded in their entirety. **(All other benefits not listed in this MOU i.e. wellness benefit, health insurance etc will reflect the current Fop contract)**

**26. Amendment, Modification and/or Termination of Resolution.** The Township, through the Board, shall have the right and authority to amend or otherwise modify this Resolution, from time to time, provided that no amendment or modification shall deprive the Police Chief of previously accrued and vested vacation and/or sick leave benefits, or salary standing to his

**JOB DESCRIPTION  
POLICE CHIEF  
FRANKLIN TOWNSHIP  
Attachment (A)**

The Police Chief shall be the executive and chief officer of the Franklin Township Police Department and shall direct the development of goals and objectives for the Police Department and establish and implement operational policies and procedures to assume attainment of goals in conjunction with appropriate staff. The Police Chief shall control the assigning and transferring of all officers, and employees of the Police Department. He shall have the right to issue general, special, or verbal orders whenever he shall deem it necessary. In the absence of any officer from duty, the Police Chief may designate an officer or other employee of the Police Department to perform such duties temporarily.

The Police Chief shall represent the department at public meetings and serve as the primary departmental spokesperson. The Police Chief shall actively participate in problem solving regarding community affairs and investigate and respond to civilian complaints.

The Police Chief shall analyze information received from subordinates and others and recommend improvements and implement appropriate corrective actions as necessary. The Police Chief shall assess the need and establish priorities for capital improvement projects and major equipment purchases.

The Police Chief shall recommend action to the Board of Trustees and plan, prepare and submit departmental budget requests. The Police Chief shall assist the Township Clerk in the preparation of Township budgets and monitor departmental activities to assure expenditures are within approved budgetary guidelines.

The Police Chief shall develop and empower a staff of effective officers and ensure provision of adequate training and guidance to allow departmental and personal professional growth. The Police Chief shall provide oversight of all departmental components, prevention, emergency medical services, training, and inspection and insure divisions are adequately staffed and provided with appropriate tools.

The Police Chief shall maintain positive working relationships with other Township Departments and work closely with Township Clerk. The Police Chief shall ensure maintenance of proper staffing levels and participate in the employment and promotional processes.

The Police Chief shall recommend action and participate in contract negotiations. The Police Chief shall prepare reports for the Board of Trustees and present reports at Trustee meetings recommending policy and appropriate departmental improvements for Trustees consideration.

The Police Chief shall provide direct supervision of the Department shall indirectly supervise all Police department employees.

The Police Chief shall be responsible for the oversight and supervisor of the radio operations and all equipment used and personnel employed therein.

The Police Chief shall upon all occasions see to it that the laws of the United States, the State of Ohio and the Resolutions of the Franklin Township Board of Trustees applicable to the Police Department are faithfully observed and that all orders of the Board of Trustees are enforced.

The Police Chief shall be the custodian of all property of the Police Department. He shall see to it that the officers are fully equipped and ready for service at all times in order that efficient and safe service can be

rendered. The Police Chief shall keep the Board of Trustees informed as to the requirements of the Department and all matters pertaining to the services as may add to the efficiency of the Department or the improvements of police service in all sections of the Township. He shall also make such suggestions and recommendations to the Board of Trustees as will tend to increase the efficiency of the Police Department. The Police Chief shall prepare such budget estimates and plans as directed and shall foster and promote community awareness of the Police Department and its mission.

The Police Chief shall have the right to make inspections of all Department employees while on duty and may require full and complete reports from any members of the department concerning their conduct. The Police Chief shall report to the Board of Trustees any employees of the Police Department who, in his opinion, by reason of age, disease, accident or their incompetency, cannot properly perform the duties of the position to which said member is assigned.

At all emergency situations, the Police Chief shall have the ultimate control and command over all apparatus and Department employees. The Police Chief shall give such orders and adopt such measures as he deems necessary for the protection of property and person, and the preservation of order. The Police Chief shall cause to be arrested any person acting in a manner detrimental to protection of life and property. He shall immediately relieve from that tour of duty any employee of the Department who refuses to obey his orders.

