

**NOTICE OF STUDY SESSION**  
**Proposed Changes to the Pension Plans**

CITY HALL, Fifth Floor  
6801 Delmar Blvd., University City, Missouri 63130  
**Monday, November 28, 2022**  
**5:30 p.m.**

**AGENDA**

**1. MEETING CALLED TO ORDER**

At the Study Session of the City Council of University City held on Monday, November 28, 2022, Mayor Terry Crow, called the meeting to order at 5:30 p.m.

In addition to the Mayor, the following members of Council were present:

Councilmember Stacy Clay; (*excused*)  
Councilmember Aleta Klein  
Councilmember Steven McMahon  
Councilmember Jeffrey Hales  
Councilmember Tim Cusick  
Councilmember Bwayne Smotherson

Also in attendance were City Manager, Gregory Rose; City Attorney, John F. Mulligan, Jr.; Finance Director, Keith Cole, and Heather Mehta of Greensfelder, Hemker & Gale.

**2. CHANGES TO THE REGULAR AGENDA**

None

**3. PROPOSED CHANGES TO THE CITY'S PENSION PLANS**

Mr. Rose stated Council is being asked to receive a presentation on the proposed changes to the pension plans and provide directions to staff. These changes are being proposed to strengthen the plans and make them more attractive for retaining and recruiting employees.

Mr. Cole introduced Heather Mehta of the Greensfelder Law Firm who would be making this presentation.

Ms. Mehta stated there are two categories of proposed changes that will be discussed. A need for the first change being proposed arose out of an incident where a Lieutenant left the department on disability, and subsequently died, and his family called to inquire about his death benefits. At this point, what the City realized was that the language contained in the plan at the time this employee became disabled was slightly different from what it says today.

Ms. Mehta stated when she reviewed the drafting history she determined that if someone with the proper years of service became disabled before 2015, they would have been eligible to receive their normal retirement and death benefits. However, it was drafted in such a way that anytime someone started receiving their pension benefits under the plan it would be offset by the disability insurance. For example, if someone was entitled to receive \$1,000 a month in disability benefits, and was also receiving retirement benefits, their disability benefits would be reduced to \$500. So, to make sure the insurance policy was the primary payer for these disability benefits, her predecessor amended the plan in 2015, to state that employees who left on disability were no longer entitled to early retirement benefits. Unfortunately, this amendment removed the ability of an employee who became disabled and subsequently applied for early retirement to receive death benefits.

Ms. Mehta stated the following proposed change are meant to correct this Scribner's error because the intent of that 2015 amendment was not to remove the death and funeral benefits for a surviving spouse but to ensure that someone receiving disability benefits would not be paid out of the pension fund.

### **Clarifying Disabled Retiree's Entitlement to Death Benefits Police and Firefighters' Retirement System**

#### **Section 130.190 Death Benefits**

##### A. Funeral Benefits.

1. There shall be paid upon the death of any active employee a funeral benefit in the sum equal to one (1) month's base salary then in effect;
2. There shall be paid upon the death of an employee retired under Section **130.130** or Section **130.160** or **who retired under Section 130.170 and who has at least twenty (20) years of service** a funeral benefit in the sum equal to one (1) month's base salary in effect at the time of retirement (under Section **130.130** or Section **130.160**) or disability (under Section **130.170**).

##### B. Lump Sum Death Benefit.

1. The beneficiary of an active member of the fund who dies prior to becoming eligible for retirement under Section **130.130** or Section **130.160** shall be paid a death benefit of one hundred thousand dollars (\$100,000.00); provided that such death benefit shall not exceed the incidental death benefit limitations of the Internal Revenue Code and the regulations thereunder.
2. The death benefit under this Section shall be paid in a single lump sum, or in such other form as the Board of Trustees shall approve, as soon as practicable after the active member's death.
3. An active member shall designate his/her beneficiary in accordance with rules and procedures established, and upon forms provided, by the Board of Trustees.
4. The Board of Trustees may, but is not required to, purchase a life insurance policy to provide the death benefit under Subsection **(B)(1)** of this Section. In the event the Board of Trustees purchases such a policy, the terms and conditions of the policy shall supersede the provisions of this Section (except Subsections **(8) (1)**, **(B) (s)**, and **(B) (6)** of this Section or as otherwise required under the Internal Revenue Code) to the extent inconsistent herewith.
5. After an active member becomes eligible for retirement or terminates service entitled only to a deferred retirement benefit under Section **130.230(A)**, Subsection **(B)** of this Section **130.190** shall be inapplicable, and death benefits, if any, shall be determined solely under the applicable provisions of Section **130.140**.

