

To: Representative Town Meeting, Town of Greenwich
From: Special Committee on Retirement Benefits

Attached is the report prepared by the Special Committee on Retirement Benefits. This report is being distributed with the May Call to give you sufficient time to review it before the June RTM meetings at which time it will be discussed.

Respectfully submitted,

Pamela M. Frederick, District 1, Finance Committee - Chairman
Frederick L. Baker, District 5, Budget Overview Committee
Joan E. Caldwell, District 10, Labor Contracts Committee - Chairman
David W. Detjen, District 10, Labor Contracts Committee - Vice Chairman
Angela M. Hyland, District 7, Budget Overview Committee
Robert T. May, District 12, Finance Committee

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Representative Town Meeting

Report on:

Town of Greenwich Post-Retirement Pension Benefits

Submitted by the:

Special Committee on Retirement Benefits

April 2006

Special Committee Members:

Pamela Frederick, Chairman

Frederick Baker

Joan Caldwell

David Detjen

Angela Hyland

Robert May

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1. Executive Summary

A. Committee Charge

In response to the charge issued by the RTM Moderator, Thomas Byrne, a Special Committee on Retirement Benefits (the “Committee”) was formed in May 2005 to review the ad hoc benefit increase that was proposed by the Retirement Board (the “Board”) and approved by the Board and the Board of Estimate and Taxation (the “BET”) during 2005. The Moderator appointed the following RTM members to the Committee:

- 1) Pamela M. Frederick, District 1, Finance Committee Chairman,
- 2) Robert T. May, District 12, Finance Committee member,
- 3) Frederick L. Baker, District 5, Budget Overview Committee member,
- 4) Angela M. Hyland, District 7, Budget Overview Committee member,
- 5) Joan E. Caldwell, District 10, Labor Contracts Committee Chairman, and
- 6) David W. Detjen, District 10, Labor Contracts Committee Vice-Chairman.

The Committee elected Pamela Frederick as Committee Chairman and Frederick Baker as the Committee Secretary.

The Committee was charged to:

Act as the lead RTM committee in connection with a review of:

- i. All retirement benefits provided to participants in the Town’s retirement system;
- ii. The historical ad hoc raises provided by the Retirement Board or the Board of Estimate and Taxation and the financial impact on the Town;
- iii. The basis under which such raises were approved or denied;
- iv. The authorization under the Charter afforded the Retirement Board, the BET and the RTM as it relates to amendments to the Retirement System and related benefits;
- v. The current procedures employed by the Retirement Board and BET to approve such amendments and notification provided to the RTM and the public regarding any such approvals;
- vi. Any potential changes in the current procedures and, therefore, changes to the Charter, that might remedy any inconsistencies or shortcomings, including any proposed changes in the composition of and number of members on the Retirement Board; and,
- vii. Other issues deemed relevant to the issue of cost-of-living adjustments to participants in the Town retirement system.

To facilitate its own work, the Special Committee was authorized to:

1. Elect its officers and to hold regular and special meetings of the committee;
2. Enlist on an ad hoc basis the views of other members of the RTM and the community for their particular knowledge and experience relevant to

retirement, investment and legal issues, and other disciplines as may be required; and,

3. Enlist the assistance of the Town Attorney, the actuary of the Retirement System, the Town Comptroller (an ex officio member of the Retirement Board), and other persons or bodies as may be required to fulfill its charge.

B. Structure of the Report

The Committee endeavored to conduct an in-depth review of the process by which the Retirement Board, BET and RTM implement amendments of the benefits under the defined benefit pension plan (the “Retirement System”) provided by the Town to its employees. Its objective was not to recommend or deny the provision of any specific ad hoc benefit increases to retirees. Rather, the Committee focused on developing recommendations through which the Town could improve the existing structure and process being employed by the Retirement Board, the BET and the RTM in managing the Retirement System and in implementing any future benefit increases.

In executing its charge, the Committee held meetings with the Town Law Department, the Retirement Board (including the Town Administrator and the Retirement Plan Administrator, both of whom are members of the Retirement Board), former Retirement Board members and the Retirement Board Actuary. In addition, a significant amount of research was conducted regarding relevant sections of the Town Charter, the history of the Retirement System, documentation of Retirement Board and BET meetings, the Actuary Annual Valuation (2004 and 2005), the Connecticut Conference of Municipalities and a wide range of reports and resources related to the pension industry.

This report summarizes the Committee findings and highlights related Committee observations. It is organized into seven sections. This first section provides a summary of the Committee, its charge and its recommendations. The second section outlines the Retirement System and key financial data. The third section details a history of the ad hoc pension benefit increases, outlines findings on comparable public plan post-retirement benefits and highlights the respective roles the RTM and BET have played in the provision of ad hoc benefit increases. Sections four and five address the Retirement Board and its governance. The sixth section is a high level review of the legal framework of the Town Retirement System, as provided for in Article 14, Section 213 of the Town Charter. The final section is a listing of the Committee recommendations, including suggested responsible parties and timeframes for implementation.

C. Background

The spotlight on pension funds has been growing as the costs to states, municipalities and corporations have skyrocketed. Members of the RTM may be surprised to learn that the budget contribution toward the pension plan will increase nearly six-fold, from \$688,849 in the 2005-6 budget to \$3,991,790, in the upcoming 2006-7 budget. Approximately 36% of this budget amount is a result of the recently approved ad hoc pension benefit increase to pre-2004 retirees.

The RTM's focus on the Town's pension and health benefit costs has been addressed primarily through its approval of various collective bargaining agreements. The RTM was surprised last spring to learn of the proposal and subsequent approval of retiree ad hoc benefit increases by the Retirement Board and the BET. This Committee was formed to investigate the history and process in place that made this action possible without RTM knowledge or approval. The Committee found that, although five such benefit increases had occurred, the Town Charter does not require the RTM to be notified or involved in the process.

The Committee found that the various parties involved in the management of the Retirement Board and the Town's defined benefit Retirement System have common objectives, including to:

- Protect the Retirement System funds through prudent investment practices and
- Administer the Retirement System in accordance with the Town Charter

However, the Committee also found that the focus and philosophy of those administering the Retirement System has varied over time. The Committee believes that this drift in style and interpretation, while perhaps a normal occurrence given the different skills, views and experience of the parties involved, should be confined by guidelines and policies established by the Town to ensure consistency.

The Committee, in addition, found that the Town's Charter has not been kept current and does not reflect changes that have occurred since the Retirement System originated in 1946. A number of significant changes have occurred that impact the drafters' original intent, which never contemplated the tremendous growth in size, complexity and cost of the Retirement System. These changes include unionization of Town employees (which occurred in the sixties), financial participation in a 401k plan in 1992, creation of a defined contribution plan and institution of agreed pension benefit increases into the collective bargaining process.

D. Recommendations

Based on its findings, the Committee has developed recommendations that it believes, once implemented, will serve the Town, its taxpayers, employees and retirees well. These recommendations address the need to clarify and improve the role and

responsibilities of the RTM, BET and the Retirement Board. In addition, they include specific actions that should be taken to analyze and improve the management and administration of the Retirement System.

The Committee recommends that the following actions be taken:

I. RTM Role and Responsibilities

- The Retirement Board provide written notification to the RTM Moderator and the Budget Overview and Labor Contracts Committees of any proposed amendment of the Retirement System, including ad-hoc benefit increases, if any.
- The RTM Budget Overview Committee establish a RTM liaison to the Retirement Board.
- The RTM request the BET to initiate Charter amendments of Chapter 14 to require the approval of the RTM of all amendments to the Retirement System.

II. Retirement Board Rate of Return Analysis

- The Retirement Board conduct an analysis of the effect of changes in the rate of return assumption on the Town defined benefit contribution, pension liability, funding status and the cost associated with both the recent ad hoc benefit increase and collectively bargained pension benefit COLA, with the intention of adopting a prudent and conservative assumption.
- The Retirement Board advise the BET and RTM of its findings no later than October 1, 2006.

III. Retirement Board Governance

- The Retirement Board establish documented policies and procedures for consideration of any future ad hoc pension benefit increase.
- The RTM request the Board of Selectmen and BET to take action to require RTM approval of the Town citizen Retirement Board member appointments.
- The BET and RTM Appointments Committee jointly review the Retirement Board composition, size and member selection criteria and make and implement any resulting recommended changes.

IV. BET Role and Responsibilities

- The BET delineate the first-year and aggregate liability of any ad hoc or collectively bargained pension benefit increases, in the initial year appropriated, in the Town budget schedules and resolutions.
- The BET adopt a policy to not grant any additional future ad hoc benefit increases for participants with contracted COLAs.

V. Town Law Department

- The Law Department conduct a comprehensive legal review and update of Article 14 of the Town Charter, including proposed language for Charter amendments to implement the above recommendations.

