CRS TRUSTEE Pension and Health Care Plan Recommendations to City Council

30 YEAR Plan to 80% Funding as per Task Force II Recommendation with Modifications

The Strength of City Government is its Employees

- All changes to the fund have to be fair and equitable to all participants: Active Employees, Retirees, and the City
- The changes to the fund will require discipline and sacrifice from all.

Facts

The Cincinnati Retirement System as of the last Cavanaugh Macdonald Actuarial Annual Valuation report December 3, 2009 the fund has a market value of: $1,991,824,000

Health	$621,691,000	p 1 CM
+ Pension	$1,370,133,000	
Total	$1,991,824,000	

And an unfunded actuarial accrued liability of: $625,701,680

Health	$131,370,293	p 1 CM
+Pension	$494,331,387	
Total	$625,701,680	

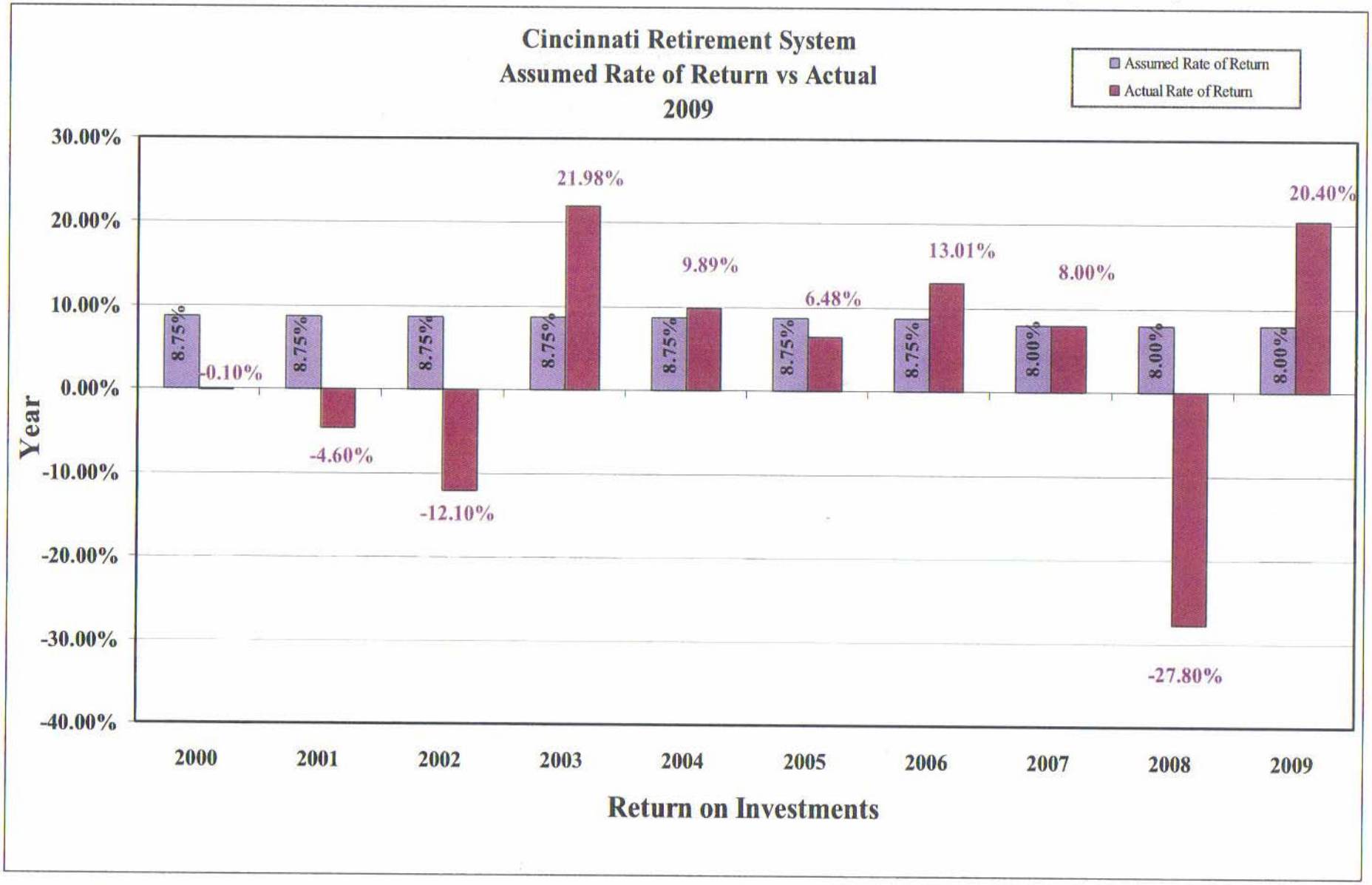
Our Current Assumed rate of return on investments is 8% net of Fees