- ##### C.
- There shall be paid upon the death of any employee **who has not yet retired but who is eligible for retirement under Section 130.130 or Section 130.160 or who has at least twenty (20) years of service and is receiving benefits under Section 130.170**, ~~but who has not yet retired~~, the following:

1. To the employee's surviving spouse, provided such employee shall have been married to such surviving spouse for three (3) years or more prior to the employee's death, a monthly benefit of fifty percent (50%) of the monthly benefit the employee would have received if retired until the death or remarriage of such surviving spouse;
  2. To the lawful guardian of such employee's surviving minor unmarried child or children under the age of eighteen (18) years, provided such child or children shall have been born within ten (10) months after the employee's retirement or the employee's death in service, a monthly benefit of ten percent (10%) of the monthly base salary as previously described for such child or children until such child or children attain the age of eighteen (18) years or marry; provided the combined monthly payments to such surviving spouse and children shall in no case exceed sixty percent (60%) of the monthly base salary, and in which event the thirty-five percent (35%) maximum benefit for the eligible children shall be prorated between them; provided further, that if there is no surviving spouse entitled to benefits in any month, the surviving spouse's benefit will be divided equally among the then eligible children, but no child shall be entitled to more than fifty percent (50%) of the surviving spouse's benefit.
- D. There shall be paid upon the death of any employee retired under Section **130.130** or Section **130.160** the following:
1. To the employee's surviving spouse, provided such employee shall have been married to such surviving spouse for three (3) years or more prior to the employee's retirement, a monthly benefit of fifty percent (50%) of the monthly benefit the employee was receiving at the employee's death until the death or remarriage of such surviving spouse;
  2. To the lawful guardian of such employee's surviving minor unmarried child or children under the age of eighteen (18) years, provided such child or children shall have been born within ten (10) months after the employee's retirement or the employee's death in service, a monthly benefit of ten percent (10%) of the monthly base salary as previously described for such child or children until such child or children attain the age of eighteen (18) years or marry; provided the combined monthly payments to such surviving spouse and children shall in no case exceed sixty percent (60%) of the monthly base salary, and in which event the thirty-five percent (35%) maximum benefit for the eligible children shall be prorated between them; provided further, that if there is no surviving spouse entitled to benefits in any month, the surviving spouse's benefit will be divided equally among the then eligible children, but no child shall be entitled to more than fifty percent (50%) of the surviving spouse's benefit.
- E. If any employee dies and there is no surviving spouse or children eligible to receive benefits, a refund as described in Section **130.210(A)** shall be made to a designated beneficiary or, if none, then to his/her estate. This Section shall not apply with respect to employees who are in service on or after September 1, 2000 and have an investment account established under Section **130.340(A)**.

Ms. Mehta stated the remaining proposals for the uniformed and non-uniformed plans have been designed for the purposes of making recruitment and retention more attractive.

An employee's benefits within a pension plan are calculated based on credited service. To come up with these benefits, you look at their years of service, times their salary. But a vesting service consists of the number of years an employee has stayed with a company to earn the rights to those benefits.

As currently written, if you have an employee who serves in both a uniformed and non-uniformed capacity there is no provision to recognize the eight years they worked as a dispatcher and the eight years they worked as a uniformed police officer. So even though they've worked a total of sixteen years, they have no vested benefits under either plan because both plans require ten years of service.

