

June 28, 2023

The work session meeting of the Town of Hartland, County of Niagara, State of New York, was held on the above date at the Town Hall, 8942 Ridge Road, Gasport convening at 9:30 a.m.

Members present:

Supervisor: W. Ross Annable

Town Clerk: Rachel Kushner

Councilman: Joseph Reed

David Huntington

David Hill

Cliff Grant

Attended by: Sign in sheet attached

Supervisor Annable: The principle point of this meeting is to get an understanding about how this program works. We are still in discussion with our attorneys to see if we are going to be included with Royalton but of course here in Hartland we have to consider this for our central fire department as well. Please walk us through what the program is and what it entails, and we will go from there.

Ryan Griffith: What we are looking at is a defined benefit LOSAP. It works like a pension in most ways where you would be paying out a monthly benefit for life after a certain age. LOSAP is set up in 457E11 of the Internal Revenue Code. It was set up around 1990 to help recruit and retain volunteer firefighters. The pension would grow tax free, and the member has no ownership of it until it is actually paid to them. It is paid out as ordinary income. Then, New York follows up with Article 11A and added a bunch of provisions for how they wanted to see these run. In a situation like this where we have 5 different fire departments I've seen it done a few ways where you have one or two different sponsoring partners all under one LOSAP. I've seen it where you split each sponsor and each sponsor has 1-3 LOSAPs. We can set it up anyway you want and will ultimately be up to your attorneys. What we are looking to set up is a \$20 per service year plan for 20 years which would make the maximum benefit for a member \$400.00 per month for life starting at age 65. There is a minimum of a 10 year payment. If someone passes away during that 10 years, the remaining payments would go to their beneficiary.

Supervisor Annable: So if we were to do it, it would be 15 years before anyone would be eligible to receive a benefit and \$400 by today's standards will not be the same in the future. Is there an allowance that that can go up at all?

Ryan Griffith: There is not a COLA on it the same way you would see with Social Security. The maximum allowed would be \$30 for 50 years of service so that would be a \$1500 plan. To do that from day one is generally cost prohibitive. What we like to do is start around the \$20 and 20 year plan and get some funding in place. Then once that amortization drops off, that is when you may want to look at it and bring in a 30 or 40 or 50 year plan. We would have to go back to a referendum but a lot of the foundation for the cost would be set up. We do go back 5 years so it would take 15 years until the payout would start to occur. But, we can enhance these plans over time. The 20 year plan is still meaningful yet affordable to start with.

Supervisor Annable: What happens if someone has 10 years in? Is there a reduced amount for that?

Ryan Griffith: Let's say I'm 60 right now. So we go back 5 years and let's say I earn the next 5 years of service. I am now 65. At that point I would start collecting \$200 a month. Even though they are collecting, they can keep earning. After that year, you would get \$220, then \$240, etc. up to the \$400 max.

Supervisor Annable: What type of hours do they have to accumulate in order to be credited?

Ryan Griffith: It depends on the percentage of calls that are answered to. The goal is to get to 50 points. If Hartland gets 500 calls and you make 10% of those, that would get you 25 points. There are also points for trainings, positions, etc. What you guys will do is take all of the point options that they lay out and create a kind of management tool to set your rewards based on the needs of the fire station. It will be up to you how you structure that. If your goal is to get people in the door, you may want to make it a little softer.

Supervisor Annable: Do you have to make those points each year or are you able to catch up one year if you didn't get enough points the year before?

Ryan Griffith: Everything is within the calendar year. If they were to earn 49 points it is worth less in the terms of the LOSAP. If I earn 50 points I get \$20 and if I earn 7000 points I earn \$20. That is how it is structured in that Article 11A of New York.

Councilman Grant: Who is responsible to monitor that?

Joe Floss: Ultimately the fire company would keep track of that and get the information to the sponsor. It would need to be posted for 30 days in order for the firemen to see it and agree or disagree. So, it falls to the fire company to track it and the town is more of the reporter. There are really good computer programs out there now where they can track all that stuff. It is certified by the Chief and President and given to the Town Board, and is posted by the Town Clerk. If there are any disputes, you are the dispute resolution as the governing body of the plan. If this passes the referendum they would have one year to get their five years of buy back. They have to reach a vesting of five years in order to get a benefit at all.