2. Retirement System – Defined Benefit Plan

A. Retirement System of the Town of Greenwich

In order to place this report in context, we believe it is necessary to provide a brief summary of the Town Retirement System defined benefit plan (the “Plan”) that is provided to the Town’s employees. As of July 1, 2005, there were 1,445 active (working) members, 781 inactive (retired) members, and 329 other Participants of the Plan. There are eight* formal groups of employees of which the first seven, as listed below, are union affiliated, including:

- 1) Greenwich Municipal Employees Association (GMEA)
- 2) Labors International Union, AFL-CIO (LIUNA)
- 3) International Brotherhood Teamsters, AFL-CIO
- 4) Silver Shield (Police)
- 5) International Association Fire Fighters, AFL-CIO
- 6) Connecticut Council, AFSCME, AFL-CIO (Nurses)
- 7) Public Service Employees, Labors International Union, AFL-CIO (Teaching Aids)
- 8) Management & Confidential

**Note: Employees in the Greenwich Education Association and the Greenwich Organization of School Administrators are pensioned by the State of Connecticut.*

Pension benefits, as defined in accordance with the terms of the relevant union collective bargaining agreement, differ for each category. Employee contributions to the Plan generally are 4% to 5% of salary. The RTM is obligated to appropriate the funds to make any required additional contribution necessary to meet the pension obligation, as determined by the Actuary retained by the Retirement Board.

B. Financial Summary

1. Town Budget Contribution

The Retirement Board’s Actuary, currently EFI Asset/Liability Management Services, Inc. (“EFI”), prepares an annual actuarial valuation report (in accordance with the provisions of Subsection (c) of Section 202 of the Greenwich Municipal Code). This report provides the background and analysis for the computation of the Town’s required annual budget contribution to fund the Plan. Every five years the Retirement Board Actuary also conducts an actuarial study of the Plan’s demographic experience. This report, issued in 2005, compares the actual experienced versus the expected demographic rates and provides recommendations to the Board regarding changes to the non-economic actuarial assumptions.

The Town's contribution to the Plan (see Table 2.1) was \$688,849 in the 2005-2006 budget, which represents 0.93% of projected payroll. The contribution for 2006-2007 is projected to be \$3,991,790, an increase to 5.19% of projected payroll. This amount results from the net effect of many changes in the actuarial assumptions, including those related to demographics, salaries, new entrants, economics and investment experience. The most significant factors that impact the 2006-2007 increase are: (i) the \$2,872,207 cost for plan changes, including the ad hoc benefit increase, (ii) the cost of adding the cost-of-living-adjustment ("COLA") to the GMEA and Teamster collective bargaining agreements, and (iii) the \$1,666,074 cost associated with amortizing the effect of earning investment returns below the 8.5% assumed rate of return.

Table 2.1
Town Pension Contributions by Fiscal Year

	Fiscal Yr.	Town Contribution	Town Cumulative	Employee Contributions	Employee Cumulative
1	1984-5	3,343,000	3,343,000	899,000	899,000
2	1985-6	3,631,000	6,974,000	902,000	1,801,000
3	1986-7	2,146,000	9,120,000	949,000	2,750,000
4	1987-8	886,000	10,006,000	982,000	3,732,000
5	1988-9	246,974	10,252,974	1,122,000	4,854,000
6	1989-90	1,338,364	11,591,338	1,130,000	5,984,000
7	1990-1	2,820,000	14,411,338	1,203,000	7,187,000
8	1991-2	2,800,000	17,211,338	1,275,000	8,462,000
9	1992-3	2,334,000	19,545,338	1,024,000	9,486,000
10	1993-4	2,814,000	22,359,338	1,333,000	10,819,000
11	1994-5	3,010,000	25,369,338	1,362,000 E	12,181,000
12	1995-6	2,718,473	28,087,811	1,392,000	13,573,000
13	1996-7	2,328,000	30,415,811	1,483,000	15,056,000
14	1997-8	788,000 A	31,203,811	1,482,000	16,538,000
15	1998-9	783,000 A	31,986,811	1,552,000	18,090,000
16	1999-00	69,000 A	32,055,811	1,650,000	19,740,000
17	2000-1	0	32,055,811	1,692,000	21,432,000
18	2001-2	0	32,055,811	1,712,000	23,144,000
19	2002-3	0	32,055,811	2,205,000	25,349,000
20	2003-4	0	32,055,811	2,020,000	27,369,000
21	2004-5	660,012 A	32,715,823	2,080,600 E	29,449,600
22	2005-6	688,849	33,404,672	2,143,018 E	31,592,618

Source: Town contribution - Retirement Administrator; Employee contribution - Committee

A = Annual required Town contribution. No actual Town contributions in 1998-2003; \$1.75 MM in 2004.

E = Estimates. 2005 Employee contributions not yet determined.

2. Plan Funding Status

As of July 2005, the Plan had \$316 million in assets, valued on an actuarial basis, a reduction of \$5 million from July 2004. The assets compare with \$290 million in

actuarially accrued Plan liabilities, a \$30 million increase from July 2004. It is important to note that the market value of Plan assets of \$306 million is less than the actuarial value (see Table 2.2). It is common practice to use the actuarial value of assets to assess plan funding levels. This actuarial value of assets is used in conjunction with an investment smoothing methodology (where investment gains and losses are amortized over five years), which is designed to minimize market driven fluctuations and therefore to ease the impact on the required budget contributions.

For instance, had the true market value been used, the budget contribution in 2006-2007 would be 6.45% of payroll, or \$5 million, instead of \$4 million. Also, although it is often reported that the Town's Plan is overfunded (by \$61 million and \$26 million, in 2004 and 2005, respectively), we must point out that this is only when comparing the actuarial assets to the actuarial accrued liability. If, however, one compared the Town's actuarial accrued liability to the Plan's true market value, this reported overfunding declines to \$31 million in 2004 and to \$16 million in 2005. Further, the funding status using either the actuarial or market value of assets, as noted in the next section, would significantly change depending on the valuation rate of return assumption.

Table 2.2
Comparison of Plan Assets and Plan Liabilities
(in \$ millions, as of July 1,)

Year*	Actuarial Assets	Market Value Of Assets	Actuarial % Of MV	Actuarial Liabilities	Over (Under) Funded (Actuarial)	Over (Under) Funded (MV)
2003	323.0	267.4	121%	255.1	67.9	12.3
2004	321.1	291.0	110%	259.8	61.3	31.2
2005	316.1	305.9	103%	289.9	26.2	16.0
* Prior to 2003, the Town used the actuarial aggregate cost method, which is not comparable to the current entry age normal funding method						

3. Valuation Rate of Return Assumption

A major driver in determining the Town contribution and the overall funding status is the valuation return assumption. In order to meet future pension obligations, the actuarial assumptions, such as the rate of return, must be set at prudent levels. Usage of a higher rate means that much less is contributed today to meet the Town's future pension obligation. The return assumptions for 85% of public pension plans were found to range from as low as 6% to a high of 9%, with a median of 8% and an average of 7.98% (Source: Public Fund Survey, 2004).

The Town uses an 8.50% rate of return assumption (and a 4.0% inflation rate, netting an inflation adjusted rate of return of 4.5%). Had the Town used a rate of return assumption of 8.00%, which is in line with the average used by other public pension funds (Source: National Association of Retirement Administrators, Public Fund Survey, 2004), the \$688,849 budget contribution in 2005-2006 would have increased more than four-fold to \$2,989,905 and would increase from \$3,991,790 to \$6,413,454 in 2006-2007 (see Table

2.3 below). Using a 3.50% inflation rate in 2006-2007, along with the 8.00% rate of return, would have resulted in a slightly lower Town contribution of \$5,510,336. It is important to reiterate that the budget contribution in 2006-2007 will include an additional \$1.7 million cost due to the recognition of deferred actuarial losses that occurred when the plan assets earned less than 8.5%.

While 8.00% is the average rate used by public plans around the country, this is more aggressive than the 7.00% - 7.50 often used by private plans, which, if used in Greenwich, would result in dramatic increases to the Town budget contribution and a deterioration of the Plan's funding status. However, because public pension plans have a steadier stream of future revenues (municipal, state or federal taxes) compared to private sector plans, which have a high degree of uncertainty, as highlighted by the recent spate of bankruptcies, public plans return assumptions will often be comparatively higher than those used by private plans.

While the Actuary, retained by the Retirement Board, indicated in both its 2004 and 2005 reports that the selection of the rate of return "should only be done after consultation with the Investment Advisor and should be based on the expected long term rate of return on the System's assets," the Retirement Board has not requested that this analysis be completed by its Investment Advisor and the Special Committee is awaiting a response to its request for this analysis.

Table 2.3
Valuation Rate of Return Scenarios
2006-2007 Annual Town Budget

Valuation Interest Rate of Return*	Town Contribution	Cost as % of Projected Payroll
8.50%	\$3,991,790	0.93%
8.25%	\$5,190,615	2.48%
8.00%	\$6,413,454	4.05%
Source: EFI, Town Retirement System Actuarial Valuation, July 2004 * Assumes a 4% rate of inflation		

Observations:

Due to the significant impact that the selection of the rate of return assumption has on both the Town's annual contribution and the estimation of the funding position of the Plan, the Committee believes that prudence and conservatism should be utilized in its selection. EFI, the Retirement Board Actuary, states in its 2004 report that the selection of a return assumption should be, "based on the expected long-term rate of return on the System's assets and reflects the Plan's asset allocation policy."