Ms. Mehta stated when this issue was discussed; the thought was that a vesting service would be more beneficial to employees that transferred from one position to another because it would give them credit for all of the work they performed as an employee for the City. And the only thing that would be impacted is whether that employee was entitled to benefits; not the amount or the way their benefits would be calculated. So, the first change relates to vesting for employees who have worked in uniformed and non-uniformed positions within City's system, and the second change deals with the rehire of uniformed or non-uniformed employees.

Currently, if an employee does not have ten or twenty (sic) years of service prior to leaving, they would receive their contributions to the plan but lose their entitlement to any kind of monthly pension benefits. If that employee was rehired, under those circumstances, the City has no provisions to build upon the service that the employee completed before leaving. For example, if they had eight years of non-uniformed service when they left, received their contributions from the City, and then decided to come back; they could work another eight years and still not have any pension benefits because they were never vested, even though they had actually worked sixteen years.

Under those circumstances, the proposal is for the employee to buy back their service by returning their contributions, plus interest, to either of the plans. The idea is to combine that service so they could start building up those pension benefits which would then be calculated based on sixteen years of service rather than eight. Ms. Mehta stated this is a fairly common provision in most governmental plans because the goal is to make it more attractive for employees that have left, to come back.

She stated the Boards of both plans are interested in looking at other ways to make these plans more attractive and voted in favor of forming a subcommittee to explore those options.

Ms. Mehta stated one thing she should note, is that on an actuarial basis, the City's uniformed plan is under 80% funded. And because of that, under Missouri Revised Statute 105.684; which prohibits benefit increases if a plan is below 80%, and any improvements would decrease that funding even further, means that no amendments related to this plan can be passed. So here again, the goal is to come up with a list of ideas to improve the plan until the market is better or there is an increase in funding.

## **Service to Rehired Employees Police and Firefighters' Retirement System**

### **Section 130.110**

- A.** Any former employee who is reinstated in the Police or Fire Department **or in a non-uniformed position with the City** ~~within two (2) years after termination of his/her employment and who has withdrawn his/her contributions shall be required as a condition of the re-employment to~~ **may** deposit the amount of any withdrawal made under Section **130.210 plus interest thereon at the rate of two percent (2%) per annum** and shall be credited with his/her years of prior service. If **the former employee chooses not to deposit the amount of any withdrawal** ~~reinstatement occurs after two (2) years made under Section 130.210,~~ the former employee shall come in as a new employee without credit for prior service; and such prior service shall not be considered for any purposes under this uniformed pension plan.
- B.** Effective for plan years beginning after December 31, 1997, repayment under this provision may be made by a trustee-to-trustee transfer from a Code Section 403(b) annuity or a Code Section 457 deferred compensation plan maintained by a State or local government employer within Missouri for repayment of a cash-out from this plan under Section 415(k)(3).

### Section 130.230

- A. Any employee having ten (10) years or more of service in either the Fire Department or the Police Department, or a combination of service in both departments, who subsequently leaves the service, shall be eligible for the deferred retirement benefits as provided in this Article.
- B. An employee's investment account shall be one hundred percent (100%) vested and non-forfeitable at all times.
- C. Notwithstanding anything in this Article to the contrary, effective September 1, 1974, a participant shall be one hundred percent (100%) vested in his/her accrued benefit upon attaining normal retirement age, if the employee has satisfied any reasonable and uniformly applicable service or participation requirements or in the event that the plan is terminated or contributions to the plan have been completely discontinued.
- D. Any employee who transfers to or is hired by the City in a position eligible to participate in the Non-Uniformed Employees Retirement System shall continue to accrue years of service while employed by the City for the purpose of vesting under this plan, provided the employee has not withdrawn his/her contributions under Section 130.210 or, if such employee has withdrawn his/her contributions, such employee has repaid the contributions under Section 130.110.**