Ryan Griffith: Again, this is all New York State law. Say I'm 60 and I've been with you for the last five years. I have the potential to get credit for those previous 5 years. If I earn 50 points in 2024 I would roll into 2025 with benefits. If I earn 49 points, not only did I not get full credit for 2024, I also can't get credit for those five years that have passed. If there is poor record – keeping it is not ideal. You hope the fire company can look back into who came to which calls and be confident who has and hasn't earned their points. You are not required to go back 5 years. Most plans do. If you don't have records or don't feel comfortable auditing the records that you have, you don't have to offer back credit for the last five years. That is an option.

Joe Floss: That would lower the cost as well. Every other plan that we have sold does provide that 5 years going back though.

Ryan Griffith: I would guess the records aren't as strong now as they would be going forward.

Debbie Floss: A lot of fire companies have been using a red alert system for a few years now.

Ryan Griffith: If they are already keeping points in that system, they can just convert them over. But, it is not a heavy lift for a Town Board as long as you understand how it works.

Supervisor Annable: Does training and attending meetings count for points?

Ryan Griffith: 100% yes. And when the fire department is tracking these points they can look in October and call people if they are short on their points to get them in there. Once the referendum passes, we would need to come in face to face and guide you in how the process works but it is not a huge lift.

Supervisor Annable: We have a volunteer ambulance service that services Royalton and Hartland. It is not affiliated with the fire department. Are they eligible for something like this?

Ryan Griffith: Does the town provide them with worker's comp or monies?

Cliff Grant: They are totally independent. The state will not allow us to accept taxpayer dollars.

Ryan Griffith: Then I do not think they are going to be eligible.

Cliff Grant: What happens if there are political conflicts within the fire department or frequently changing chiefs? Is that opening Pandora's box for corruption?

Joe Floss: Normally the president will assign a LOSAP chairperson to keep things out of that reach kind of like a Town Assessor has complete autonomy. That way the President and Chief can just sign off on it. The Chief should not control LOSAP in my opinion.

Ryan Griffith: A lot of those positions have high turnover. If they are using one of those programs that track calls and trainings and drills, we don't see too much of that kind of stuff anymore. Where we did see that was looking back 30 years ago and everything was paper.

Councilman Grant: What about the people that have volunteered for the fire company for the last 25 years?

Ryan Griffith: New York State law says we can only go back five years.

Joe Floss: I am a member at East Amherst and when we passed it we had great run at getting more seasoned, exempt members back to active because it gave them the opportunity at LOSAP. A lot of them liked it so much they ended up staying even longer. It does help recruitment in that degree. I don't see it in young people so much because they aren't worried about a pension yet. We have seen it boost recruitment year one for those exempts because they only have to put in that one year to get six back.

Supervisor Annable: For taxes, are other towns putting it in a separate line or is it included in their fire tax?

Ryan Griffith: It would be a separate line and you would tell them the exact cost of LOSAP and how many cents per taxpayer.

Supervisor Annable: Depending on how many fire companies we are involved with we could have three-line items for each districts fire tax. Do any of these fire departments do this as a contract as opposed to the line item?

Ryan Griffith: New York made this so that it has to be funded through the taxes.

Supervisor Annable: Over in Royalton the conversation now is that they are thinking Hartland doesn't have to participate in the vote for this, but we would still have to come up with a line item for those districts.

Joe Floss: Rapids Fire Dept does take over part of Clarence Center. Town of Clarence funds a small amount of their budget instead of giving it to Clarence Center. That has happened and it is a contract. It is a small amount, but it is funded. Town of Clarence never voted on a referendum and doesn't have a line item. I'm not a lawyer so I'm not sure if that is the right way to do it but that is how it is being done there.

Supervisor Annable: The problem for us is when you look at Gasport and Middleport, they cover a portion of the Town of Hartland and if you do a town-wide tax that means everyone is paying for a couple of small districts versus the residents in those districts. You could end up with a few different line items for different parts of the township.

Ryan Griffith: I have never seen that. I'm not saying that it's not possible though. There may need to be a collaboration and maybe the firemen's association of the State of New York's attorney can assist. I know someone from the Royalton group was looking into some opinions on that. I think this should have been a universal thing back in the 1990s with the Comptroller's office handling all of them. You should collaborate with your lawyers to see if it can be done through a contractual obligation. Of course, LOSAP can only be funded through taxpayer dollars but maybe there can be some kind of agreement as to how much and how it is paid.

Supervisor Annable: Let's say we have Gasport and Middleport and Hartland VFC isn't involved. A portion of our town would be paying taxes for that program that aren't covered by those fire districts. That is the concern I have. People that aren't getting a benefit from that fire district would still be paying towards that program.