The return on Investment Loss caused by the economic down turns of 2002 and 2008 are a major contributing factor to the devaluation of the Fund other major contributor are :

- Assumption changes
- Asset Valuation Changes
- Increases in health care
- Employer underfunding

It is highly unlikely that we can invest our way out of this situation. Our investment advisor Marquette Associates estimates that we have only a 50/50 chance of attaining our assumed 8% rate of return on investments.

It is highly unlikely that CRS can invest its way out of this situation. For example, if you invested $10,000 on 1/1/09 and lost 20% by year's end, your assets would equal $8,000. Assuming an 8% rate of return, it would take three years to build the assets back to $10,000. And, it would take a 19.4% rate of return for each of those same three years to build the assets to the level they would have reached if the 20% loss never occurred. The annualized performance of the combined pension and health care trusts for the period 2000 through 2009 was 2.4% (Net of Fees).



The Pension fund pays out approximately $200,000,000 annually in Health and Pension Benefits and is currently drawing down on it principle each month to make its payments.

The Pension fund as of 1-1-2010 has approximately: p 3 CM

- 3,148 active members
- 1,288 active part time members
- 4,528 retiree members
- 8,964 total members
- Additionally there are 10,651 persons collecting or eligible to collect health care benefits

The current Employee Contribution rate is 7.5% and will increase to 9% by 1-1-13

Note employee's have never miss a payment

Since 2008 The total required Actuarial contribution to the fund by City was:

2008---------- $61,269,221

2009----------$53,630,000

2010----------$125,571,000

Total----------$240,470,221

And total paid to the fund By City was:

2008----------$28,224,000

2009----------$32,247,000

2010----------$31,818,007 Projected

Total----------$92,289,000

A 3 year Short Fall of: $148,181,221

Payments are required

CMC 203-93

Total Employer Contribution Payable to the Fund

The total employer contribution payable in each year to the fund SHALL be not less than the sum of the rates percentum know as the normal contribution rate and the accrued liability contribution rate of the second previous year multiplied by the total annual compensation reflected in determining plan benefits of all members for the calendar year.

Other relevant section Pertaining to Funding are:

- CMC 203-83 Normal and accrued Contributions
- CMC 203-85 Calculation of normal Contributions
- CMC 203-91 Accrued Liability Contributions Rate
- CMC 203-101 Appropriations

What can we do to sustain the System?

Task Force I and II

Task Force I recommendations were presented to City Council in September 2008 several of these recommendation were implemented and are reflected in the Task Force II Report and incorporated into 24 Scenarios Some palatable some not.

