

BILL NO. 7682-AORDINANCE NO. 7622

AN ORDINANCE AUTHORIZING A PROPOSITION TO AMEND THE CHARTER REGARDING THE POLICEMEN AND FIREMEN PENSION PLAN TO BE PLACED ON THE BALLOT FOR PRESENTATION TO THE VOTERS AT THE APRIL 7, 1987 ELECTION

WHEREAS, Section 11.5 of the Charter of the City of Kirkwood provides that amendments to the charter may be proposed by petition of not less than ten percent (10%) of the qualified electors of the City filed with the City Clerk setting forth the proposed amendment, and

WHEREAS, the City Clerk has received petitions to place an amendment to the Kirkwood City Charter regarding the Policemen and Firemen Pension Plan on a ballot at the next municipal election, and

WHEREAS, the City has been informed by the Board of Election Commissioners that said petitions contain signatures of at least ten percent (10%) of the qualified electors of the City.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF KIRKWOOD, MISSOURI, as follows:

SECTION 1. That the proposed amendment to the charter regarding the policemen and firemen pension plan, a copy of which petition is attached hereto and made a part hereof by reference shall be submitted at the April 7, 1987 election as follows:

PROPOSITION 2

SHALL THE CHARTER OF THE CITY OF KIRKWOOD BE AMENDED TO INCLUDE AN ADMINISTRATIVE RE-ORGANIZATION OF THE POLICEMEN AND FIREMEN PENSION PLAN WHICH AMENDS THE EXISTING ORDINANCE BY REMOVING CITIZEN REPRESENTATION FROM THE BOARD OF TRUSTEES AND SUBSTITUTING POLICE AND FIRE PERSONNEL AND THE MAYOR AS THE BOARD OF TRUSTEES; BY ESTABLISHING NEW POWERS, DUTIES AND AUTHORITIES WITHIN THE BOARD OF TRUSTEES; AND BY RESTRICTING THE CITY COUNCIL'S AUTHORITY TO ENACT ORDINANCES CONCERNING THE POLICEMEN AND FIREMEN PENSION PLAN THROUGH A REVIEW PROCESS BY THE BOARD OF TRUSTEES?

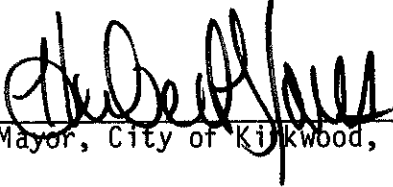
YES

NO


SECTION 2. That the City Clerk is hereby authorized to notify the St. Louis County Board of Election Commissioners of the intention of the City Council to place the foregoing proposition on the ballot for the April 7, 1987 election.

SECTION 3. This ordinance shall be in full force and effect after its passage and approval, as provided by law.

PASSED AND APPROVED this 5th day of February, 1987

  
\_\_\_\_\_  
Mayor, City of Kirkwood, Missouri

ATTEST:

  
\_\_\_\_\_  
City Clerk  
Introduced: January 22, 1987

DUPLICATE ORIGINAL NO. 37

PETITION TO ADOPT CHARTER AMENDMENT  
TO THE CITY OF KIRKWOOD, MISSOURI CHARTER  
RELATING TO THE ESTABLISHMENT OF A POLICEMEN AND FIREMEN  
PENSION PLAN, THE ESTABLISHMENT OF A BOARD OF TRUSTEES TO  
PROVIDE ADMINISTRATIVE AND CUSTODIAL CONTROL OF THE PENSION  
FUND, AND THE POWERS AND DUTIES OF SAID BOARD OF TRUSTEES

To: The Honorable Members of the City Council of Kirkwood,  
Missouri, and

The Honorable City Clerk.

WE, the undersigned registered voters of the City of  
Kirkwood, Missouri, pray that the following proposed amendment to  
the Charter of the City of Kirkwood, Missouri, be placed before  
the voters of the City of Kirkwood in compliance with Section  
11.5 of the Charter of the City of Kirkwood.