The Police Chief shall have the right and obligation to recommend to the Board of Trustees the suspension, reduction or removal of any of the officers or employees in the Police Department and under his management and control for incompetence, gross neglect of duty, gross immorally, habitual drunkenness, failure to obey orders given to him by proper authority and for any other failure of good behavior and for violation of any rule or regulation of the Department. The Police Chief shall have the authority to investigate any conduct which gives or may give rise to any such charges and to prepare and file with the Board any such charge (s).

The Police Chief shall be responsible for the enforcement of discipline in the Police Department and shall hold commanding officers strictly responsible for their commands. He shall have the right to reprimand members of the Police Department, whether verbally or in writing in order to maintain discipline and order and to take such other corrective action as may be permitted or authorized under the collective bargaining agreement. The Police Chief shall maintain a comprehensive system to appraise employee performance with mediation steps included and shall apply decision making and foster initiative in such manner that results in high morale within the Department.

The Police Chief shall attend local, state and national law enforcement related conferences as authorized from time to time, by the Board of Trustees.

The Police Chief shall be responsible for ensuring that all division personnel are properly certified and re-certified for all business relating to law enforcement. The Police Chief shall ensure that all training programs are up-to-date and appropriate to the needs of the members of the Department. The Police Chief shall keep himself current and knowledgeable with respect to methods and procedures generally affecting the police department and its operations.

The Police Chief's full working time and effort shall be devoted to his employment as the Franklin Township Police Chief. His regularly scheduled hours of work shall total forty (40) hours per week, but he shall also work such other or additional hours as may, from time to time be necessary to fulfill his duties as Franklin Township Police Chief and as may, from time to time, be requested by the Board of Trustees.

The Police Chief shall be exempt from the Fair Labor Standards Act (29 United States Code 201 ET sec.) under the Executive Employee Exemption as defined at 29 U.S.C. 213(a)(1) and 29 Code of Federal Regulations 541.1.

The Police Chief shall have and maintain certification as a full-time police officer under the laws of the State of Ohio. The Police Chief shall also have and maintain a valid Ohio driver's license and shall maintain a driving record such that he is and remains insurable under Franklin Township's automobile liability insurance policies.

The Police Chief shall report directly to the Franklin Township Board of Trustees.

credit. Furthermore, while it is expected of the Township to continue this Resolution in substantially its present form, no obligation, contractually or otherwise, to do so is assured by the Township, and the Township expressly reserves the right to discontinue and/rescind this Resolution, in whole or in part, at any time.

- 27. Interpretations, Determinations and Decisions.** To the fullest extent of the law, all interpretations, determinations, and decisions that regard to this Resolution and all matters relating thereto and contained herein shall be made by the Board and such interpretations, determinations and decisions on any such matter shall be final and binding on all persons.
- 28. Duration of Resolution.** Except as otherwise herein before provided, this Resolution shall become effective on or as of 1/1/2020 and will continue in full force and effect, until otherwise amended, modified and/or terminated by the Board; provided, however, that the Township, through the Board, has the right and authority to amend, modify and/or terminate the Resolution as set forth above.
- 29. Acknowledgement and Acceptance of Employment.** The Police Chief shall sign a statement, which is to be returned to the Board stating, in effect, that the Police Chief has read the foregoing Resolution and fully understands and agrees with its terms and accepts employment with the Township under the terms stated herein.

*The Resolution shall take effect and be in force from and after the earliest time provided by law.*

Adopted: \_\_\_\_\_

\_\_\_\_\_  
*John Fleshman, Trustee*

Attested and Certified

*Ralph Horn*  
\_\_\_\_\_  
*Ralph Horn, Trustee*

*Mary Rhinehart 7/30/2020*  
\_\_\_\_\_  
*Mary Rhinehart, Clerk Resolution 2020-142*

*Aryeh Alex*  
\_\_\_\_\_  
*Aryeh Alex, Trustee*



**Acknowledge and Acceptance of Employment**

I Byron C Smith have read and fully understand resolution number \_\_\_\_20- 142 \_\_\_\_ and agree with its terms and accept employment as Police Chief with Franklin Township, under the terms stated herein.

Byron C Smith

Byron C Smith  
*Name Printed*

  
*Signature*

7-23-2020  
*Date*