### **Service to Rehired Employees Non-Uniformed Employees' Retirement System**

### Section 130.480

- A. The years of creditable service of a member shall be the number of years and completed months of service during which the member received compensation prior to July 1, 1966, plus the number of years and completed months of service during which the member received compensation after July 1, 1966, from the beginning of his/her employment with the City until his/her employment is terminated, subject to the provisions set forth in Subsections (B-G) of this Section. No creditable service for prior employment shall be granted to an employee who becomes a member after July 1, 1966, unless the member was employed on July 1, 1966.
- B. If a member resumes employment ~~within one (1) year~~ after the member's employment is terminated and ~~provided~~ the member has not withdrawn his/her accumulated contributions, the member's creditable service as of the date of termination shall be restored.
- C. Creditable service to the date of absence shall not be forfeited by reason of any absence without pay due to leave granted by the City because of illness, qualified military service, or, for a period not in excess of one (1) year, for any other reason, provided the employee returns to active service prior to the expiration of his/her leave. Notwithstanding any other provision of the plan to the contrary, effective as of December 12, 1994, contributions, benefits, and service credit with respect to qualified military service shall be provided in accordance with Code Section 414(u). If a participant who is absent from employment as an employee because of military service dies after December 31, 2006, while performing qualified military service (as defined in Code Section 414(u)), the participant shall be treated as having returned to employment as an employee on the day immediately preceding his/her death for purposes of determining the participant's vested interest in his/her accrued benefit and his/her beneficiary's eligibility for a survivor benefit under the plan. Notwithstanding the foregoing, such a participant shall not be entitled to additional accruals with respect to his/her period of military leave.

- D. The Board of Trustees shall fix and determine by proper rules and regulations how much service in any year is equivalent to one (1) year of creditable service, but in no case shall more than one (1) year of service be creditable for all service in one (1) calendar year, nor shall the Board of Trustees allow credit as service for any period of more than one (1) month's duration during which the member was absent without pay except as provided in Subsection [\(E\)](#) of this Section.
- E. Absence from employment because of qualified military service shall be considered a leave of absence granted by the City; provided the employee returns to active employment within the period of time during which the employee has re-employment rights under any applicable Federal law or within ninety (90) days from and after discharge from such military service if no Federal law is applicable and such service shall be included in creditable service and provided the employee has not withdrawn his/her accumulated contributions.
- F. If the employment of a member is terminated, **the member has withdrawn his/her accumulated contributions**, ~~for reasons other than disability~~, and the member is employed thereafter **by the City, the member's creditable service as of the date of termination shall be restored if the member repays the withdrawn accumulated contributions plus interest at a rate of five percent (5%) per annum. If the member does not repay the withdrawn accumulated contributions plus interest, then** the member shall be considered a new employee for all purposes of the retirement system. ~~except as provided by Subsection [\(B\)](#) of this Section~~

#### Section 130.520

- A. Should the membership of an employee be terminated by reason other than death or retirement, such member shall be paid within one (1) year the amount of the employee's **accumulated** contributions plus interest earnings of five percent (5%) per annum on the employee's **accumulated** contributions. In the event of the death of such former member after the termination of employment and prior to receiving the employee's accumulated contributions, the employee's accumulated contributions shall be paid to the employee's designated beneficiary.
- B. A member who retires early may elect to withdraw his/her accumulated contributions at any time prior to the date the member's pension is to commence; provided that if he/she so elects, neither the member nor the member's beneficiary shall receive any other benefits from the retirement system **except as provided for in Subsection (F) of Section 130.480**. In the event of the member's death prior to the date the member's pension is to commence, the member's accumulated contributions will be payable in a lump sum to the member's designated beneficiary.
- C. Distributions under this Section shall be made in accordance with the Internal Revenue Code, Section 401(a) (9), and the regulations thereunder.
- D. Effective for distributions after December 31, 1992, a distributee may elect to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by a qualified distributee in a direct rollover as provided in Section [130.680](#).

#### Section 130.590

- A. Any employee **(1) who is subject to the Civil Service Rules and who has completed ten (10) years of service with the City or who is not subject to the Civil Service Rules and who has completed five (5) years of service with the City** and **(2) who thereupon separates from employment for reason other than death is entitled to pension benefits from the fund payable at the employee's normal service retirement date in lieu of receiving the employee's**

accumulated contribution to the fund. The retirement benefits shall be calculated as for normal service retirement but based on the employee's years of creditable service and final average compensation as of the date of the employee's separation. Such employee must notify the Board of his/her desire to retain a vested interest in the fund within thirty (30) days of the employee's separation from employment with the City. The form and manner of an employee's later application for retirement benefits will be identical to that prescribed in this Article for employees making a normal service retirement.