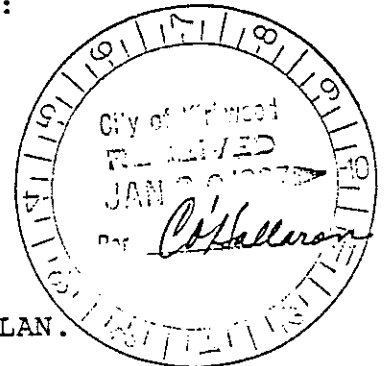
THE AMENDMENT TO THE CITY OF KIRKWOOD'S CHARTER RELATES TO  
THE ESTABLISHMENT OF A POLICEMEN'S AND FIREMEN'S PENSION PLAN AND  
FUND, THE ESTABLISHMENT OF A BOARD OF TRUSTEES, ITS DUTIES AND  
POWERS, AND IS HEREAFTER SET OUT IN DETAIL AS PROPOSED SECTION  
5.3 OF THE CHARTER OF THE CITY OF KIRKWOOD, MISSOURI:

ARTICLE V

ADMINISTRATIVE ORGANIZATION

Section 5.3 POLICEMEN'S AND FIREMEN'S PENSION PLAN.

a. Creation of Plan. There is hereby created a  
Policemen's and Firemen's Pension Plan to provide a fund for  
retired and disabled employees of the police and fire departments  
of the City of Kirkwood. This Plan shall be the sole and only  
plan for said employees, and shall be the successor in interest  
to all prior plans for said employees.



b. Board of Trustees Established, Membership. The administrative and custodial functions of the Plan shall be in the control of a Board of Trustees consisting of seven (7) members. The membership of the Board shall be the Mayor, or the Mayor's designee as approved by the City Council, the Police Chief, the Fire Chief, two Firemen, and two Policemen. The police chief and fire chief shall serve as trustees for the period of time they hold the positions of fire chief and police chief for the City of Kirkwood. The Mayor, or if the Mayor shall choose not to sit on the Board of Trustees and designate a replacement (who shall be approved by the City Council), shall serve for as long as he shall be Mayor of the City and the designee, if so designated, shall likewise serve a term simultaneous to that of the Mayor who appointed said designee. The two members who are firemen shall be elected by a majority of firemen voting by secret ballot at an election called for such purposes. Such election shall be administered by the City Clerk of the City and shall be held between September 1 and December 1, of each year (except for the first election as set out herein). Each fireman so elected shall serve a term of two (2) years commencing on the first of the year following said election. Special elections shall be held to fill any vacancies created prior to the normal expiration of a term. Such persons so elected shall fulfill the remaining unexpired term. An alternate member shall also be elected each time an election is held, being the person receiving the second highest vote in such election. Such alternates shall serve a term simultaneously with the member then elected. Such alternates shall have the power to participate and vote as a member of the Board at any time Board action is being taken and the regular member is not in attendance. The alternate shall have no power to participate as a member of the Board if the regular member is present at the times such action is being taken, even if the regular member was not present during the entire meeting in which such action is being taken.

Notwithstanding the above, the first election to elect the said two (2) firemen to the board of trustees shall occur within thirty (30) days after the Charter of the City of Kirkwood shall have been amended by this amendment. In the first election, the two persons elected as regular members of the Board shall be those firemen receiving the highest and second highest vote in said election. The alternates elected shall be those firemen receiving the third highest and fourth highest votes in such election. The fireman receiving the highest number of votes shall serve a full two (2) year term and shall serve until his replacement is elected at the next regular election date. The fireman receiving the second highest number of votes shall serve a one (1) year term and shall serve until his replacement is elected for a regular two (2) year term at the next regular election (so that the terms of the firemen shall be staggered).

The fireman receiving the third highest vote shall be the alternate for the fireman receiving the highest vote, and the fireman receiving the fourth highest vote shall be the alternate for the fireman receiving the second highest vote.