As further background, the Committee met with former Board members, who indicated that they share the Committee's concern about this assumption. These former Retirement Board members said that they discussed their concern with the current Retirement Board and the First Selectman in December 2004, and in January 2005, they were told that this assumption would be reviewed as part of the upcoming 2006-2007 budget process, since the 2005-2006 budget review process had already proceeded too far. This Committee believes that it is in the best interest of the Town to review its rate of return assumption. In July 2005, the Committee requested that an analysis be completed by the Actuary of the impact of various rates of return assumptions. A partial analysis was incorporated in the actuary report issued in December 2005, but this was not sufficient to allow the Town to ascertain properly or to substantiate the appropriate level of rate of return.

C. Recommendations

The Committee recommends that the Retirement Board take prudent steps to conduct a detailed analysis of the Plan's actuarial assumption of the rate of return. The findings and recommendation should be reported to the BET and RTM, including an analysis prepared by the Retirement Board Actuary of the impact that various rate of return assumptions will have on the Town's annual contribution to the Plan, detailing the impact on actuarial assets and actuarial liabilities. Further, the RTM should request that the Actuary provide an analysis of the effect of the current ad hoc benefit increase on the Town contribution and the present value of benefits, comparing a range of rate of return assumptions.

3. Retirement System and Ad hoc Benefit History

A. Retirement System Established

In 1945 - 1946 the Board of Estimate and Taxation took two actions that were to have a major impact on Town finances for decades to come.

First, it established a Retirement System, effective January 1946, to be administered by an independent board comprised of employees and representatives of the Town at large.

Second, it adopted a “Pay Plan” (later known as the “Classification and Pay Plan”), which set forth salary ranges and increments for Town employees.

The Representative Town Meeting, as the legislative body, was involved in both actions but in slightly different ways.

Special Act 408 (Sec. 2, 1945) and the Town Charter (Sec. 177) each specify that the Retirement System becomes operative “with respect to employees in a designated classification upon approval and *only* upon approval of the Board of Estimate and Taxation and the Representative Town Meeting, on such date as shall be designated by the Board and Meeting....” [Emphasis added.]

Therefore, needing RTM approval, the BET submitted a resolution to the Meeting on March 27, 1945, formally seeking approval of the establishment of a retirement system under Special Act 408.

The Budget for calendar 1946, when submitted to the RTM, contained for the first time a line item entitled “Retirement System” with an appropriation (\$51,182 - Contribution and \$5,000 - Expense Fund). The title of the line item was changed shortly thereafter to read “Retirement System Contributions” and remained in the budget as such for many years. Some time in the late 1980s or early 1990s the account was folded into “Fixed Expenses” with a separate appropriation for retirement.

B. Ad hoc Benefits

The Retirement Board has a number of times recommended ad hoc benefit increases for the Retirement System, dating back to 1980 (see pg. 19, “History of Ad hoc Pension Benefit Increases”). In meetings with the current Retirement Board and several former Retirement Board members, the Committee learned that the first ad hoc benefit increase was initiated to address the hardship that the pensioners incurred as a result of significant diminution in the value of their pensions due to high rates of inflation in the late 1970s. It has not been the intent of the current or prior Retirement Boards to provide for a permanent annual cost-of-living-adjustment (“COLA”), but rather to make periodic

increases as determined from time-to-time on a so-called ad hoc basis. The initial benefit increase was instituted to provide all then retired members a 3% increase from the time of their retirement through 1979 (or the amount necessary to raise the retirement allowance to the level it would have been had the formula minimum been \$200 per month at retirement).

Since that time, the various Retirement Boards have used a wide range of formulations to determine the amount of further ad hoc benefit increases. These formulations have included a fixed percentage increase (3%), the use of monthly minimum benefits, and age-determined increases. The increases have ranged from as little as 25% of CPI to the most recent 100% of CPI. While the number of Town employees and the Town's payroll have grown on average 7%-8% per annum since 1987, the absolute value of the Town's contributions required to cover the increased benefit has grown significantly faster at a comparative rate of 25% p.a. (see Table 3.1). This rapid rate of increased contribution seems to mirror the incremental changes from the original formulation, which utilized limits in ad hoc benefit increases, to the more recent unlimited 100% CPI formulation, as well as the increased number of Retirement System members covered by such benefit increases.

Table 3.1
Historical Budget Impact of Ad hoc Benefit Increases

Effective Date July 1,	Retirees Covered	Payroll	% Of Payroll	Town Contribution for Year 1 of the Increase*	Average Town Contribution per Year Covered
1980	N/A	\$17,531,610	0.54%	\$94,670	NM
1987	378	\$34,140,000	0.77%	\$262,878	\$37,554
1993	487	\$46,600,000	0.85%	\$396,100	\$66,017
1996	737	\$52,900,000	1.19%	\$629,510	\$209,837
2000	829	\$60,960,000	0.99%	\$603,504	\$150,876
2005	942	\$76,823,000	1.86%	\$1,428,907	\$285,782
% Growth p.a. 1987-2005	8%	7%	8%	25%	37%

* Note: Subsequent years were not provided for prior ad hoc increases. Extrapolation using the effect of the 2005 increase of \$15MM increase in the Fund actuarial liability, the accumulated effect could be a multiple of nearly 10 times each year 1 increase.

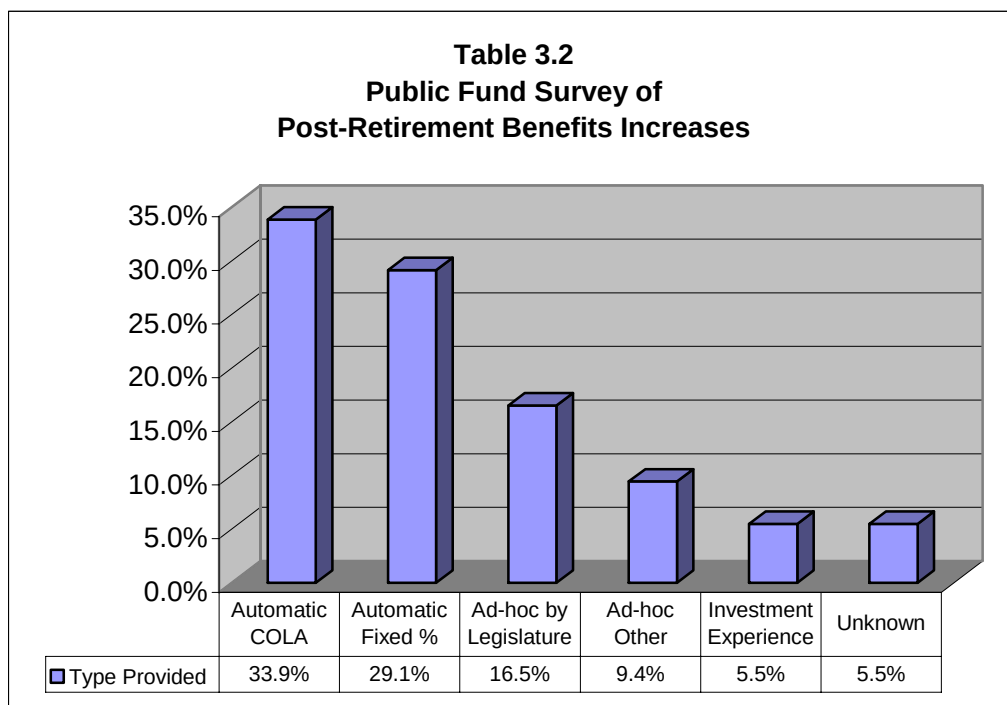
The Board and BET voted in favor of providing an increase in pension benefits effective July 1, 2005, for retirees as of June 30, 2004. This increase was for 100% of the annual CPI from June 1999 through June 2004 and is expected to result in an incremental change in the present value of benefits (accrued liabilities) of \$15,072,688 (see Appendix I). As noted in the previous section, this result used an 8.5% rate of return assumption. Had the average public fund rate of return assumption of 8.00% been used, there would have been an even more significant increase in the accrued liabilities as well as the Town's Contribution to cover the shortfall created by the increased benefit. Again, the Special Committee requested that the Retirement Board provide an analysis of the impact of the rate of return assumption, but such analysis has not yet been provided.

C. Increases Provided in Comparable Plans

Public pension plans tend to take one of four approaches to the provision of post-retirement benefit increases:

- Fixed annual increases
- CPI-based annual increases, generally with a cap
- Excess investment earnings
- Discretionary ad hoc increases

The Public Fund Survey compiled by the National Association of Retirement Administrators in 2004, as highlighted in Table 3.2, indicated that of the 127 funds surveyed, nearly 30% of the funds provide a fixed automatic COLA, while an additional 34% have an adjustable automatic COLA. Nearly 26% of the funds use an ad hoc approach to determine post-retirement benefits. Significantly, in those instances where the ad hoc system is utilized, **in the case of 64% of the funds it is the legislative body of the political jurisdiction maintaining the fund that is authorized to make decisions on the provision of post-retirement ad hoc benefit increases.**



Upon review of comparable Connecticut towns, the Committee found that limits on increases, in the range of 1% to 3%, were nearly always used in formulating increases. This was further corroborated in the Public Fund Study, where 63% of the funds surveyed provided caps on automatic COLAs. The Committee also found that other

towns used lifetime limits and restrictions based on minimum age and/or years of service to manage prudently the cost incurred for COLA benefit increases, in the same manner as set forth in the terms of the recent collective bargaining agreements reached by the Town with GMEA and Teamsters.