#### **Section 130.600**

- A.** A member shall have a one hundred percent (100%) vested interest in his/her accrued benefit upon reaching normal or early retirement age prior to termination of employment, death, or disability.
- B.** Any employee **(1) who is subject to the Civil Service Rules and** who has completed ten (10) years of service with the City **or who is not subject to the Civil Service Rules and who has completed five (5) years of service with the City** and **(2)** who thereupon separates from employment for reason other than death may elect to receive benefits under Section **130.590** in lieu of receiving the employee's accumulated contribution to the fund.
- C.** Notwithstanding anything in this Article to the contrary, effective September 1, 1974, a participant shall be one hundred percent (100%) vested in his/her accrued benefit upon attaining normal retirement age, if the employee has satisfied any reasonable and uniformly applicable service or participation requirements or in the event that the plan is terminated or contributions to the plan have been completely discontinued.
- D. Any employee who transfers to or is hired by the City in a position eligible to participate in the Police and Firefighters' Retirement System shall continue to accrue years of service while employed by the City for the purpose of vesting under this plan, provided the employee has not withdrawn his/her contributions under Section 130.520 or, if such employee has withdrawn his/her contributions, such employee has repaid the contributions under Subsection (F) of Section 130.480.**

Councilmember Hales asked whether the vesting of service worked for both uniformed and non-uniformed transfers? Ms. Mehta stated the intent of the proposed amendment is to allow for the crediting of vesting service for anyone who transfers between the two plans, and this language is contained in the last paragraph of both proposals. However, it will not change how their benefits are calculated.

Mayor Crow posed the following questions to Ms. Mehta:

**Q. Was the matter ever resolved in the first example where the Scribner's error was detected?**

*A. The records obtained by Mr. Mulligan revealed that this specific individual was divorced, so the belief is that the claim was made by one of his children. We are still trying to get more information from their attorney about who actually filed the claim and whether they would have been entitled to receive it. At that point, she and Mr. Mulligan will confer on whether the plan as it exists or the plan as it existed when he retired would allow any benefits to be paid to that specific beneficiary.*

**Q. Years ago, the Pension Board was able to compare the City's funding level with other municipalities on a regular basis. Is that type of information still available?**

*A. The JCPER collects that information and creates an unofficial watch list of all of the plans that are below the 70% funding level. They also prepare a summary of the annual reports filed by the financial directors for each plan, and both of these documents can be found on the JCPER website.*

Mayor Crow stated if there is a one or two-page document that ranks all of the plans, regardless of their funding level, he would like to see it.

Councilmember Cusick posed the following questions:

**Q. What level of funding does the non-uniformed pension plan have at this point?**

A. (Ms. Mehta): *My understanding is that it is above 80% funded.*

A. (Mr. Cole): *It is roughly between 80 and 85% funded.*

A. (Mr. Rose): *Based on the latest actuarial study it is slightly over 90% funded.*

**Q. Does staff have a strategy for how to increase the uniformed pension plan?**

A. (Mr. Rose): *We don't have a concrete funding source at this time, but we are looking at possible options. One belief is that the Market at Olive development will be helpful, and the other is that the increased revenues being generated by cities like Chesterfield will have a positive impact on our Public Safety Taxes.*

**Q. Is there any danger of the fund slipping below its current level?**

A. (Mr. Rose): *With this economy, it's difficult to determine exactly how far it might slip below its current funding level of 76%. Based on the forecast predicted by the actuarial study, it will slip below 76%. But that is premised on fluctuations in the market and our investments. However, should that occur, Council will be provided with several options for consideration to increase that percentage.*