We are recommending adoption of

Task Force II

Scenario 1f

With modifications

Plan Option 1

Option	City Contribution (% of Pay)	1/1/2012 Cash Infusion Amount ($ millions)	Projected Funded Ratio (2038)	Death Benefit	Compound COLA Indexed w/3% Cap	Highest Average Salary Formula	Benefit Multiplier	Retirement Eligibility Requirements	Employee Contribution (% of Pay)
1a	19% Begins 1/1/2012	$0.0	0%	$2,000	Applies to those who become eligible to retire on or after 1/1/2016	**5 Years** Applies to those who become eligible to retire on or after 1/1/2016	Current	**Transition group**: 23 years of service or 7 years from retirement. **For those who were hired prior to 1/1/2010 and do not qualify for the transition group:** Normal Retirement: 62&5 or 55&30 Reduced Retirement: 57&25 **For those who are hired on of after 1/1/2010:** Normal Retirement: 65&5 or 55&30 Reduced Retirement: 60&25	10% Once Phase-in Period Complete
1b	19% Begins 1/1/2013	$439.5	80%						
1c	24% Begins 1/1/2012	$0.0	0%						
1d	24% Begins 1/1/2013	$330.0	80%						
1e	31% Begins 1/1/2012	$0.0	42%						
1f	31% Begins 1/1/2013	$177.0	80%						

Impact to employee with 30 years of service, 2.5% multiplier, and highest average salary of $50,000

	Death Benefit	Yr. 1 Pension	Yr. 15 Pension	Yr. 25 Pension	Cumulative Impact Over 25 Years
Current Plan	$7,500	$36,593	$55,350	$74,386	No Change
Plan Option 1	$2,000	$35,715	$50,464	$64,598	- 8.5%, or - $114,209

Task II Scenario 1f The Most Palatable Solution as Modified Below

- Death Benefit ---Change from $7500.to $2000
- COLA---Maintain Compound COLA –and Indexed it to the CPI-U w/3% Cap

- Highest Average Salary Formula---changed from 3 to 5 years
  Applies to those who become eligible on or after 1-1-2016
- Benefits Multiplier--- maintain current multipliers 2.5% and 2.22% with lump sum and O.T.
- Eligibility Requirements--- As of date these changes are implemented 7-1-2012
  Transition group: As of 7-1-2012, employees with 15 years of service or 5 years from retirement , are subject to current eligibility rules.

- For those who were hired prior to 1-1-2010 and do not quality for transition group:
- Normal retirement : Age 62 & 5 or age 55 & 30 years
- Reduced Retirement: age 57 & 25 years
- For those who are hired on or after 1-1-2010:
- Normal retirement: age 65 & 5, or 55 & 30
- Reduced retirement: age 60 & 25 years

- Employee Contribution % of Pay --- continue ½% per yearly increases until employee contribution reaches 10%

- City Contribution (%of Pay)---31% raise contribution to same level as Police and Fire 24% and discontinue the rollback of the 6.1 mill property tax and allocate that money to the pension fund for a total of 31%

- 1-1-2012 Cash infusion of $200 Million (pension obligation bonds or other sources)

(The total required Actuarial contribution Due)

- These changes are projected to achieve a funding ratio of 80% by 2040

Other Changes

- The recommended change to the COLA should be applied to all retirees as soon as possible it is understood that some are protected by law, but several challenges to this law are in the works and they should be monitored. And we should implement this immediately it’s easier to ask for forgiveness than permission.
- In an effort to sustain the health care coverage for all present and future retirees all participants shall be moved to the 80/20 health plan. Again we should implement this immediately it’s easier to ask for forgiveness than permission.

Other Pertinent information

- WEP-- Windfall Elimination Provision

  The windfall Elimination Provision primarily affects you if you earned a pension in any job where you did not pay Social Security taxes and you also worked in other jobs long enough to qualify for Social Security retirement or disability benefit. Your benefit can be reduced by up to 60%
- GPO--Government Pension Offset

  If you receive a pension from The City your Social Security widow’s or widower's benefits will be reduced by two-third 66%

WEP CALCULATOR

Year	Substantial earnings
1937–1954	$900
1955–1958	$1,050
1959–1965	$1,200
1966–1967	$1,650
1968–1971	$1,950
1972	$2,250
1973	$2,700
1974	$3,300
1975	$3,525
1976	$3,825
1977	$4,125
1978	$4,425
1979	$4,725
1980	$5,100
1981	$5,550
1982	$6,075
1983	$6,675
1984	$7,050
1985	$7,425
1986	$7,875
1987	$8,175
1988	$8,400