In reviewing the current ad hoc increase formulated by the Retirement Board and approved by the BET, the Committee found that no limits were placed on any aspect of the benefit. The increase provided 100% of CPI. This was in keeping with the Retirement Board's stated objective of simplifying the benefit (for ease of understanding by the Plan participants). By implementing this simplification, it appears that the Retirement Board performed no comparative analysis of alternative formulations or the resulting financial impact on the Town budget. The only reported analysis, as stated during the Retirement Board's June 2005 presentation to the BET Budget Committee, was completed by EFI (see the table listed in Appendix I). This Special Committee was informed that prior Retirement Boards completed very detailed analysis (using the services of the prior Retirement Board Actuary, Buck Consultants). The prior Retirement Boards' objective reportedly had been to achieve a balance between an appropriate benefit to the retirees and a reasonable cost to the Town.

Observations:

The Committee believes that a more disciplined approach should be taken by the Retirement Board, including more analysis, which addresses the concerns of and impact on not just the Retirement System members but also on the Town's finances and taxpayers. In addition, it is the Committee's belief that the ad hoc benefit increases do provide the Town with flexibility on timing and cost. The future impact of ad hoc benefit increases in the pension plan will be greatly diminished since, rather than providing further ad hoc benefit increases, the Town has negotiated the provision of COLAs for bargaining units that agree to shift new employees to a defined contribution retirement plan.

D. RTM Role

While the RTM has maintained some control over salary expenses over the years through its review of labor contracts, it has had no control over pension expense, since the benefits paid and the administrative costs are largely controlled by the Retirement Board. The RTM was specific in instructing its Labor Contracts Committee on two occasions, first in about 1978 and again in the mid-1980s, that the Retirement System was off limits in any forthcoming negotiations, meaning that the RTM's intention was that the Town should not agree in the collective bargaining negotiations to make changes to the pension benefits. The Labor Contracts Committee in its advisory role to the First Selectman gave that message to the Labor Contracts Officer. This guidance has been implicit since that time, the one exception being the recent COLA that was provided in the collective

bargaining agreements with two unions in exchange for the shift of new employees to a defined contribution plan.

1. Collective Bargaining Agreements

Changes have occurred to the Retirement System. Most, if not all, of these changes have been as a result of collective bargaining, which began in the sixties and has been subject to RTM review since passage of the Municipal Employees Relationship Act, 7-474 (MERA), in 1968. Consequently, the RTM has been aware of the changes as they have occurred, with one notable exception, namely, ad hoc pension benefit increases by the Retirement Board as approved by the BET.

Of the 1,445 active (current) employee Participants in the Retirement System, 1,194 are categorized as “general” participants. This category consists primarily of LIUNA, Teamsters and GMEA bargaining units. Within the past six months two of these units, Teamsters and GMEA, have negotiated agreements with COLA benefit increases for current employees, as part of their Defined Benefit Plan, and enrollment for new employees in a newly created Defined Contribution Plan. Effective January 1, 2006, new Management & Confidential employees went into the defined contribution plan. As of this report, the Fire, Police, Nurses and middle management (LIUNA) are the only units where new employees will continue to become participants in the defined benefit plan.

2. History of Ad hoc Pension Benefit Increases

In 1980 the Retirement Board, which consisted of three Town employees and two citizen representatives of the Town, voted a pension increase to retirees covered through June 1978. This appears to have been the first time an ad hoc benefit increase was given since creation of the Retirement System in 1945. It was followed by increases in 1987, 1993, 1996, 2000 and 2005. Termed “ad hoc,” the increases were proposed by the Retirement Board and approved by the BET, and were automatically embedded in the Retirement System contribution of the next budget without comment or further elaboration.

The first of the ad hoc increases, in 1980, was given during a period of extraordinary inflation, when people on fixed incomes were struggling. The RTM, in fact, did appropriate additional funds that year to the Police Benefit Fund and the Retirement System.

In 1987 the RTM was again asked to appropriate funds for an ad hoc pension increase for retirees or beneficiaries of the Police Benefit Fund and The Retirement System. Since this occurred after the annual budget had been approved in May, this specific request for an interim appropriation alerted the RTM to the benefit increase and was an exception to the subsequent routine of otherwise largely unknown benefit increases. Indeed, 1987 was the last time the RTM acted on any separate appropriation in regard to ad hoc benefit

increases, despite the fact that increases have been given four additional times during the intervening years, most recently when inflation was relatively flat.

Observations:

Because Retirement System contributions for these ad hoc benefit increases have been embedded in the Town Budget under Fixed Expenses, without any elaboration, they have been undetected over the years. As a result, most of the RTM, until the recent ad hoc benefit request, was largely unaware of the increases and the fact that they were being funded through the overall funding appropriations to cover the Town's contribution to the Retirement System.

E. Lack of Notice to the RTM of Increases

There is no evidence that any effort was ever made by the Retirement Board, the Retirement Administrator (a town employee), the BET or the Comptroller (who sits on the Board) to inform the Town Meeting, its Moderator or its Finance Committee about the last four ad hoc benefit increases.

Observations:

*It is our opinion that that there is a serious procedural failing here due to the lack of formal notice to the RTM of the ad hoc benefit increases, since the RTM is charged with the responsibility for funding the Town's obligations, including its pension obligations. Substantial sums of money are involved and, should the investment return and the demographic and economic actuarial assumptions be out of line with the Fund experience, **the Town would continue to be obligated to cover any funding shortfall.***

*One of two things appears to have happened. Either the absence of a specific directive in Special Act 408 or the Charter requiring notification of the RTM led those involved to think it unnecessary, or the fact that the RTM is **obligated** to appropriate the money led officials to believe that merely adding the appropriation to next year's budget was sufficient notice. In either case the lapse of communication appears to highlight a weakness in the process, and corrective measures should be taken by the RTM working in concert with the BET.*

F. BET Role in Ad hoc Benefit Increases

The Board of Estimate and Taxation (BET) has been a key player in the Town's pension program since its inception in 1945. Not only did the BET design and implement the Plan, with RTM approval, but it annually reviews and budgets the funds needed to keep the Plan financially sound.

The BET also votes on all ad hoc benefit increases periodically recommended by the Retirement Board, as provided in Article 14 of the Town Charter. There have been six increases approved, including the 2005 increase, all outside the collective bargaining process. The BET knew precisely the amount and timing of every increase, since its approval was required.

In 1980, the BET, as a result of a year-long study "on improving benefits for current pensioners," approved and put before the RTM three resolutions appropriating money for the retirees in the Retirement System and the Police Benefit Fund, including for the first ad hoc benefit increase.

In March 1987, the BET, at the request of the Board, approved another increase to the Retirement System and Police Benefit Fund, and similarly submitted a corresponding appropriation request to the RTM for approval.

Effective June 1993 a third increase in pension benefits for all retirees, again at the request of the Board, was approved by the BET, but no aspect of the increase was sent to the RTM since, unlike in 1980 and 1987, no funds needed to be appropriated at that time. The earlier RTM action appears to have resulted from the fact that the provisions occurred after the budget had been approved and therefore necessitated an interim appropriation, which requires RTM approval.

In February 1997 the BET voted the fourth ad hoc benefit increase for all retirees as of June 1996. Again, nothing was submitted contemporaneously to the RTM for its approval. This increase, like those prior and those to follow, was at the request of the Retirement Board.

In June 1999 the BET also approved a fifth increase. The BET approved the final ad hoc benefit increase in July 2005 for all retirees as of June 2004. No RTM action in regard to either was requested nor was notice given to the RTM. Indeed, the BET has *sole* authority to accept the Retirement Board's recommendations and, therefore, exclusively to approve benefit increases that may require the subsequent appropriation of very large sums of money (see Appendix I), thus circumventing or at least frustrating the RTM's role of reviewing all expenditures before they become mandatory appropriations. The 2005 ad hoc benefit increase, for example, will cost the Town approximately \$1.4 million in 2006 and increase the pension liability by \$15.0 million on a present-value basis.

Observations:

The lack of involvement of the RTM in the approval of major appropriations raises various questions:

- 1) Is this a fiscally wise practice?*
- 2) Is it in the best tradition of our “checks and balances” form of government?*

G. Recommendations

In reviewing the process taken by the Retirement Board, both past and present, it was clear to the Committee that the analytical approach was not well defined and, as a result, changed over time as Retirement Board membership changed. Rather than being subject simply to personal leanings, a documented and well-organized policy should be established to guide the review and analysis of future Retirement Boards to ensure long-term consistency. These guidelines could be established by a policy statement implemented by the Retirement Board and BET and/or by legislation within the appropriate section of the Town’s Charter.

The Town has a well-established form of government that provides for “checks and balances” across its executive and legislative bodies. The RTM is charged with the review and approval of all Town appropriations above \$5,000.00, pursuant to Section 30(b) of the Town Charter. However, the current provisions in Article 14 of the Town Charter, in regard to amending the Retirement System, which allows the Retirement Board and the BET to commit the Town to significant increased expense without RTM approval, is a functional exception to the concept set forth in Section 30(b).