The two members who are policemen shall be elected by a majority of policemen voting by secret ballot at an election called for such purposes. Such election shall be administered by the City Clerk of the City and shall be held between September 1 and December 1, of each year (except for the first election as set out herein). Each policeman so elected shall serve a term of two (2) years commencing on the first of the year following said election. Special elections shall be held to fill any vacancies created prior to the normal expiration of a term. Such persons so elected shall fulfill the remaining unexpired term. An alternate member shall also be elected each time an election is held, being the person receiving the second highest vote in such election. Such alternates shall serve a term simultaneously with the member then elected. Such alternates shall have the power to participate and vote as a member of the Board at any time Board action is being taken and the regular member is not in attendance. The alternate shall have no power to participate as a member of the Board if the regular member is present at the times such action is being taken, even if the regular member was not present during the entire meeting in which such action is being taken.

Notwithstanding the above, the first election to elect the said two (2) policemen to the Board of Trustees shall occur within thirty (30) days after the Charter of the City of Kirkwood shall have been amended by this amendment. In the case of that election, the two persons elected as regular members of the Board shall be those policemen receiving the highest and the second highest vote in said election. The alternates elected shall be those policemen receiving the third highest and fourth highest votes in such election. The policemen receiving the highest number of votes shall serve a full two (2) year term and shall serve until his replacement is elected at the next regular election. The policemen receiving the second highest number of votes shall serve a one (1) year term and shall serve until his replacement is elected for a regular two (2) year term at the next regular election (so that the terms of the policemen shall be staggered). The policeman receiving the third highest vote shall be the alternate for the policeman receiving the highest vote, and the policeman receiving the fourth highest vote shall be the alternate for the policeman receiving the second highest vote.

An Advisory Trustee shall also be selected by the Board of Trustees from the members of the plan who are retired. Prior to selection of the Advisory Trustee, the Board shall cause the

retirees to be notified by regular mail and given thirty (30) days from the date the last notice is mailed to make suggestions as to the appointment. However, the Board shall select a retiree as Advisory Trustee who shall fairly represent the retirees. The Advisory Trustee shall attend all meetings and participate in all discussions as if a member of the Board, but shall not vote.

c. Chairman of the Board of Trustees. The Board of Trustees shall elect one of its members to serve as chairman and such person shall preside at its meetings. In addition, the Board may elect such other officers from among its members as it deems necessary to fulfill the obligations of the Board. The chairman of the Board of Trustees shall also select the election date between September 1 and December 1 of each year subject to the approval of the Board of Trustees. If a date for an election cannot be so established by the chairman or the Board, then the election date shall be December 1 of each year.

d. Legal Advisor and Staff. The Board shall be empowered to employ whatever advisors, employees or consultants as may be reasonable and necessary to fulfill the obligations of the Board. However, the Board shall select a legal advisor, which legal advisor may not be employed by or have any attorney-client relationship with the City of Kirkwood, Missouri. Likewise, the Board shall appoint a professional actuary who shall prepare at least one report per year regarding the actuarial soundness of the Plan and fund. Such actuary may make such other reports as may be requested from time to time by the Board, and shall likewise have no client relationship with the City of Kirkwood, Missouri.

e. Powers and Duties of the Board. The Board of Trustees shall have the same powers and duties as the "named fiduciary" within the meaning of Section 402 of the Employee Retirement Income Security Act of 1974 as amended from time to time, with respect to the control or management of the assets of the Plan and shall administer the Plan through its duly authorized officers in a uniform and non-discriminatory manner. A responsibility of the Board as a named fiduciary shall be to appoint and remove in its discretion one or more investment managers to manage (including the power to acquire and dispose of) all, or one or more portions of the Fund.

The Board shall administer the Plan in accordance with its terms and it shall have all powers necessary to carry out the provisions of the Plan, whether or not such powers are specifically enumerated herein, but not inconsistent with any of the express terms and conditions of the Plan including the power to make and publish such by-laws and regulations as it may deem necessary to carry out the provisions of the Plan.