Year	Substantial earnings
1989	$8,925
1990	$9,525
1991	$9,900
1992	$10,350
1993	$10,725
1994	$11,250
1995	$11,325
1996	$11,625
1997	$12,150
1998	$12,675
1999	$13,425
2000	$14,175
2001	$14,925
2002	$15,750
2003	$16,125
2004	$16,275
2005	$16,725
2006	$17,475
2007	$18,150
2008	$18,975
2009–2010	$19,800

Years of substantial earnings	Percentage
30 or more	90 percent
29	85 percent
28	80 percent
27	75 percent
26	70 percent
25	65 percent
24	60 percent
23	55 percent
22	50 percent
21	45 percent
20 or less	40 percent

- 27% of City Pensioner’s are at or below the federal poverty level
- City Employees for years have sacrificed wages in favor of better Pensions and insurance coverage. The Current AFSCME contract included no pay increases for the next two years
- 25% of active employees qualify for the Government’s WICK Program

- City does not and has never paid Social Security tax a payroll savings of 6.2%
- Despite the persistent claims by the media when you compare Public and Private sector compensation Public employees make 12% - 24% less than their private sector counterpart. Even with the so called “Golden Benefits” we make 8.5% less. The higher up you move in Government the greater the disparity.*

*Base on information from the Bureau of Labor Statics Web Site and A Study completed April, 2010 by Bender and Heywood from the University of Wisconsin-Milwaukee

- City does not pay into Social Security, an employment saving of 6.2% of pay
- City employee work for 12%+ Less than their Private Sector counterparts.
- So why would you work for the City ???
- Answer it's the Security and Benefits take these two away and the stage is set for another round of Brain Drain the loss of our best and most skilled employees.

Question

- Will the elimination of the Medicare Part B subsidy for retirees and spouses cause the The City retiree health plan to become primary if they choose not to paid part B fees?

Vesting ?

- Can we even legally suggest cut backs to vested employees
- Need Legal opinion

Vesting

- Vesting and anti-cutback Rules---
  – The U.S. Constitution Article 1, Section 10 Limits States power to pass any law impairing the obligation of a contract . The right to a pension has been ruled to be a contractual right as such the terms of retirement and certain other benefits in effect as of the Date of VESTING – as well as any subsequent enhancements cannot be impaired (cutback) or otherwise significantly changed.

Other Changes

- The assumed Rate of return on investments needs to be changed in consultation with Marquette and the reality of market
- We Need to hire independent Legal council to advise us of way and means to collect past due monies owe to the fund

continued

- We need to reinstate loan program and make effective rate on loans equal to the assumed rate of return +.5% to cover administrative costs
- We need to hold remind The Honorable Mayor Mark Mallory to His 2006 Campaign promise-------

Continued

- “I do not support any reduction in benefits to Cincinnati retirees. Pension systems should not be viewed as an avenue to resolve the Cities budget problems. Retirees make major life-altering decisions based on their anticipated pension levels and to break faith with people in their 60’s and 70’s and older at a time when they most need a stable source of income is unconscionable.”
- The Honorable Mayor Mark Mallory

During 2006 Campaign for Mayor

Collections of funds due

- What is the trustee Liability---

Our fiduciary Duties are ultimately legal responsibilities one of the strictest duties you will find anywhere in law. (Bussian v. RJR Nabisco, 223 F.3d 286,294 (5thCir.2000)) We as Trustees can not hide behind an Insurance Liability Policy---- just ask State of Florida Municipal Fund Trustees and San Diego County Employee Retirement Association Trustees who are being civilly and /or criminally charged for breaches of their fiduciary duties.

