

Work session of the Town Board of the Town of Clarence was held Wednesday, May 6, 2015 at the Clarence Town Hall, One Town Place, Clarence, New York.

Supervisor David Hartzell called the meeting to order at 9:03 a.m. Members of the Town Board present were Councilmembers Robert Geiger, Peter DiCostanzo, Patrick Casilio, Bernard Kolber and Supervisor Hartzell. Also present was Highway Supt. James Dussing, Town Attorney Lawrence Meckler, Director of Finance Pamela Cuvillo, Amherst Supervisor Barry Weinstein and Amherst Councilman Steven Sanders.

Joseph Floss, Floss Insurance Agency and Kathy Sibol, VFIS

Joseph Floss said they meet with the Town Board annually to go over the LOSAP program. He introduced Kathy Sibol from VFIS who is also here each year.

Kathy Sibol said she will review the results of the 2015 Actuary Evaluation Report for Swormville Fire Company, Harris Hill Fire Company, Clarence Center Fire Company and East Amherst Fire Department. They all receive the same general benefits with slightly different specifications. Benefits include a death benefit, disability benefit and entitlement benefit based on the number of years in the program.

Ms. Sibol said their job is to recommend how much money the town needs to put away to fund the benefits to the members. They use the actuarial assumptions to recommend a deposit. It is how they project what they think is going to happen. We have been trending to be more conservative. There are currently two different sets of assumptions being used by the actuary. The Town uses a projected funding method which targets sufficient funding levels as each participant reaches entitlement age. This is important to monitor as you want to see improvement each year.

Ms. Sibol said most of these ratios are improving year to year, even though the Town is incrementing the assumptions to more conservative positioning for a number of years. In another year or two each of the plans will reach that threshold. Consideration should be given to whether or not to go back to individual annuities. It will help them on how to target any recommendations.

The Town's investment vehicle is a no risk investment at 3%. There is a cost to buy individual annuities. The Town needs to weigh out the transferred risk to the value added. The choices are to purchase annuities with a plan for liability risk or retain the liability within the plan and pay the monthly benefits from the investment account. You pay the monthly checks without any charge. It is all part of the contract features.

The actuary is recommending that the plan is 70% funded after annuity purchase. Ms. Sibol encourages the Town to look at each of the plans. They looked at the approximate costs of the annuities. It has to be decided if you want to use annuities in the future or not, and instruct them to continue on trend and we will get back to the practice of purchasing them once the funding ratio is achieved. Once a member reaches benefit age, VFIS sends a packet with a choice of paying the retirement benefit from the investment fund or purchase an annuity. VFIS does all of the administration based on instruction from the Town.

Ms. Sibol said there is a little way to go to bring the ratio levels up. She just wants to make the Town aware of the choices they can make.

There are three things that can change costs, changes in the rosters, plan specifications and changes to actuarial assumptions. It is a combination of activities that happen.

Councilman Kolber said there are changes happening here.

Councilman Casilio said East Amherst dropped the retirement age to 55 and you can see they are coming back to a better level.

Joseph Floss said they also had to go retrospective which took more time.

Kathy Sibol said specific things have to happen to cause the changes such as roster, overpayment, late payment, etc. For example, Swormville is on schedule to pay off one of the bases of amortization and that will cause a drop in cost. Each of the plans are on target with their specifications.

Joseph Floss said the plans for East Amherst, Harris Hill and Swormville were initiated in 1991 and they took Clarence Center over in about 1995 from another vendor. They had to reduce the cost as much as possible and the life insurance is at the minimum. VFIS does not require life insurance and do also offer term life insurance.

Councilman Casilio asked what the interest rate was. If someone else is only making 1%, is VFIS eating the costs?

Joseph Floss said it is at 3% guarantee with no penalties.

Kathy Sibol added that the funds are invested in a general asset account and comingled in relatively conservative investments.

There is also a group term insurance available for the LOSAP program. There are certain advantages to each type. She would provide the Board with this information if they would like to review and compare to what they have. Mr. Floss added that the interest would be to lower the

cost of the plan. The Town has a defined benefit plan verses a defined contribution. There is a promise to pay for life. It was mentioned to buy an annuity which is taking a lump sum to purchase and move the liability out of the town's fiduciary responsibility to the insurance company. There is also term, which if a person dies after collecting for a year the spouse would collect for nine more years.

Supervisor Hartzell asked if we changed, how much would the cost decrease.

Mr. Floss said they do not know, but they could run the comparison.