Without limiting the generality of the foregoing, the Board shall have the general management of the Plan and the sole, final and absolute right to reconcile any inconsistency in the Plan, to interpret and construe the provisions of the Plan in all particulars, in such manner and to such extent as it deems proper, and to take all action and make all decisions and determinations under the Plan and/or in connection with its administration, interpretation, and application. Any interpretation or construction placed upon any term or provision of the Plan by the Board, any decision of the Board with regard to the eligibility of an employee to become a participant, the rights of a participant, a former participant, or the beneficiaries of either of them, or any other person, any reconciliation or inconsistency in the Plan made by the Board or any other action, determination or decision whatsoever taken by the Board shall be final, conclusive and binding upon all persons and parties interested in or concerned in the Plan, including, but not by way of limitation, the employees, participants, former participants, and beneficiaries. No Board member shall act or vote in any case in which his individual right or claim to any benefit is particularly involved.

g. Medical Review Committee. The Board shall select three (3) physicians to serve as a Medical Review Committee. The physician's appointed shall serve at the will of the Board and may be removed at any time provided the Committee shall always have three (3) physicians. The Medical Review Committee shall at the request of the Board review medical data, and conduct medical examinations. The Medical Review Committee shall report its findings to the Board. Fees for medical examinations shall be paid from the fund upon approval by the Board. Decisions of the Medical Review Committee require at least two (2) members of the Committee to concur in such decision.

h. Quorum and Meeting of Board. Four (4) members of the Board at any time in office shall constitute a quorum for the transaction of business. All resolutions and other actions taken by the Board at any meeting shall be by a vote of the majority of those present at any such meeting. The Board shall hold meetings upon such notice, at such place(s), such time(s) as it from time to time determines provided such meetings shall be held at least once in each calendar quarter. The Board shall publish a schedule of such meetings which shall be open to the public unless the subject matter of such meetings permits such meetings to be closed pursuant to State law. Three members of the Board may call for a special meeting upon five (5) days written notice. The Board shall likewise cause to be kept a record of all its proceedings and such records and other data as may be necessary for the administration of the Plan.

i. No Compensation, No Obligation for Prior Boards. The Board members shall serve without compensation for their services. The Board members shall however be reimbursed for reasonable expenses incurred by Board members. However, all expenses shall be approved beforehand by the Board at a public meeting of the Board. Likewise, the Trustees who shall take office as a result of this charter amendment shall have no obligation to examine the books, records, accounts, or acts of the Boards of Trustees of the prior plans and, in consideration of their assumption of the positions herein shall be able to accept such books, records and accounts in good faith, and shall have no liability whatsoever for the acts of the Boards of Trustees of the prior plans. The Board of Trustees shall not be liable hereunder for any actions performed by them in good faith and shall be liable only for criminal acts, or as the law so designates.

j. Non-Discrimination by the City and Change in Benefits or Contributions. Insofar as the City Council of the City of Kirkwood shall act to establish the City's contribution to the Plan, the City shall not discriminate between policemen and firemen, and civilian employees of the City, which computation shall include social security contributions made by the City. Likewise, the City Council shall establish disability benefits for policemen and firemen which shall be at a minimum of disability benefits established by Ordinances of the City which were in effect as of December 31, 1986. If changes shall be made to disability benefits in the future by the City Council of the City of Kirkwood, those changes shall be no less than established as of December 31, 1986.

After the date this Amendment becomes effective, the City Council shall not alter, change or terminate the Plan benefits or contributions made by the City to the Fund until any alteration, change or plan of termination shall have been presented to the Board for the Board's review, which review shall take no more than sixty (60) days from the date received by the Board.

If the Board shall dispute, take exception to, or suggest alternatives to the alteration, change or plan of termination proposed by the City Council, the City Council may not execute the alteration, change or plan of termination until specific comment, together with supporting analysis, shall have been made by the City Council and delivered to the Board specifically answering the disputes, exceptions, or suggested alternatives promulgated by the Board. Whenever the City Council shall propose or suggest to alter, change or terminate the Plan, all supporting studies and analyses shall be likewise presented to the Board.



k. Authority to Enter into Agreements. The Board of Trustees is hereby empowered to enter into such agreements with the City of Kirkwood, or other pension funds of the City of Kirkwood, for the co-investment of funds or the management of funds.

l. Trustee Serves Until Replaced. Any trustee holding a Board position at the time this charter amendment takes full effect shall continue to serve until replaced under the provisions of this charter amendment.

m. Past Ordinance Still Effective. All ordinances, regulations, resolutions in force at the time this charter amendment takes effect which are not necessarily inconsistent with the provisions of this charter amendment shall remain in force until modified or repealed by or under the authority of this charter.