**Q. Are non-uniformed employees vested after ten years and uniformed employees vested after twenty years?**

A. (Mr. Cole): *Both uniformed and non-uniformed employees are vested after ten years.*

**Q. Has any consideration been given to reducing the number of years it takes for an employee to be vested? For example; after five years they are 30% vested, in six years they are 40% invested, et cetera.**

A. (Mr. Rose): *One option being explored is whether employees without the protections offered under the Civil Service System should have a different vesting period.*

A. (Ms. Mehta): *Lowering the vesting years to seven will be one of the proposed changes for the non-uniformed plan. What they determined from information published by the JCPER is that the City's non-uniformed plan is slightly higher than most of Missouri's governmental plans. The vast majority were five years, a few were 7 1/2 years, and two or three; including one out of Kansas City, was ten years. But it seems as though it is much more common; for whatever reason, for uniformed employees to have ten years of vesting service.*

Mr. Rose asked Ms. Mehta if it would be possible to advance the amendment related to the vesting service for uniformed and non-uniformed employees at this time or whether it would have to wait until the uniformed plan's funding level was above 80%? Ms. Mehta stated it's a little bit of a grey area, so that's an excellent question. This statute was interpreted by the court system for the City of St. Louis in a way that she found to be a little narrow in terms of what a benefit increase is. As a pension attorney, her opinion is that lowering the years of vesting or allowing a vesting credit for prior service could be construed as a benefit increase. For example, under this amendment, an employee with five years of service in both plans; which technically would have zero benefits, would now have benefits in both plans.

The court case that interpreted this statute also looked at it very narrowly when considering a specific case where the amendment that was initiated reduced the age for when someone could start their retirement benefits so that employees could have the same unreduced benefits at an earlier age. The Court interpreted the language to say that the amendment did not constitute a benefit increase. Even though the actuaries that testified said, if you're getting the same benefit but you get to start it five years earlier, it's definitely a benefit increase because over that employee's lifetime they will have received five additional years of benefits. And, even though mathematically, she would agree with the actuaries, the Court did not.

Ms. Mehta stated the bottom line is that there is probably some way you could argue that this amendment does not constitute a benefit increase.



And while it's doubtful that the JCPER would come looking for you if you did something that violated the statute; especially since they don't really have an enforcement arm, and it would probably be a low-risk move since most participants are not going to complain about receiving increased benefits. There's always the possibility of that one individual who might be worried that the plan won't have any money left for them if these benefits are increased, and files a complaint. So, as a somewhat conservative lawyer, she would advise the City to wait until the funding has increased before passing this amendment; especially given how close the City is to meeting its threshold.

Mr. Rose stated that based on tonight's discussion, he intends to begin placing those proposals for the non-uniformed plan that fully meet the statutory requirements on Council's agenda for consideration. He stated that he would also present the projected costs each proposal would have on the plan.

Mayor Crow questioned whether the Executive Session could be added to this agenda if all of his colleagues were amenable to doing so?

Mr. Mulligan stated with the proper motion, the Executive Session could be removed from the Regular Council Session Agenda and added to this agenda.

Councilmember Hales moved to remove Item Q from the Regular Council Agenda and add it to the Study Session Agenda, it was seconded by Councilmember Cusick, and the motion carried unanimously.

#### **4. EXECUTIVE SESSION**

Motion to go into a Closed Session according to Missouri Revised Statutes 610.021 (1) Legal actions, causes of action, or litigation involving a public governmental body and any confidential or privileged communications between a public governmental body or its representatives or attorneys.

Councilmember Hales moved to close the Regular Session to go into a Closed Session, it was seconded by Councilmember McMahon.

Roll Call Vote Was:

**Ayes:** Councilmember Klein, Councilmember Smotherson, Councilmember McMahon, Councilmember Hales, Councilmember Cusick, and Mayor Crow.

**Nays:** None.

#### **5. ADJOURNMENT**

Mayor Crow thanked Ms. Mehta for her presentation and closed the Study Session at 6:00 p.m. to go into a Closed Session on the Second floor. The Closed Session reconvened into the Regular Council Meeting at 6:27 p.m.

Linda Schaeffer/lr  
Acting City Clerk