Kathy Sibol said they are stepping back and looking at structure. The firefighters could possibly get a better benefit. It is still a good structure that was chosen because of the credibility feature. The members could assume ownership of their policy if they stepped away. The premiums remain level until entitlement age. They have found that many people are not using it. There is no right or wrong, just options.

In answer to Councilman DiCostanzo's question, Kathy said the plan gives a guarantee that at entitlement age the monthly benefits you will be getting is for life with a minimum of ten years. They would do an actuary evaluation to determine a present value.

Ms. Sibol said most important to note regarding the investment products is the security there. It is a guarantee of the principal at a minimum rate of return.

Ms. Sibol referred to Keith Brandstedter, president of Glatfelter Specialty Benefits. He is working on a project that they hope to make available soon. They are moving in the direction, that should the Town be interested, to possibly put a portion of the funds into an actively managed portfolio. It will be an option available.

Joseph Floss said they talked about this last year and all the boards through the years said they must treat the funds as tax payer dollars that they are and did not want to take a risk with it. They will comply with what the Town chooses.

Keith Brandstedter said at VFIS they have a stable anchor of the guaranteed principal. They are partnering with a third party to create three sleeves of risk and come up with some actuarial value. In theory it should provide better returns over time but still have a large portion of the guaranteed funds.

Town Attorney Lawrence Meckler said presently the floor is 3%. If there was any risk portfolio, could there also be a floor on that where there could be no loss of funds.

Mr. Brandstedter said it would be purely market driven with no floor. You have 75% of the assets or more with 3% guarantee. In theory, that provides a good anchor. The exposure to the rest could go to zero. They want to be flexible as they can and as plans get larger, the funding ratio dictates that you can take some risk.

Kathy Sibol said the funds in the anchor is what is going to be important. You would still have the features. It is like having a checkbook that will never earn less than 3%. You can still issue benefits from the investment account versus individual annuity. You keep the bulk of the money in that account.

Mr. Floss said there is a lot happening behind the scenes that the Board as the fiduciary is not aware of. The Town only hears about it if someone is unhappy. They work hard to make the process run smooth between VFIS and their local office.

Mr. Brandstedter said if the Town is interested in looking at this, they will come back when it is ready.

Kathy Sibol said the group annuity investment is 100% principal guaranteed. The current rate of return is 3%, which is net of expenses, fees and charges. If you move into the active investment world, there are management fees and other costs incurred. The group annuity charges no fees for investment activity such as deposits, withdrawals and distribution. There is a financial statement distributed and it will show that there are no charges. Looking at the investment history, the rates have decreased over the years due to the market.

Ms. Sibol said going with the active investment management there is a potential for a higher rate of return. Although, you have to consider charges, fees and market risk when evaluating the potential result. There is increased fiduciary oversight and the results lie with the Town. You have to make sure to reset or rebalance where you are holding your money. Referendums, budget constraints, etc. can affect the assets. This may also cause fluctuation in the annual recommended deposit. It is permissible, but this volatility has a real effect on the status of the plan.

Ms. Sibol said VFIS is committed to service with local representation and assistance from Floss Agency. All plan activity is funneled through their office. They have a passive investment service with no fees or charges. They also take care of benefit distribution, banking, tax reporting, and document preparation as part of the annual service fee.

Joseph Floss said some companies do charge separate fees for each service.

Ms. Sibol said there is a small commission on the investment balance, individual annuities and life insurance. It is part of the way they earn their money. The inclusion of administrative and actuarial services are in one simply-stated annual fee. She said if you look around, they are extremely reasonable. The total fees for the four plans in 2015 is \$10,404. We have a reduced rate because of the multiple plans.

Joseph Floss said there was a report issued by the State Comptroller' Office that said you earn the 25 points in a category. It makes it easier to earn LOSAP points. He has put out a notice to the four fire departments that this is how they should interpret it. He has not heard any complaints.

Councilman Casilio said the other issue coming is that some may want to expand the program from 30 years to 35.

Joseph Floss said in their opinion it would require a referendum.

Kathy Sibol said it will change your projections if you change the plan. Any amendment to the plan requires a mandatory referendum.

Councilman Casilio said 30 years in the system is 30 years and you cannot discriminate about age.

Joseph Floss said East Amherst is going to ask to extend the years you can accrue to 35 or 40.

Kathy said they can run cost figures for that upon request.

Councilman Casilio said he is a member of Clarence Fire District No. 1 and they are not in this plan.

Ms. Sibol said if you are considering increasing the maximum years of service, do not wait until you are there. The date of an amendment is the point you start to accrue.

Town Attorney Meckler said we should start running the numbers so we know what we would be looking at.