The Committee recommends that this procedural shortfall be corrected by both the provision of notice to the RTM and the requirement of RTM approval of any future amendment to the Retirement System including any ad hoc benefit change. Such action would be consistent with the Town’s concept of government, including checks and balances and RTM approval of appropriations. Indeed, review and approval of such increases by the RTM would introduce a heightened degree of taxpayer scrutiny and independence from the political process. Moreover, for additional transparency, the Committee recommends that the annual budget document and resolutions separately identify any provision of ad hoc and collectively bargained pension benefit changes and their budget impact for at least the first two years. The Committee notes that the provision of notice to the RTM and clarity in the budget could be accomplished immediately by the adoption of policy statements, while the inclusion of the RTM approval of ad hoc benefits would require legislative action.

4. Retirement Board

A. Background of Ad hoc Increases

Ad hoc changes to pension benefits are not part of the expressly mandated mission of the Retirement Board. Therefore, according to the Retirement Plan Administrator and current and past members of the Retirement Board, neither a formal policy statement nor supporting procedures are necessary. In addition, the Retirement Board has taken the position that any such formal, documented policy or procedures might in some fashion set a precedent and thus could obligate the Retirement Board to provide regular benefit increases. Rather, the Retirement Board's philosophy has been one of "irregular-regular" ad hoc benefit increases so that, by following no consistent practice, they would be on safer grounds and thus provide the Town maximum flexibility.

The Retirement Board relies upon two documents, which they consider to be the basis for the Retirement Board's procedures: Article 14 of the Town Charter and the relevant IRS requirements and determinations such as IRS Form 5300 -- the Town's application for favorable tax treatment of the benefit plan -- and the IRS favorable determination letters. These two items do not include any references to or information regarding ad hoc benefit increase policies or procedures.

B. Review of Retirement Board Policies and Procedures

1. Overview

An examination of the recent Retirement Board minutes (see Appendix III) reveals little of the Boards' thinking and considerations related to policy or procedures. Both the 2005 and 2001 letters to pensioners (only these letters were available; previous letters or communications, if any, were not available in the Town records) advising them of the ad hoc benefit increases refer to "... an effort to determine the needs of retirees ... and an increase that would meet those needs at a cost affordable to the town," but do not mention either the policy or process involved in determining the increase other than to indicate that it was based on increases in the cost of-living. There was no mention, directly or implied, of any future commitment for ad hoc increases. In their letter to the BET, however, the Retirement Board did note that, "Greenwich has a history of...periodically [restoring] purchasing power lost...due to price inflation," and that, "On average a COLA has been granted every four to five years... [and] the recommended COLA...is consistent with that practice."

Observation:

It might be inferred, given there is no documented policy or statement to the contrary, that, since the cost-of-living had been the basis for the last several

ad hoc increases, benefit increases could be expected to continue to be granted consistent with increases in the cost of living. Moreover, the Retirement Board's recent communication to the BET suggests that the Retirement Board views ad hoc increases as a regularly occurring phenomenon.

2. Informal Policy

Notwithstanding the lack of a documented policy or process for ad hoc changes in benefits, interviews with current and former members of the Retirement Board, as well as review of BET minutes, indicate that there were several informal “policy” considerations:

- Fairness - to former Town employees, in that the ad hoc increase served to make up for lost purchasing power;
- Attractiveness - to prospective employees, that the Town is a desirable employer; and
- Image - to the employees and unions, that the Town was addressing lost purchasing power.

In meetings with prior members of the Retirement Board it was indicated that, in addition to the considerations noted by the current Retirement Board, there was another informal “policy” consideration:

- Affordability - cost to the Town.

It is important to note that during a meeting of the Special Committee with the Retirement Plans Administrator, it was indicated that the retirement fund status, with respect to under- or over-funding, is not considered. This echoed a response given by the current Retirement Board to the Special Committee to the effect that cost to the Town was not a consideration in their deliberations about the timing or size of any ad hoc benefit increase.

A further demonstration of the Retirement Board's informal approach to the provision of ad hoc benefit increases was reflected in their June 1, 2003, request to the BET, which stated that, given that (then) recently retired employees had enjoyed significant benefit improvements, and since retiree benefits are not subject to collective bargaining, “...it was up to the Town to ensure those individuals are treated fairly.”

3. Informal Process

The Retirement Board's process considerations were less detailed. Previously fairness among groups of retirees was considered and generally took the form of a minimum increase for those long-term retirees whose pensions were quite low, where the ad hoc percentage increase would not result in a meaningful dollar increase. But the Retirement Board informed the Special Committee that, for the last two ad hoc benefit increases, the Retirement Board simplified the ad hoc formulation by providing a 100% CPI increase for all retirees. The Retirement Board indicated that this was done for fairness and to make it easier to communicate the change.

While *prior* Retirement Board members indicated that they had performed extensive analysis to derive a benefit increase formulation, the current Retirement Board performed no analysis of alternatives because they had settled on a 100% CPI increase. The Committee asked to be supplied with copies of any Retirement Board analysis, but only the EFI chart was provided to evidence analysis completed in 2005. Similarly, there was no consideration of what other municipalities were providing (other than the opinion of the Town Administrator), or the overall competitiveness of the Town's complete benefits package available to current employee or of the total retiree compensation.

Among the various subcategories of CPI, the Retirement Board selected the CPI for the Northeast-Urban (CPI-U) because the Retirement Board's advisor believe that it best reflects inflation in our area and it is used in other Town vendor contracts. It is also important to note that the recent GMEA and Teamster contracts will be amended to use the CPI-U, to ensure consistency.

C. Recommendations

Now that the Town has begun to provide for COLAs in the GMEA and Teamsters labor contracts (given the recent ratification of the change to provide defined contribution plans to new employees), as well as the Town's long history of granting non-mandated COLAs, there seems to be little need for a pretense that, by not having documented policies and processes, the Town is safeguarded from establishing a precedent that might lead to mandated future COLA benefit increases.

It is therefore recommended that the Retirement Board establish documented principles and policies regarding changes to pension benefits that will be consistent within a framework and that will ensure coherence within the Retirement Board's overall mission. Further, the Retirement Board should establish detailed processes and procedures to ensure consistency of application over time, considering changes in staffing and Retirement Board membership, and to allow for complete consideration of all factors as well as to allow for orderly changes to those considerations, including any additions, deletions or alterations to relevant weightings.

In addition, it is recommended that the BET adopt formally the policy that they will not grant supplemental ad hoc benefit increases for employees or retirees who are already benefiting from a collectively bargained COLA benefit increase. The Retirement Board adopted such a policy in late-2005.

5. Retirement Board Governance

A. Background

The Retirement Board serves as trustee of the Fund for the Retirement System and is charged, through Article 14 of the Town's Charter, with providing defined benefit retirement allowances for employees of the Town. The Retirement Board size and composition of its members are also defined in the Charter and the Special Act 408.

1. Retirement Board Potential for Self Interest

The Retirement Board consists of five members: two independent members, two Town employees and the Comptroller (another Town employee). Since its decisions are determined on a majority vote basis, the two independent members will always be outweighed by members who, as employees and therefore as participants in the Retirement System, may have a vested interest in certain decisions.

It is important to have a Retirement Board that has an appropriate balance of independence, experience and education to fulfill effectively and appropriately the demands of a complex pension system. Since its establishment in 1946, the Fund has grown in both size and complexity, including the recent shift from a passive investment style, based on indexed investing, to a more active multi-manager style that will incorporate riskier asset classes, such as real estate.

Observation:

We believe that, specifically in the context of the ad hoc benefits and, more generally, in the case of the administration of the Retirement Board duties, the Town should consider reviewing whether the duties and responsibilities of the Retirement Board can be adequately fulfilled, given the Retirement Board's current size and composition.

2. Retirement Board General Duties

The primary mission of pension boards is to manage properly the fund assets to ensure ongoing payment of retirement benefits to the participants and, by serving in an administrative capacity, to hire, delegate and contract with the experts needed to carry out this responsibility. This is done generally through the establishment of administrative and investment policies and guidelines. The National Council of Commissioners on Uniform State Laws issued the Uniform Management of Public Employee Retirement Systems Act ("UMPERSA") as guidelines for public pensions plans to protect plan participants and beneficiaries. Section 7 of the UMPERSA provides that trustees should discharge their duties:

- a. Solely in the interest of the participants and beneficiaries;
- b. For the exclusive purpose of providing benefits to participants and beneficiaries and paying reasonable expenses in administering the system;
- c. With the care, skill, and caution under the circumstances then prevailing which a prudent person acting in a like capacity and familiar with those matters would use in the conduct of an activity of like character and purpose;
- d. Impartially, taking into account differing interests of participants and beneficiaries;
- e. Incurring only costs that are appropriate and reasonable; and
- f. In accordance with the good-faith interpretation of the law governing the retirement program and system.

All Retirement Board members, as trustees of the Fund, serve as fiduciaries, with the attendant responsibilities. To fulfill its duties, it is also imperative that the Retirement Board membership includes the requisite skills and expertise to manage the fund assets and, where lacking, to provide training to improve the skill level of its members, particularly the employee members who are not typically experienced in such matters.

B. Fiduciary Duties

Section 197(b) of the Town Charter provides that the members of the Retirement Board are to use “ordinary care and reasonable diligence” in the performance of their duties. However, what is absent from Section 197 are any guidelines for the members of the Retirement Board to follow in performing certain of their duties as outlined by Article 14. In particular, as it relates to the issues before this Special Committee, there is no charge to the Retirement Board as to what criteria and standards its members ought to take into account in establishing an increase in the level of benefits for the members of the Retirement System.

