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GOVERNMENT & REGULATIONS

MY VIEW: Cincinnati railroad sale a 'remarkable and historic opportunity'



IN THIS ARTICLE

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By Paul Muething
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I am honored to serve as president of the Cincinnati Southern Railway (CSR) Board of Trustees with Paul Sylvester (a 39-year board member), Charlie Luken and

Mark Mallory (former Cincinnati mayors) and Amy Murray (a former Cincinnati City Council member). We proudly serve as volunteers in this role.

There is a clear business case for selling the CSR, a 337-mile, 9,500-acre asset between Cincinnati and Chattanooga. We welcome this opportunity to make that case for you.

Importantly, only the citizens of Cincinnati can vote to sell the railroad.

Our primary job is make sure the CSR provides the greatest long-term value to Cincinnati. That is precisely why we are recommending the sale of CSR, but only under certain conditions.

Before discussing the conditions we have imposed for the sale of the railroad, here is why selling rather than leasing it, as provided in the November 21, 2022, sale agreement we executed with Norfolk Southern (NS), is a remarkable and historic opportunity.

It is important to consider CSR as much more than land, timbers and steel tracks. In the 1880s, the railway was developed as an economic development asset to bring commerce to Cincinnati. In truth, that is what CSR is today ... an asset for the long-term benefit of the citizens of Cincinnati.

During recent negotiations with NS to renew its lease, NS expressed interest in purchasing the railway. They made it clear that they would pay substantially more to own the railroad than to lease it.

After long and difficult negotiations, the choice became clear. We could either continue to lease the railroad at a rental rate that may not be fully under our control or we could sell the railroad for \$1.6 billion paid in cash at closing and invest it in a professionally managed fund of financial assets. That fund would be 100% in the control of the CSR board to manage and grow perpetually.

Importantly, earnings transferred to the city from the trust fund will likely more than double what the city might receive from a future lease. Consider:

- In 2024, based on the current lease which runs through 2026, the annual lease payment will be \$25.5 million.
- In 2024, earnings from a \$1.6 billion trust fund are projected to be \$57.1 million after reserving approximately \$30 million to grow the trust fund as a hedge against inflation.
- In 2066, if we had agreed to a new lease with NS starting in 2026 at the rent then in effect, and that rent grew 2% annually, it would be \$58.6 million.
- In 2066, projected earnings from a trust fund started in 2024 with \$1.6 billion would be \$131.2 million. That's 123.8% more than that year's hypothetical lease payment.

With this information, and advice from outside experts, we concluded that selling the railroad was not only a better idea, but a remarkable and historic opportunity.

Now, about those conditions which are fundamental to our recommendation to sell the railroad and are included in the sale agreement with NS. We've asked the Ohio Legislature to amend the founding legislation to:

- Enable CSR to create the "trust fund" in which we must place the railway sale proceeds. Currently, sale proceeds can only be used to retire city bonded debt.
- Ensure that trust fund earnings could only be used to "rehabilitate, modernize, or replace existing infrastructure" and could never be used for the construction of new infrastructure improvements.
- Require CSR to establish investment policies and engage financial experts to advise us on the growth and management of the trust fund.

- Require CSR to invest and reinvest the trust fund responsibly in accordance with another Ohio law (ORC Section 5809.02), referred to as the “prudent investor standard of care” law.
- Establish that CSR can, only in extreme circumstances (if there are “not sufficient earnings” defined as “not less than the amount approved” by the voters), use trust fund principal to make a minimal annual distribution to the city in order to avoid disruption of city spending on existing infrastructure improvements.

There is a clear business case for selling the railroad. Trust fund earnings are projected to be more than double the projected lease proceeds. The trust fund will continue to grow perpetually and cannot be accessed by mayors, city councils or city administrators, or used for purposes other than those set forth in legislation.

We encourage you to learn all you can about this remarkable and historic opportunity by visiting our website. We welcome your scrutiny and especially appreciate your shared interest in the future of Cincinnati.

Paul Muething is president of the Cincinnati Southern Railway Board of Trustees since 2020. He is currently chairman of the board of KMK Law based in Cincinnati.

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