Mr. Floss said he encourages the Town to do that. He would like the directive to run the numbers. East Amherst has six new members coming in and he tells them to learn about the program.

Kathy Sibol said she would start with one, at no charge, to see what the numbers look like. She also suggested that Swormville will be dropping next year, but if the Town is comfortable with the budget you should hold it as is. East Amherst is at a 63% funding status and are improving their assumption next year. By keeping a level budget, it will allow us to improve the assumptions. It will improve the funding ratios.

Joseph Floss said there is a mandatory yearly physical requirement in East Amherst.

He believes that the days of members serving 40 or 50 years are coming to an end. The last group of people serving 30 are approaching entitlement age. If you raise it to 40 years, he does not think you will see many hit in the future. It is important right now.

Supervisor Weinstein from Amherst said his Town Board has directed that they look into an inter-municipal agreement for LOSAP.

Supervisor Hartzell said we will work it out.

Council & Department Reports

Supervisor Hartzell said he had no report for this meeting.

Councilman Kolber had nothing to report.

Councilman DiCostanzo announced that anyone interested in lacrosse, the Clarence varsity team is playing Akron on Friday night here. It will be a great game to watch. In conjunction with the game, they are going to raise funds for Wounded Warriors.

Councilman Geiger said he met with Town Attorney Meckler, Dawn Kinney and Chip Trapper to go over some rule changes for the Youth Bureau and Recreation Department.

Highway Supt. James Dussing gave a report on his department. They have removed all of the plows and are getting ready for asphalt. They have been patching bad spots on the roads and starting to prep for resurfacing. They will be working in the "Little Gardens" area, The Fairways, Hunt Club and a few others. They plan on widening Kraus to 24' depending on the phone poles.

There have been complaints about all of the people driving their kids to school, but they are public roads. He is trying to rehabilitate Kraus to make it safer than it is. It will be a two-year project from Main to Greiner. He will send out a notification to the residents assuring them that there will not be a four-lane highway.

Mr. Dussing said the new CAT roller arrived yesterday. They also purchased a used garbage truck from the Village of Monticello and got a very good deal. It is in great shape, but was too large for the roads in their village. He is also going to auction to try and replace a truck they lost over the winter.

Town Attorney Lawrence Meckler said Supervisor Hartzell asked him to take over chairing the rest of the meeting.

(Supervisor Hartzell left the meeting at 10:15 a.m.)

Councilman Casilio asked why he did not tell the rest of the Board that he was leaving.

Pamela Cuvillo, Director of Finance asked if anyone had questions regarding the refunding.

Mr. Meckler said after the last meeting he discussed the cost reduction plan option with the County with Pam. Some concerns were raised about the County having enough savings and it would put us in a bad spot. The County would need \$6.4 million and they had over \$16 million without hearing from all of the towns yet. They felt comfortable going in with the County on this reduction plan. They submitted the information on the sewer district savings and think it will work out fine.

Clarence Hollow Association – Jean O’Connell

Councilman Casilio said this meeting is based on what the Supervisor has told you and he is not here now.

Councilman Kolber said one of the principals of the meeting is not here.

Jean O’Connell said she took over as chairman of the Hollow Association in 2012. She was the first director at the senior center and ran a not-for-profit for five years. She also deals with many not-for-profits in her current business. She understands that they are not and this is a business. She began looking at the books and found they did not have insurance, they were paying for an office and then found this \$4,000. She asked the other members what it was about. They said they gave it to the Town to buy cameras for the bike path after Joan Diver was killed.

She brought it up to her Board and they decided since nothing was done, they should ask for the money back to do something for the Hollow. They sent a letter to the Town in August of 2013 to make the request. She had a conversation with the Supervisor and he said Councilman Casilio was working on it, so they rescinded the letter the next month. They said they would give until January of 2014 to put it up. They brought it up at their January 2015 meeting and she sent another letter.

Jean said she saw Supervisor Hartzell at the Association of Towns meeting in New York and asked when they were going to get their check. He said he thought it was in the mail and did she talk to Pam. She went back into her minutes that documented that they donated the money to the Town for a camera at the Farmer’s Market. It has not happened, so they want this money back.

Councilman Casilio said, for the record, the letter sent from the Hollow Association Don Boyd says he is giving \$4,000 for the bike trail.