Unpaid Employer Contributions

- Unpaid Employer Pension Plan Contributions Are Plan Assets
- When City Council Members Intentionally votes to underfund the Cincinnati Employees Retirement System are they Guilty of Theft in Office???? Are they jointly and severally liable for this Theft???

Motion

- I would like to make a motion that the Cincinnati Employee Retirement Board hire independent legal counsel to advise us on the means and methods available to collect any and all required City Pension contributions that are now due and/or past due. SEE Cincinnati Municipal Code 203-83,85,91, 93 and 101 and the following Actuarial reports from 2006-7-8--9

Background

- Although the City of Cincinnati Retirement Plan is not technically cover by ERISA law the courts have consistently use it as a guideline for its decisions regarding Public Pension funds.

Collections

- In 1980, Congress was concerned about the financial viability of plans and their ability to collect employer delinquencies. As a result, Congress added "teeth" to the statute. It created a separate provision addressing delinquencies and provided that the plan could collect contributions, interest, liquidated damages (or an additional computation of interest) and attorney fees and costs. The statute says that the court "shall" award these amounts.*1

Written Collection Procedures

- *With written collection procedures, the trustees will be taken off the "hot seat," insulating them from calls begging special exceptions to required contributions.*

Obligation to Collect

- A fiduciary to a plan has an obligation to collect delinquencies that may arise from the failure to make employer contributions.*2 Regulations issued by the Department of Labor state that a plan shall make reasonable, systematic and diligent efforts to collect employer delinquencies. In order to carry out this instruction, ERISA provides plans with very broad powers.

Continued

- **Every plan should have written collection procedures that set the collection mechanism on "automatic pilot"—Collections should occur automatically (with no exercise of discretion from step to step) and chronologically (proceeding on a set time formula).See CMC 203-93**

*1 and *2

*1 ERISA §502{g)(2), 29 U.S.C. §1132(g)(2) provides: In any action under this title by a fiduciary for or on behalf of a plan to enforce Section 515 |§1145) of this title in which a judgment in fa-vor of the plan is awarded, the court shall award the plan (A) the unpaid contributions, (B) inter-est on the paid contributions, (C) an amount equal to the greater of (i) interest on the unpaid contributions, or (ii) liquidated damages pro-vided for under the plan in an amount not in ex-cess of 20% (or such higher percentage as may be permitted under federal or state law) of the amount determined by the court under subpara-graph (A), (D) reasonable attorney fees and costs of the action, to be paid by the defendant, and (E) such other legal or equitable relief as the court deems appropriate.

*2 .ERISA §515, 29 U.S.C, §1145 provides; Every employer that is obligated to make contri-butions to a multiemployer plan under th9 terms of the plan or terms and conditions of such plan or such agreement.

Conclusion

- We need to establish a comprehensive, effective, continuously up to date means of communication with our Members. One place for all to get most current and most accurate information.
- Decent health care coverage is not a luxury. It’s a right that every retiree should have. We as a board need to protect retiree health care.

- Most City employees either don’t qualify or qualify for a greatly reduced amount of social security with reduction up to 60% (WEP & GPO) we need to recognizes this and factor it into any benefit change.

- City employees work hard and have sacrificed wage increases for the promise of retirement benefits and health care---promises that must be kept.
- The plan needs change but all change must be fair and equitable to all parties Active Members, Retired Members, and The City.
- Finally we as The Board need to wrangle out a proposal that we can all get behind and support.

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- City 31% of Paid + a cash infusion of $200,000,000 or approx. the Actuarial short fall by 1-1-2012
- Retirees 3% compound Cola, 80/20 health Plan, and Reduced death benefit
- Active employee's Increase in contributions from 7% to 10% of pay-- lifetime reduction of benefits of about 8.5%

No Vote on recommendations to Council

- Until we have a Comprehensive Plan that Includes Health and Pension and is backed up with Actuarial Data that shows what saving can be expected from what changes and that they will reasonable be expected to get us to 80% funding by 2040---30yrs.

Thanks

- Michael P. Fehn

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