Generally, to avoid conflicts of interest and to assure objectivity, a fiduciary should not vote on issues where there is a personal stake in the outcome. Since public pension boards tend to have employee and management representation, it is for this reason that most public pension boards do not have the final authority to make ad hoc changes to pension benefits. Rather, this role is generally vested in the relevant legislative body.

In a Public Fund Survey conducted by the National Association of State Retirement Administrators in 2004, it was found that 26% of the public plans surveyed provide for ad hoc benefit increases. As summarized in Table 5.1, 64% of these funds provide ad hoc benefit increases that are approved by the legislature. In only 11% of all public plans with ad hoc increases were Boards authorized to give final approval for the provision of ad hoc benefit increases. The survey was significant in that it represented more than 85% of the nation's entire public retirement system community.

Table 5.1
Public Pension Funds
Approval Authority for
Ad hoc Post-Retirement Benefits

Decision Making Body	Percentage of Ad hocs
Legislature	64%
Other	25%
Board	11%

During our meeting with the Retirement Board, several members of the Retirement Board stated that they believed they owed a "fiduciary duty" to the members of the Retirement System to always grant to them an increase in benefits equal to the CPI, regardless of the impact of such increases upon the finances of the Town or whatever burden that might create upon the accounts of the Retirement System.

Observations:

This use of the concept of "fiduciary duty" is almost surely misplaced: to our mind, the only fiduciary duty the members of the Retirement Board owe to the Town and to the members of the Retirement System is to assure that the assets of the Retirement System are lawfully and properly invested and not subject to undue risk, a duty which they are to carry out with "ordinary care and reasonable diligence."

What this Special Committee would suggest is that the matter of supervising the investment of the Retirement System's accounts is separate from the matter of establishing the level of benefits for the members of the Retirement System. Given the Retirement Board's approach to analyzing the issue of ad hoc benefit increases, which does not have defined principles and procedures and, given that the Retirement Board's composition lends itself to being heavily weighted

toward those with vested interests, the process to deliberate future increases should be amended to incorporate the checks and balances approval structure inherent in the Town's governance structure, which is implemented through the involvement of the RTM in the approval of all significant appropriations.

C. Governance

One of the key components that is essential to a sound governance structure is the establishment of a “comprehensive policy framework that documents its position on important issues” (source: NASRA - Cortex Practices: Board Governance Manual). We believe that this area is lacking as it relates to the Town's Retirement Board and specifically with respect to the practices associated with the issuance of ad hoc benefit increases.

D. Recommendations

In 1946 the Town Charter established a framework for the Retirement System. The Plan has become much larger and much more complex since that time. As a result, the Committee believes that the RTM and the BET should conduct an assessment of the appropriate size and composition of the Retirement Board necessary to manage prudently the Plan. Another management method utilized by pension plans to control risk is the establishment of well defined and documented Board policies and procedures, which the Committee believes is warranted for the governance of the Town's Retirement System. These will serve to ensure a seamless transition as the Retirement Board and Town management changes over time and assist in preventing random changes in the Retirement System.

Accordingly, it appears to this Committee that it would be appropriate for the BET and RTM to investigate whether, in addition to the exercise of the ordinary care and due diligence standards in regard to the supervision of the investment of the accounts, the Town should establish specific criteria and standards to be employed by the Board in determining whether, when, and to what degree to adjust retirement benefit levels.

There may be the concern that incorporating such standards into the Charter will institutionalize the concept of granting benefit increases. We are not convinced that is the case, since we would not suggest amending Article 14 to mandate periodic reviews of benefit levels, but rather to provide simply that, if benefit increases (including any other provision of the Retirement System) are under any circumstances considered, the enumerated factors should be considered. As it is, the Retirement Board appears to have in some ways institutionalized routine COLA increases, with each Board utilizing whatever criteria it deemed appropriate. While prior Retirement Boards seemed to have conducted more rigorous analyses and focused on both the financial impact to the Town and the needs of the employees, the current Retirement Board appears to base its decision

solely on the level of benefit to the employees, with little analysis or consideration of cost.

In any event, if decisional criteria were to be included in the Charter, they might include consideration of:

- (i) The impact of any proposed increase of benefit levels on specific classes of members within the Retirement System, since some classes, such as those retired more than a specified number of years, may be in greater need of such an increase than others;
- (ii) The financial impact of any benefit increase upon the accounts of the Retirement System or the Town's financial condition, if additional contributions must be made (both in the near and the long term);
- (iii) The nature and level of other benefits available to the retirees of the Town;
- (iv) The nature and level of other benefits given by the Town to such retirees; and,
- (v) The near-term and the likely long-term burden upon the taxpayers of the Town in the event of any such increase in contribution to the accounts of the Retirement System by the Town.

6. Legal Framework - Town Charter

A. Article 14 - Background

Article 14 of the Town Charter incorporates the municipal legislative provisions of the Town of Greenwich in regard to the establishment and operation of the Town's Retirement System, which was authorized by Special Act 408, enacted by the Connecticut General Assembly in June of 1945. Many of the provisions of Article 14 track fairly closely the language of Special Act 408.

B. Amendments to Article 14

The procedure for approval of ad hoc benefit increases is set forth in Section 213 of Article 14, which provides that any amendment of the Retirement System (which includes any ad hoc benefit change) adopted by the Retirement Board is to be submitted to the BET for approval. There is no reference to submission to the RTM, and indeed there is no provision in Article 14 or elsewhere in Town Charter requiring that an amendment of the Retirement System be submitted to the RTM. Rather, although the initial establishment of the Retirement System was subject to RTM approval pursuant to Section 2 of Special Act 408, the RTM's current involvement in the process is limited to approving any appropriation of Town funds which may later be required to fund the Retirement System, including any ad hoc benefit increases.

In its current form, Section 213 of the Town Charter tracks the amendment procedures set out in Section 20(5) of Special Act 408, which vests in the Retirement Board the power to amend the membership, benefit, contribution, allowance, and procedural provisions of the Retirement System, subject to the approval of the BET. The question then becomes whether the Town may lawfully amend Article 14 to impose an additional requirement of RTM approval, over and above that currently required by Special Act 408, or whether, as discussed below, such an amendment of Special Act 408 could be carried out by the Retirement Board and the BET themselves.

Observations:

In the past, the budget submissions by the BET to the RTM have not been structured in such a way as to allow the RTM to determine easily which part of the appropriation related to any incremental funding requirement that resulted from any ad hoc benefit increase. Consideration should be given, to the extent permissible by Special Act 408 of 1945, to amending Section 213 to require that any amendment of the Retirement System must be approved by the RTM.

The Committee recommends that an express requirement that the Retirement Board notify the Moderator of the RTM of any such amendment of the Retirement System be formalized by the immediate adoption of a policy by the Retirement Board and the BET and subsequently by amendment of Article 14 of Section 213.

C. Retirement Board Composition

The Retirement Board composition is addressed in Section 197 (a) (2) of Article 14 of the Town Charter, which provides that, of the five members, two are to be citizens of the Town, but such citizens may neither be eligible for membership in the Retirement System nor “officials” of the Town. We have inquired of the Town Legal Department as to whether members of the RTM are, for the purposes of Article 14, deemed “officials” of the Town. It is the view of the Law Department that in all likelihood members of the RTM are indeed “officials” for the purposes of Article 14 and therefore not eligible to serve on the Retirement Board as citizen representatives.

The idea that various points of view are to be considered by the Retirement Board seems to be implicit in the fact that Section 197 (and the equivalent provision of Section 15(2) of Special Act 408) contemplates a diverse Retirement Board membership.

Observations:

The Committee suggests that the BET and the RTM review amending Section 197 of Article 14 of the Town Charter to increase the size and composition of the Retirement Board. In addition, Section 197 should be reviewed to consider amending it to add additional membership criteria, such as specifying that the Town citizens who are appointed should be qualified by expertise in pension or fund management. In addition, this Section should require the approval of the RTM, including the involvement of its Appointments Committee, in the appointment of the two Town citizen Retirement Board members, as is the case with regard to all other significant Town boards. Currently, this decision is left solely to the First Selectman, the Chairman of the BET and the Moderator of the RTM.

The Committee noted that Section 197(a) is taken directly from Section 15(2) of Special Act 408, and therefore amending Section 197(a) may require also amending the equivalent provision in Special Act 408. However, in this context it is possible that the amendment of Special Act 408 may, in certain circumstances, be within the power of the Retirement Board and the BET (as discussed in Part D below).

D. Amendment of Special Act 408

Interestingly, Section 20 (5) of Special Act 408 says that, as to membership, benefit, contribution, allowance, and procedural issues, the Retirement Board is empowered, with the approval of the BET, to amend not only the Retirement System but also Special Act 408. What constitutes the “procedural” provisions of the Special Act is not defined. However, the fact that the Special Act excludes from the Retirement Board’s ability to amend the Act the provisions of Section 15 (b) (2), which provides for the appointment of two Town citizens to the Retirement Board, suggests that other provisions of the Special Act in regard to the Retirement Board’s composition are “procedural” provisions subject to revision by the Retirement Board upon the approval of the BET. Such procedural provisions might include the size of the Retirement Board or providing other qualifications for membership on the Retirement Board.