Town Attorney Lawrence Meckler said he looked into this. There was a \$4,000 check sent to the Town from funds that were raised at the WW&S fundraisers held in 2007 and 2008. When the check was sent to the Town it specifically said the donation be applied to the installation of bike path surveillance in the vicinity of the Clarence Hollow Farmer’s Market. The money was sent to the Town for a specific purpose and deposited in the Town’s account for this purpose. He thinks the Town has an obligation to expend the funds for the specific purpose as the Board of the Hollow Association stipulated. The Town needs to do as directed and cannot just return the money for another purpose. His opinion is the Town Board does not have discretion to return the funds.

Councilman Casilio said the money has been spent on the camera which is in our possession. He did ask to connect to Wi-Fi in Jean O’Connell’s building but did not receive an answer. They could not reach out of the Hollow to engineering. They tested it with the fire company’s ladder to try and get a signal. Now we have the internet at the Youth Bureau to connect to. A lot of the work that has been done to date was from donated funds and thanks to Kathy Hallock who helped generate them. If he can get the Town Board to commit, he will move forward. He has three quotes for a different camera or go with the one we bought. The problem with the Cannon Zoom is it only looks at one direction and not another. The new quotes are for multiple cameras on a pole. They are meant as a deterrent. It is a recording system, not a monitoring system.

Councilman Casilio said everything that has been done so far is without a budget. A town-wide system would cost in the millions. We had a promise from Time Warner for free internet and that turned out to be \$200 a month. He looked into a pole at the market with a camera. The Farmers Market would like electric on the site. That is one of the decisions to make to have a pole

put in to take care of both. We have permission to use the poles anywhere in Town, and we would pay them for the service. We can have the Parks Department do some of the work. We were trying to get the communication portion for free.

Councilman Kolber said the problem has been trying to get it to work. Now technology has changed.

Town Attorney Meckler said we need to get a schedule to get this into place. We have the obligation.

Motion by Councilman Casilio, seconded by Councilman Geiger to acknowledge the obligation to install a surveillance camera in the vicinity of the Farmers Market, and the commitment to move forward as soon as possible to put it into place to satisfy the Clarence Hollow Association and the Town of Clarence. On the question, Councilman Casilio said we first have to identify the underground utilities and have the Parks Department start working on it. He will bring the final costs to the Town Board. He added that this is to communicate up to the Youth Bureau which was not available to us when this project started. Councilman Kolber said the goal should be to have it installed by the end of the summer. Councilman Casilio said he will call the Parks Department after this meeting and ask them to stake out the utilities. Upon roll call – Ayes: Councilmembers Geiger, DiCostanzo, Casilio and Kolber; Noes: None. Absent: Supervisor Hartzell. Motion carried.

Town Engineer Tim Lavocat said we need to determine exactly where our property is. We would have to get an easement to place it on private property.

Councilman Casilio said he would prefer to put it on the Town's bike path property.

Jean O'Connell said the property owner wanted to sell the property to the Town several years ago and they would not do it. She wanted to have a concerts there. She is willing to go back to the owner. They would like to see action that is all. She hopes to see it by the end of the summer.

Tim Lavocat will check into the property. The problem is there are not pins out in the field. He will work with Larry and figure it out.

Town Engineer Tim Lavocat said he has been receiving complaints about sidewalk maintenance problems on Main Street. The project may not go through this year. We are going to have to let people know that they are going to have to make some interim repairs so they are safe until the project is done. The project could be two years out. There are a lot of issues with the State DOT requirements. They gave us the grant so we have to do it to their standards.

Town Attorney Meckler said when you sign the grant agreements you are committed to their requirements.

Mr. Lavocat said we opened bids for the Parks projects and they are still coming in way over bid. It is basically \$266 square feet for a pole barn addition. He has some ideas to run by Jim Burkard and he wants to talk to the low bidder. The bid figures are good for 60 days. We could put the pole barn addition on hold and do the bathrooms by omitting some items. It is a high class facility that we could tone down.

Councilman Casilio asked Mr. Dussing if Parks could store some equipment in one of his buildings for a year.

Mr. Dussing said he will look at it.

Councilman Kolber said maybe we could build the shell of the building and finish it off over the winter.

Councilman Casilio is trying to think of other options and thought consideration could be made for sharing the construction manager on another job.

Mr. Lavocat said they need to put a foundation in and he wants to talk to the low bidder and share some ideas on getting it back into budget. It definitely needs further discussion.

Deputy Supervisor Lawrence Meckler adjourned the meeting at 11:15 a.m.

Nancy C. Metzger
Town Clerk

Motion by Councilman Casilio, seconded by Councilman Kolber to enter into an Executive Session to discuss an item of attorney/client privilege. Upon roll call – Ayes: All; Noes: None. Absent: Supervisor Hartzell. Motion carried.