Ryan Griffith: In Oyster Bay, Long Island there are multiple fire stations and multiple municipalities. For the Towns of Hartland and Royalton, you may need to split these up and figure out percentages. I have seen it done that way. I have also seen it done where Gasport and Middleport service Hartland, but the Town of Royalton is willing to go to referendum for them and Hartland would go to referendum for just Hartland. I've seen it done both ways. Ultimately, I would defer to the attorneys to do what they think is best.

Joe Floss: Another East Amherst example is there are two fire protection districts, one in the Town of Amherst and one in the Town of Clarence. They have an intermunicipal agreement where Amherst runs all of my fire department with their LOSAP people, and they give the money to the Town of Clarence. They have separate fire protection districts and one sponsor so that can be done contractually.

Supervisor Annable: So how do they collect taxes for that? Is it a line-item tax or just a fire protection tax?

Ryan Griffith: It is a line-item tax under the fire protection tax, but we are going to check into that.

Supervisor Annable: The thing that convolutes us is we have Wrights Corners which has their own LOSAP, and we aren't included in that, and we don't pay them anything for theirs. Miller Hose in Newfane has gone to referendum for this and has been turned down, but we were never involved in that aspect of theirs either.

Ryan Griffith: The Town of Lockport controls Wrights Corners as well. The Town Board at the time, took it upon themselves many years ago to be their sponsor and it was fine. Are there interpretations of the New York State law? Sure, and there are challenges to everything. If the Comptroller's office comes in and says it should've been done a different way, there is a corrective measure.

Supervisor Annable: If Royalton passes it, is there any obligation by the Town of Hartland to pay into it?

Ryan Griffith: In our opinion, no, but that is a question for the lawyers.

Joe Floss: It would just be all the fire companies expect Hartland. They wouldn't have a LOSAP in that scenario.

Supervisor Annable: If we are participating with Royalton for their fire departments Hartland will want it too.

Ryan Griffith: They will lose members more than likely because they will want to go to their neighboring fire department.

Councilman Grant: That already happened when Lockport went to this plan. A lot of guys from Terrys Corners went over to South Lockport or Rapids to get their pension.

Supervisor Annable: If a firefighter comes from another community and has five years and points does that transfer to the new fire department?

Joe Floss: It does not. They would start fresh with you.

Councilman Grant: So, you are selling the insurance policy on this.

Ryan Griffith: Yes, we sell all kinds of insurance, but I am from the LOSAP division. So, in this case we are more of a service provider. So, there is not a premium here, it is just a fee for service. This branch helped us round out to be able to provide all the types of services you might want. Joe and Debbie are really your local representation. They will be here locally and able to meet with you. I get up here once or twice a year, but they are here all year round. Part of that service fee goes into compensating them for their presence and ability to answer your questions. Another part goes into funding and grows depending on what you put it in. You can keep it at a fixed 3% or better or mutual funds where you have an expectation to grow the money quicker, therefore you have less of a funding obligation. So there are fees for all the administrative work that they do but that is broken up in the funding part.

Supervisor Annable: What are the majority of fire departments using?

Joe Floss: It is not really the fire department's decision unless they are a commissioned district. The majority of them in the past have wanted the conservative but back in 1992 we had a fixed interest rate of 7.5%. If anyone has ever bought a fixed annuity, 100% of your money works for you but there is always a penalty. It is locked in at a minimum of 3% and we are waiting for it to come up because as you know short-term instruments have gone up. When you couldn't get 1/5% at a bank, they were still paying 3%. A lot of the Town Boards and Boards of Commissioners said they wanted 100% of the money not at risk because it is taxpayer money. Now that is changing. Clarence has switched over, with half of it in a more aggressive fund. We just had a meeting with them this morning. We can talk about all of this at the appropriate time. And some of these departments like Wolcottville, I was in there in the 1990s and they have been trying that long to get the referendum passed for LOSAP because this wasn't done universally throughout New York State.

Supervisor Annable: So, the reality is we have somewhere between 15 and 20 years to accumulate that before it would be paid out.

Ryan Griffith: Let's say I am 64 right now and I have 5 years of past service and I have a good year next year. When I turn 65 with six years you would start paying me out monthly. Our calculations will account for all that – how much money is coming in and how much will be going out. You could start paying out as early as 2025.

Councilman Grant: Erie County fire departments get paid so much money that they can take 10% of what the town gives them for this retirement. In Niagara County, if they get \$300,000 a year to work with that it a lot. In Erie County they are getting over a million dollars a year in tax dollars. If they took a portion out of the tax dollars and put it into this retirement thing both sides are gaining on it.