In addition, Section 450 of Title 7 of the Connecticut General Statutes provides that any municipality or subdivision thereof may by ordinance amend any special act concerning its pension or retirement system. However, it is the view of the Town’s Law Department that Section 450 is not available to the Town in regard to the contemplated actions concerning the Retirement Board, since the Town Charter and Special Act 408 regulate the Board, and an ordinance would not be effective in amending the Charter.

Coincidental to the review of Section 450, the Committee found that contrary to a Resolution in the Budget of May 2005 requesting that a qualified cost estimate from the enrolled actuary for any ordinance or act amending the Retirement System of the Town of Greenwich be prepared and a certified copy of such document be filed with the Town Clerk in compliance with CGS 7-450, no such copy has been filed as of the date of this report.

But, even if the Retirement Board and the BET have the legal authority pursuant to Article 14 and Special Act 408 to effect certain amendments to Article 14, it is ***not clear*** that these two institutions will have ***the political will*** to do so. Moreover, it is fairly apparent that certain other changes to Article 14 recommended by this Committee, such as providing for RTM approval of any amendments to the Retirement System to increase benefits or eligibility, will require amendment through the Town’s Home Rule provisions, initiated either by the Board of Selectmen or the BET for a vote by the RTM and possibly in certain instances submission to the voters by referendum, all as provided in the Town Charter.

E. Recommendations

The Committee believes that it would be prudent to have a thorough review of the entire Article 14 of the Town Charter to determine whether it would be appropriate to restate Article 14 and to adopt other provisions, in order to take into account developments over the past years, including the adoption of an employee savings plan and the recent creation

of a defined contribution plan. However it is not a part of the Charge of this Special Committee, nor are its members sufficiently experienced in Connecticut municipal law, for this Special Committee to carry out such a review on its own.

We understand that some years ago a review of Article 14 was undertaken by an outside law firm, but we were informed that this limited review concentrated only on certain sections of Article 14, rather than undertaking a comprehensive review of the entire Article in regard to all intervening developments. Any review of Article 14, with an eye toward amending or restating the Article or other provisions of the Charter, must be based upon a consideration of the provisions of Special Act 408.

A requirement that notice be given to the RTM of all proposed amendments is recommended to ensure transparency of changes and the ongoing involvement of the RTM. Through this review the Committee suggests that the RTM be incorporated in the related amendment approval process.

A review of the Retirement Board size and composition should be included in the review of Article 14 and incorporating Retirement Board membership criteria would be an additional enhancement. Another aspect of transparency and the involvement of the RTM would be a requirement to obtain RTM approval in the appointment of Retirement Board members, which in its current form differs from other Town boards in that approval is limited to the First Selectman, the BET Chairman and the RTM Moderator.

In addition, set forth in Appendix V are examples of provisions that suggest to this Committee that a comprehensive review and possible amendment of Article 14 of the Town Charter would be appropriate. These examples include conflicts in the use and definition of “employee,” limits on employee pension participation and bank deposit criteria.

7. Summary of Recommendations

The Committee recommends, as detailed in the relevant sections of this report, the following actions and suggested timelines:

Key Recommendations	Immediate (1-2 months)	Short Term (3-6 months)	Long Term (12-18 months)
RTM Role and Responsibilities	• The Retirement Board provide written notification to the RTM Moderator and the Budget Overview and Labor Contracts Committees of any proposed amendment of the Retirement System, including ad-hoc benefit increases, if any. • The RTM Budget Overview Committee establish a RTM liaison to the Retirement Board.		• The RTM request the BET to initiate Charter amendments of Chapter 14 to require the approval of the RTM of all amendments to the Retirement System.
Rate of Return Analysis		• The Retirement Board conduct an analysis of the effect of changes in the rate of return assumption on the Town defined benefit contribution, pension liability, funding status and the cost associated with both the recent ad hoc benefit increase and collectively bargained pension benefit COLA, with the intention of adopting a prudent and conservative assumption. • The Retirement Board advise the BET and RTM of its findings no later than October 1, 2006.	

Key Recommendations	Immediate (1-2 months)	Short Term (3-6 months)	Long Term (12-18 months)
Retirement Board Governance		The BET and RTM Appointments Committee jointly review the Retirement Board composition, size and member selection criteria and make and implement any resulting recommended changes.	- The Retirement Board establish documented policies and procedures for consideration of any future ad hoc pension benefit increase. - The RTM request the Board of Selectmen and BET to take action to require RTM approval of the Town citizen Retirement Board member appointments.
BET Role	The BET adopt a policy to not grant any additional future ad hoc benefit increases for participants with contracted COLAs.	The BET delineate the first-year and aggregate liability of any ad hoc or collectively bargained pension benefit increases, in the initial year appropriated, in the Town budget schedules and resolutions.	
Review and Revisions of Article 14		The Law Department conduct a comprehensive legal review and update of Article 14 of the Town Charter, including proposed language for Charter amendments to implement the above recommendations.	

Appendix I

RETIREMENT SYSTEM OF THE TOWN OF GREENWICH AD HOC HISTORY

Effective Date	Retirees Covered Through	Number Covered	Formula	Cost (% of Payroll)	Active Member Payroll	Change in PVB
July 1, 1980	6/30/1978	N/A	3% per year retired \$200 monthly minimum	0.54%	\$17,531,610	N/A
July 1, 1987	6/30/1982	378	7% - 27% depending upon age and benefit level - No increase if monthly benefit was \$1,000 or more \$300 monthly minimum for PBF	0.77%	\$34,140,000	N/A
July 1, 1993	6/30/1987	487	3% for each year retired between 7/1/82 and 6/30/88 \$50 monthly minimum increase (\$100 for PBF)	0.85%	\$46,600,000	N/A
July 1, 1996	6/30/1994	737	- A percentage of the annual CPI based upon age and measured from the June following retirement through June 1996 - For retirees under age 65 – 25% of the annual CPI - For retirees age 65 & over – 50% of the annual CPI	1.19%	\$52,900,000	N/A
July 1, 2000	6/30/1998	829	100% of the annual CPI measured from June 1996 (or June following retirement if retired after 6/30/94) through June 1999, with a \$20 minimum monthly increase	0.99%	\$60,960,000	N/A
July 1, 2005	6/30/2004	942	100% of the annual CPI measured from June 1999 (or June following retirement if retired after 6/30/99) through June 2004	1.86%	\$76,823,000 ¹	\$15,072,688

¹ Projected payroll for the 2005-2006 plan year

Appendix II

Comparison of Connecticut Municipal Retirement COLA Benefits

Town	COLA	CPI	Rate	Cap	Other Limits
Greenwich ¹	No	No		None	None
GMEA & Teamster ¹	Yes	Yes	CPI – National Urban	3.00%	Lifetime 150% of initial pension benefit
Municipal Employees Retirement Fund - B					Used by Ansonia, Waterford, among others
Bristol – Police/Fire	Yes	No	Automatic match salary increases ²	2.25%	
Bristol – Administration	None	Na	Na	Na	
Darien					
Fairfield – Police/Fire	Yes	Yes	Automatic biennial increases ³	3.00%	Limited to retirees min. 25 yrs. of service and if retire at age 51 yrs.
Hamden		Yes ⁴	Annual determination	3.00%	
Meriden – Police/Fire/Admin.	Yes	No	Automatic 3.00% biennial increase	3.00%	Limited to retirees after 1989 Increases begin the later of 3 yrs. after retirement or age 65 yrs. Lifetime COLA cap of ≤50% of original pension
W. Hartford – PW Supervisors	Yes	No	Automatic annual 1.00% increase ^{5a}	1.00%	Retirement on or after 1/1/98; retirees contribute 1% of salary to pay for the COLA ^{5b} Increases begin 3 yrs. after a normal retirement ^{5c, 5d}

SOURCE: Connecticut Conference of Municipalities supplied extracts of town contracts.

Footnotes:

Greenwich

1) Upon the Retirement Board recommendation and BET approval, ad hoc increases have been given on an “irregular-regular” basis. Town negotiated COLA for current employees with GMEA and Teamsters. LIUNA is pending ratification. New employees of these units receive defined contribution pension benefits.

Bristol

2) Pension benefit increases match salary increases provided to members at the same rank and step as the retiree held at the time of retirement

Fairfield

3) Adjustment effective on even numbered years for the amount that CPI increased during the two-years preceding even numbered years

Hamden

4) Annual determination based on multiple factors (not state), including CPI

W. Hartford

5) a) The COLA includes all previous years adjustments so that there is a compounding effect. b) Employee contribution is refunded at 2% interest, if employee terminates employment and withdraws from the Plan. c) Those with early retirement, COLA starts 3 years after the retiree would have been eligible for normal retirement. d) No Cola on retirement incentive compensation, disability retirements, employees who terminate with a deferred vested benefit, beneficiaries of employees who die before becoming eligible for retirement.

