The Board of Selectmen met in Executive Session on December 13, 2011 in the Tisbury Town Hall.

Present: Geoghan E. Coogan, Chairman, Tristan R. Israel, Jeffrey C. Kristal, Clerk; John R. Bugbee, Town Administrator and Aase M. Jones, Assistant to the Town Administrator.

Motion: To go into Executive Session to discuss strategy with respect to Contract Negotiations, Collective Bargaining or Litigation, if an Open Meeting may have a detrimental effect on the government’s bargaining or litigation position, under MGL, Chapter 30A, Section 21(a), not to Reconvene in Open Session. Seconded.

Voting: Mr. Israel: Yes; Mr. Coogan: Yes; Mr. Kristal: Yes.

Convened in Executive Session: 7:25 p.m. M/s/c.

Tashmoo Overlook Issue – Payette Willow Trees: was taken up for discussion first.

Selectman Kristal reported that he spoke with attorney Goldsmith, who represents the Payettes, regarding the Overlook issue, noting that the Payettes want a 20' “no cut zone” at the boundary line with the Town/Water Department property.

Mr. Coogan pointed out that the view easement area needs to be marked off.

Mr. Kristal pointed out that this needs to be on a plan to show that we agree not to cut within a certain area. Mr. Kristal stated further that he feels that the Townspeople do not want to do a so-called “taking”, which would require two appraisals.

Mr. Coogan reported that the document was sent to Mr. Payette as a view easement, and then noted that they (the Payettes) do not want any money.

Mr. Kristal noted that the Payettes do not want to have to pay to maintain the view by cutting trees in future years.

Mr. Kristal pointed out that the Payettes want a no-cut zone adjacent to the stone wall, in exchange for the Memorandum of Understanding that the view will be maintained in future years, but then asked how the Selectmen can grant a no-cut zone without a Town Meeting vote, which he stated that he thinks is necessary.

Town Administrator John Bugbee noted that the no-cut zone will be different from what the Town agrees to and what Ms. Patricia Carlet wants.

Mr. Coogan cautioned that the Town must be careful that the no-cut zone is shown on the survey to be on Town property, and then asked what the plan is at this point.

It was agreed that two appraisals will be needed for a view easement, and that Ms. Carlet will get those with the funding from the Community Preservation Committee.
The Selectmen further noted that a survey of the entire property has been completed for the Board of Selectmen by Schofield, Barbini & Hoehn, Inc.

Further discussion followed on the potential view easement surveys that would be done with CPC funding and whether the Town would proceed to cut down some trees on Town property. After some discussion the Selectmen agreed that cutting of any trees on Town property would wait until the property bounds survey has been completed, and that later a view survey could be done.

It was further agreed that the Water Commissioners need to be informed of these developments.

**Kelly Kershaw MCAD Case:** was discussed next. Mr. Bugbee reported that he has learned that the Kershaw MCAD case cannot be heard in Federal Court as proposed by the Board of Selectmen earlier, and will come back to the local District Superior Court, which could be some time within the next two years.

**Fire Chief’s Memo re: Salary Expectations:** presented to the Selectmen in their boxes at Town Hall, was discussed next. The undated memo is hereby incorporated by reference.

Mr. Kristal suggested getting a break-out of what Oak Bluffs does with regard to inspections, noting that it appears that in Oak Bluffs the Chief gets 80% of fees collected.

A discussion followed on the COLA Increases granted to Managerial and Professional employees since 2009: 1.25% & 1.70% in FY2009; 4.1% in FY2010; 0% in FY2011; and 1.70% in FY2012, which if applied to the Chief’s base salary ($52,604) would amount to an increase of $4,742.36.

A discussion followed on whether the Board would consider in addition to this a share of the inspection fees.

Mr. Bugbee reported that the Chief is moving towards a request for a 3-year personal services contract or an agreement that would give him COLA as for the employees under the Managerial and Professional Classification Plan.

Mr. Coogan suggested a personal service contract.

Town Administrator John Bugbee proposed a 3-year personal services contract that would take into effect what will happen within the next three years.

Mr. Kristal proposed that BC/BS health plan coverage be excluded from the contract.

Mr. Israel concurred, adding that the Chief does not need BC/BS coverage as he is covered under his wife’s plan and then suggested giving the Chief COLA and spelling out what he can expect within the next 3 years.
The Selectmen then discussed whether the Chief now gets a share of the inspection fees collected for inspections he performs for the Town.

Aase Jones pointed out that The Fire Chief does not collect a share of the inspections fees since he (in FY2009) was given a substantial increase in his annual stipend.

Mr. Bugbee noted that the Fire Chief would be under the purview of the Personnel Board, adding that with a Personal Services Contract he would not be covered by the Managerial and Professional Classification Plan.

A brief discussion followed on the current policy with regard to the Chief’s use of his personal vehicle, for which the Chief is now paid a fee (for use) based on the number of days in he is on duty.

Ogden Five-day Suspension: based on his role in the case, is being appealed, announced Mr. Bugbee.

A brief discussion followed on the repercussions from the July 23rd rape incident at for those who were present.

Mr. Kristal suggested that he would recommend restoring the back pay for the 5-day suspension if Officer Ogden would take anger management training and submit to a psychological evaluation.

Mr. Israel commented briefly about former Sgt. Fiske and the hearing held regarding his appeal.

Town Administrator John Bugbee reported that in a conversation with Officer Michael Gately, Mr. Gately had stated that he “wished things had gone differently”.

In conclusion Mr. Bugbee suggested that the Selectmen consider making Fiske an offer to control legal costs.

There being no further business to discuss in Executive Session, Motion for Adjournment: 8:00 p.m. M/s/c.

Respectfully submitted,

Geoghan E. Coogan, Chairman    Aase M. Jones, Asst. to Town Adm.

Tristan R. Israel    Jeffrey C. Kristal, Clerk