Ryan Griffith: I believe that in both cases regardless of what your tax base is, you would go to referendum for the amount of the LOSAP so you could argue that the increase would be about

the same. If you are going to increase this by \$2 per taxpayer, I would agree that hits a little harder in Niagara County than it does in Erie County.

Supervisor Annable: If they did a referendum in Hartland for our local fire company, and the referendum turns it down, it is still possible that Gasport and Middleport could have it. So, we would be paying for a portion but not for all in the town.

Ryan Griffith: If you go to referendum to sponsor Hartland and Royalton goes to sponsor those others you wouldn't be paying for anything. It would be unfortunate that Hartland VFC wouldn't get the LOSAP. The way to avoid that would be to get the attorneys together and say we don't want to see that scenario and try to go in a joint manner to make sure either all of them get it or none of them do.

Supervisor Annable: Unless anyone has any other questions, I will let you guys go and we will get with you to see what those numbers would look like and that will give us an idea of where we can head with it. We appreciate your time and information. Royalton's fear is they are ready to go and now you throw Hartland in the mix and Hartland residents vote no, it messes their town up even if they vote yes.

Councilman Hill: Can they consolidate all of that so that it is all one vote, almost like a federal vote?

Supervisor Annable: That is a good question for the attorneys.

Councilman Reed: Say it does go that way, what if Royalton's fire company covers the next guy a little bit south of them. Can one vote cover the whole state?

Supervisor Annable: It is going to be very expensive. I'll talk to the attorneys some more and get you some info on it and see where we want to go from there.

Councilman Grant: The next question that needs to be answered is how many members are there that would qualify for that? I could see if Hartland has 20 active firemen right now, they could have 40 or 50 once this gets going.

Supervisor Annable: Right because it is incentive.

Councilman Hill: How do you fund it?

Supervisor Annable: Whatever the dollar amount comes out to be, has to be a line item on taxes.

Councilman Grant: They have it as a line item in Snyder and with all of the housing developments they get over a million dollars a year in their budget to play with.

Supervisor Annable: You would have to drop your general fire district tax down and add this line-item in.

Councilman Grant: My point is you can manipulate it.

Supervisor Annable: You can but our problem is that we just manipulated it last year, for this year, higher because of the worker's comp expenditure. In a couple years that will go away, and that money may be able to offset the increase. Then we can reduce that rate and put it towards the retirement. That is a discussion to have with the fire company as well.

Dave Snyder: Does the fire company understand this program?

Supervisor Annable: They do. Two years ago, we had this discussion and I had to know more about the program, and it never went beyond that discussion point. I have talked to Bryan, and he does know how it works. I know that they will be driving to get it if Royalton does. The problem is it is a sort time period for us to figure out. They want it on referendum for September so they can start. This program has to go January to December. It can't start in February. So, if it doesn't get done this year it won't get done until the following year. That is not such a huge problem for us, but Royalton wants to get it done now. I will get some more information and we can look at numbers down the road.

LOYAL Football

Supervisor Annable: LOYAL football plays football in the park and they want to have a fun day in the park with a chicken barbecue and some board games and a movie. I talked to our attorney, and he thought it would be a good idea to have a brief agreement to show that they are insured and the scope of the day just so we are covered. I will need a motion to approve that.

Councilman Huntington: They have their own insurance.

Supervisor Annable: They do, and we are named on it.

RESOLUTION 74-2023

MOTION by Councilman Huntington, seconded by Councilman Hill to accept the agreement between LOYAL football and the Town of Hartland for a one-day event in the Town of Hartland park.

Ayes: Annable, Huntington, Hill, Grant, Reed

Nays: 0

ADOPTED

Solar Fire Training

Supervisor Annable: Also, we are going to the solar farm in Canada tomorrow and I offered it to the fire company and Bryan Ames is the only one going. This way he will get an opportunity to talk to the fire department up there, but I would like the town to cover his hotel room and mileage.

RESOLUTION 75-2023

MOTION by Councilman Hill, seconded by Councilman Reed to authorize payment for Hartland VFC Chief Bryan Ames's hotel room and mileage to fire training regarding solar.

Ayes: Annable, Huntington, Hill, Grant, Reed

Nays: 0

ADOPTED

RESOLUTION 76-2023

MOTION by Councilman Huntington, seconded by Councilman Hill that since there is no further business to come before the board, the meeting be adjourned at 10:26 a.m.

Ayes: Annable, Huntington, Hill, Grant, Reed

Nays: 0

ADOPTED

Respectfully submitted:



Rachel M. Kushner

Town Clerk

Next scheduled regular meeting will be July 13, 2023 at 7 p.m.