n. Effective Date and First Meeting. This charter amendment shall be in full force and effect for all purposes on and after the date and time of the first meeting of the newly elected trustees. The City Council shall at its next regularly scheduled meeting after the first election to be held under the terms of this charter amendment confirm the results thereof and swear into office the trustees then elected and designated. Thereupon the newly elected and appointed members of the Board of Trustees shall forewith become the official Board of Trustees of the Policemen's and Firemen's Pension Plan and shall conduct the first meeting of the newly elected Board of Trustees.

o. Severability. If any provision of this charter amendment shall be found by a court of competent jurisdiction to be unlawful in any respect then the remaining provisions shall stand separately and be construed and interpreted so as to insure compliance with all legal requirements.

EACH PERSON SIGNING THIS PETITION HEREBY DECLARES THAT HE/SHE IS PRESENTLY A REGISTERED VOTER REGISTERED IN THE CITY OF KIRKWOOD; THAT HE/SHE HAS GIVEN HIS/HER ADDRESS CORRECTLY AND HAS CORRECTLY STATED THE DATE THAT HE/SHE SIGNED THIS PETITION.

IN VIEW OF THE FOREGOING WE, THE PETITIONERS PRAY THAT THE QUESTION SET OUT HEREIN BE SUBMITTED TO THE VOTERS BY APPROPRIATE ORDINANCE OR RESOLUTION OF THE CITY OF KIRKWOOD, MISSOURI, AND

THAT IF UPON THAT SUBMISSION THERE BE A MAJORITY VOTE IN FAVOR OF THE CHARTER AMENDMENT SET OUT HEREIN THE CITY COUNCIL TAKE ANY ACTION REQUIRED BY LAW TO BRING SAID CHARTER AMENDMENT IN TO FULL FORCE AND EFFECT.

Respectfully submitted,

Name and Signature of Registered Voter	Address (Street and number or Box and Route)	Date Signed
R1. <sup>James</sup> MIKOLAZZAK (print) <u>James Mikolazak</u> (signature)	<u>414 WESTRICK<sup>Bon</sup></u> <u>KIRKWOOD</u>	<u>1/17, 1987</u>
R2. <u>Jean W. Musbeck</u> (print) <u>Jean W. Musbeck</u> (signature)	<u>415 Shetruck<sup>Bon</sup></u> <u>Kirkwood</u>	<u>1/17, 1987</u>
R3. <u>Edwin J. Yoch</u> (print) <u>Edwin J. Yoch</u> (signature)	<u>115 E. Bodley, A-6<sup>Bon</sup></u> <u>Kirkwood MO 63122</u>	<u>1/17, 1987</u>
R4. <u>Kathryn W. Yoch</u> (print) <u>Kathryn W. Yoch</u> (signature)	<u>115 E. Bodley A-6<sup>Bon</sup></u> <u>Kirkwood, MO 63122</u>	<u>Jan 17, 1987</u>
R5. <u>Sue W. Hulsey</u> (print) <u>Sue W. Hulsey</u> (signature)	<u>115 E. Bodley, A5<sup>Bon</sup></u> <u>Kirkwood, MO 63122</u>	<u>JAN. 17, 1987</u>
R6. <u>Gladys M. Bredelney</u> (print) <u>Gladys M. Bredelney</u> (signature)	<u>115 E. Bodley, A-3<sup>Bon</sup></u> <u>Kirkwood, Mo. 63122</u>	<u>1/17/87, 19</u>
R7. <u>BESSIE M. MEGEE</u> (print) <u>Bessie M. Megee</u> (signature)	<u>115 E. Bodley<sup>Bon</sup></u> <u>Kirkwood Mo. 63122</u>	<u>1-17-87, 19</u>
R8. <u>ELIZABETH LAVIGNE</u> (print) <u>Elizabeth A. Lavigne</u> (signature)	<u>115 E Bodley<sup>Bon</sup></u> <u>Kirkwood, Mo.</u>	<u>1-17, 1987</u>

R-8 = (8)

1-27-87 AS