Appendix III

Retirement Board References Relating to Ad Hoc Benefit Increases

Year	Document:
2005	- Draft Retirement Board letter to Retiree/beneficiary - May 19, 2005, Administrator's Report
2000	- January 8, 2001, Retirement Board letter to Retiree/beneficiary - December 18, 2000, BET minutes - August 24, 2000, Retirement Board meeting minutes - July 1, 2000, RBM minutes are missing
1999	- June 21, 1999, BET minutes - May 27, 1999, Retirement Board minutes
1997	- February 18, 1997, BET minutes
1996	- June 27, 1996, Retirement Board minutes
1993	- June 24, 1993, Retirement Board minutes - June 21, 1993, BET minutes - May 27, 1993, Retirement Board minutes
1992	- June 24, 1992, Retirement Board minutes
1986	- May 21, 1986, Retirement Board minutes - April 16, 1986, Retirement Board minutes - February 19, 1986, Retirement Board Minutes
1980	- June 17, 1980, Retirement Board minutes

Appendix IV

Model Practices for Trust Independence and Board Governance The Uniform Management of Public Employee Retirement Systems Act (UMPERSA) And The Uniform Prudent Investor Act (UPIA)

It is recommended that policymakers and fiduciaries view pension benefits within the broad context of service delivery and employment policy. Pension benefit are provided to assist current employees in preparing for retirement, compensate employees for their years in public service and assist the employee in the recruitment and retention of public employees. Since a variety of risks potentially affect the ultimate provision of pension funds benefits, a comprehensive approach to the provision of both pension benefits (retirement income) and other post-employment benefits (healthcare, COLA's) is crucial.

Post-employment benefits are all benefits offered after separation from the employer. COLA's for retirees are part of the post-employment package. An accurate assessment of a government's annual required contribution (ARC) is essential to maintaining a pension plan's actuarial soundness. The granting of COLA's can result in an unfunded actuarial accrued liability (UAAL). Failure to contribute the full amount of the ARC required can result in accounting consequences, particularly with respect to current and pending accounting standards.

The financial and accounting implications for actions of the Retirement Board appear to warrant an examination of its current composition to assure it is meeting its fiduciary mandates.

The following model practices for pension fund independence and Board governance for public pension funds by the National Association of State Retirement Administrators (NASRA):

- I. Establishment of Trust**
 - a. Retirement assets are maintained as a trust. This does not include assets held in insurance contracts.
 - b. Trustees have exclusive authority to manage and invest trust assets.
- II. Trustee Powers**
 - a. Trustees have legal protections that make them independent from pressures external to execution of their fiduciary responsibilities.
 - b. Trustee independence includes authority to:

- i. spend assets for administrative purposes and determine the amount of the expenditures required.
 - ii. contract for services necessary to execute fiduciary duties, e.g., actuarial, legal, audit, investment, custodial, etc., and retain service providers who are independent of the plan sponsor.
 - iii. make personnel and procurement decisions (including salary levels for personnel and vendor decisions, both independent of outside influences).
- c. Trustees are authorized to delegate functions when executing fiduciary duties
- d. Trustees may deliberate in closed session if disclosure of the deliberations or decisions jeopardizes the ability to implement a decision or to achieve investment objectives.

III. Fiduciary Responsibilities

- a. The duties and responsibilities of retirement system fiduciaries (including trustees, administrators, and those to whom fiduciary responsibilities are delegated) are delineated. These duties derive from trust law and federal and state pension law.
- b. A prudent investor rule is established that is consistent with those established in prior case law and federal and state legislation
- c. Trustees have a duty to comply with the prudent investor rule that is established

IV. Trustee liability

- a. Trustee compliance with the prudent investor rule relieves the trustee of liability to a beneficiary with regard to the management of assets.
- b. Trustees who fail to comply with the prudent investor rule may be held liable by beneficiaries
- c. Any agreement that attempts to limit liability in cases of breach of duty, is void
- d. A retirement system may insure itself (but not individuals) against liability in cases of breach of duty

V. Investment of Assets

- a. Trustees who have responsibility for making investment decisions or for providing investment direction are required to consider the following factors when making investment decisions:
 - i. the risk/return relationship
 - ii. the importance of asset diversification
- b. A statement of investment objectives and policies is established
- c. Trustees are required to continually monitor assets
- d. There are no categorical restrictions on investments
- e. Investment decisions are made with an awareness of the possible improper role of investments with collateral benefits, e.g., economically targeted investments

VI. Reviewing compliance

- a. When reviewing the performance of the trustee:
 - i. Compliance is determined by the facts and circumstances at the time of the decision, not in hindsight
 - ii. Decisions are evaluated in the context of the whole portfolio, and not in isolation

VII. Disclosure

- a. A trust administrator is required to prepare and disseminate certain information to:
 - i. the public
 - ii. the participants and beneficiaries
 - iii. the agency serving as an accessible repository
- b. The summary plan information prepared by the trust administrator must be comprehensive and understandable to participants, and inform them of their rights and obligations under the system
- c. Disclosure of actuarial and financial data must include financial statements and notes in compliance with generally accepted accounting principles, especially GASB 25 and Actuarial Standard Practice number 4.
- d. The annual report must provide fair notice of the current status of the system.

VIII. Enforcement

- a. An employer, participant, beneficiary, or fiduciary may pursue legal action to address violations of the rules governing the system.
- b. A statute of limitations is established on legal actions.

IX. Assignment of benefits

- a. Retirement benefits may not be assigned to others and are exempt from creditors except when specifically allowed by the state.

In conclusion:

- Best practices in trust independence will provide trustees with the resources and flexibility needed to properly fulfill their fiduciary responsibility; and,
- Best practices in board governance will result in:
 - Clear assignments of roles and responsibilities that capitalize on the strengths of the various players
 - Prudent delegation
 - Proper oversight and monitoring
 - Alignment of interests

(SOURCE: *Government Finance Officer's Association, Recommended Practices: Retirement and Benefit Administration*)

Appendix V

Town Charter Article 14 - Select Examples of Sections Requiring Review and Revision

Definition of Employee

Section 176(a) (15) seeks to define “employee,” an important term that is used throughout Article 14. The definition states that an “employee” is any person who is regularly employed “in the service” of the Town or the Greenwich Library or the Perrot Memorial Library whose compensation is paid by the Town. The section then lists some classes of individuals who are to be excluded from the definition of “employee,” but the list is incomplete. Thus, for example, participants in the newly created defined contribution plan are not “employees” for the purposes of Article 14, but that is not mentioned in these exclusions. In fact, the definition in Section 176(a) (15) tracks closely the language of Section 1(3) of Special Act 408. However, it seems that what is currently the last sentence of Section 176(a)(15)(C) was intended in the Special Act to modify clauses (A) through (C) and not just clause (C). While we have been told that state law provides or allows for certain other exceptions, such as through superseding collective bargaining agreements, this is not apparent from the language or structure of Article 14. Nor is it apparent to this Special Committee that any consideration is given to the impact of such supercession on the overall operation of Article 14. We suggest that it might be appropriate to state explicitly, within the definition of “employee,” that there are such statutory exceptions—if for no other reason than to make Article 14 and this definition of “employee” more transparent.

Limits on Employee Pension Participation

The importance of understanding these exceptions is apparent when one reads Section 178 (b), which states that any person who becomes an employee will become a member of the Retirement System. However, the first sentence of Section 178 (a) states that:

any person who becomes a member of this Retirement System shall receive no pension *or other benefit* from any other pension or *benefit system* supported wholly or in part by the Town, nor shall be required to make contributions to any other pension or benefit system of the Town.
[Emphasis added.]

This language tracks fairly closely the language of Section 3(1) (a) of Special Act 408. However, while the word “pension” is defined in Section 176(a) (20), “benefit system” is not defined in either Article 14 or Special Act 408. The question therefore arises whether the Town’s savings plan (i.e. 401K) might be included in the concept of other “benefit” or “benefit systems.” In this respect, see also Section 211 (a), which states that “no other

provisions of any law which provides wholly or partly at the expense of the Town for pensions *or other benefits* for employees of the Town... shall apply to members or beneficiaries of the Retirement System established under this Article ...” [Emphasis added.] This again tracks language in Special Act 408, namely, Section 20(1), and is a provision that was drafted before the Town’s savings plan was created.

Although the existence of the Town’s savings plan appears to conflict with these Sections 178(b) and 211(a) of the Town Charter, lawyers for the Town have concluded that the existence of the savings plan is not in violation of Article 14. This is so because the Town, through adopting the savings plan pursuant to collective bargaining agreements, is empowered by state law to supersede the provisions of Article 14 and the Special Act. Nevertheless, we respectfully suggest that the Town’s Charter, including Article 14 should address this interplay of collective bargaining agreements, state law, and the Charter in the appropriate places in regard to not only the Retirement System and the savings plan, but also the newly created defined contribution plan.

For example, consider the following situation: if the Town entered into a collective bargaining agreement that establishes a COLA increase in benefits under the Retirement System of 50% of the increase in the Consumer Price Index, does the Retirement Board still have the power under Article 14 and the Special Act 408 to amend the benefits under the Retirement System to increase the COLA to 100% of the CPI?

Also, consideration should be given to the fact that the regulation of the Town savings plan and the defined contribution plan is not regulated anywhere else within the Charter.

Bank Deposit Limits

Consider also Section 208 (c), which seems to permit the funds of the Retirement System to be deposited in any one bank or trust company, so long as the funds deposited do not exceed 10% of the paid up capital and surplus of such bank or trust company. This provision tracks enabling language in Section 17(3) of Special Act 408, but that percentage holding is by today’s standards inappropriate, and this section of Article 14 is a relic from earlier times. This provision should be reviewed to consider other appropriate criteria for investment.

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