The Board of Selectmen met in Executive Session on February 24, 2009 in Tisbury Town Hall.

Present: Denys Wortman, Chairman; Tristan R. Israel; and Jeffrey C. Kristal, John R. Bugbee, Town Administrator and Aase M. Jones, Assistant to the Town Administrator.

Motion: To go into Executive Session for the purpose of discussing strategy with respect to contract negotiations, a request for release of Executive Session Minutes, potential litigation, and real estate negotiations, not to reconvene in Open Session. Seconded.

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

Convened in Executive Session: 5:55 p.m. M/s/c.

Solid Waste Issues – Negotiations to Re-join Refuse District: were addressed by Selectman Kristal, who is serving on the committee established to formulate a strategy for negotiations with the District, with Fred LaPiana, Oak Bluffs Selectman Greg Coogan, and Oak Bluffs Town Administrator Michael Dutton.

Mr. Kristal reported that the committee has met and agreed to keep the two sides of the issue separate, i.e., the political side and what he referred to as “the nuts and bolts” aspect.

He reported further that the title issues regarding the property may be moot as Mr. Gitlitz has title insurance, and the issues raised do not appear to present a problem at this time.

Mr. Israel stated that the Board needs to determine what Tisbury and Oak Bluffs want out of “the deal”.

Mr. Kristal reiterated the need to keep the practical and political aspects of the negotiations separate, adding that they can be addressed simultaneously, but separately.

Mr. Israel pointed out that the Tisbury-Oak Bluffs solid waste operation is solvent, makes money and functions well, while the Refuse District is not in the same situation.

Mr. Kristal noted that although the present Tisbury Oak Bluffs waste operation works well, we may outgrow the current site for waste operations, and need to look toward a future including working with the Refuse District.

Mr. Israel stated that he does not want to “beg for terms” from Edgartown.

Mr. Kristal stated that we must figure out how the voting will be done in a re-configured District.

Mr. Israel stated that he wants Tisbury and Oak Bluffs to be equal partners with Edgartown and Aquinnah, adding that it is not our job to subsidize the District. He concluded his comments by stating that the Selectmen will meet with the Oak Bluffs Selectmen to make sure that all are on the same page, while the subcommittee created begins negotiations.

Real Estate Issues: were brought up next by Selectman Israel who reported that he spoke with Building and Zoning Inspector Ken Barwick.
about the lien placed by the Land Bank on property in Oak Bluffs (Map 24-19, in which the Town of Tisbury has a partial (25%) interest.

Mr. Israel reported further that Mr. Barwick pointed out that as a municipality the Town does not pay real estate taxes, and should not be included in the lien placed on the property by Mr. Lengyel, Executive Director of the Land Bank. Mr. Israel noted that Mr. Barwick suggested that the Town could petition the Land Court for our share of the parcel, and could to that to get our share partitioned off from the rest of the parcel.

Mr. Kristal suggested sitting down with Mr. Jim Norton, who is one of the other owners listed in the lien. No action was taken.

Request for Release of Executive Session Minutes of October 2, 2008 (BOS Meeting w/Fire Chief and Assistants): was taken up next.

Mr. Israel reported that he has been approached by Firefighter Dan Feeney about release of the Executive Session Minutes from the meeting the Selectmen had with the Fire Chief and his two assistants, James Rogers and Tom Colligan on October 2, 2008.

Mr. Wortman reminded the Selectmen that they had promised those present at this session that the discussion would remain confidential. After some discussion,

Motion: That the Executive Session Minutes of October 2, 2008, when approved, not be released to the public due to the sensitivity of the subject matter. M/s/c.

Aase Jones pointed out that these minutes have never been formally approved by the Selectmen and that changes suggested by Selectman Israel have been incorporated into a revised document which the Selectmen need to review and approve.

Further discussion followed on whether the State Public Records Division would support the Board’s contention that this is an ongoing issue.

Mr. Kristal discussed a recent letter by Dan Feeney published in the local MV Times expressing opinions that Mr. Kristal felt might be described as “insubordinate”. He questioned whether Mr. Feeney, with an attitude such as shown in his recent letter to the Editor, could serve on the Tisbury Fire Department. Discussion followed.

Mr. Bugbee then stated that the Town will see if the Public records Division will accept our argument that this discussion focused on a strategy for re-appointments, and a policy for re-appointing individuals to positions, and that the Town does not want to show its hand regarding re-appointment policy.

Police Union – Patrolmen Contract Negotiations: was taken up next.

Mr. Israel pointed out that 3.5% COLA is on the table for the police officers, adding that he does not mind leaving it there. He continued by commenting on the so-called “index”, which he noted was at 4.1 in September, at .7 in December, and .5 in January.

Mr. Israel stated that he feels that 3.5% is very high, adding that in arbitration he will bring this up.
Mr. Bugbee pointed out that the Tisbury police officers claim that they are paid lower than officers in the other Island Towns, and added that once the 3.5% is on the table, the Town cannot go back and propose a lower figure than that, that would constitute an “unfair labor practice”.

Mr. Israel suggested asking our labor attorney if we could go lower than 3.5% now.

Mr. Bugbee pointed out that our Kopelman & Paige labor attorney, Michelle Randazzo, said we could not. Discussion followed.

Mr. Israel pointed out that there were no concessions or offers from the Police Union during the negotiations except that the union agreed on a stipend of $2,000 for the Detective (Mark Santon). He added that the Town increased the shift differential, longevity payments, and OIC. He reported that extra steps were also discussed, as requested by the union, but not agreed to.

Mr. Israel described the attitude of the police negotiators as “arrogant”, stating that the Union put nothing on the table. He concluded his comments by stating that at some point this will go to arbitration.

Personnel Issue in the Tisbury Police Department: was brought up by Selectman Kristal who inquired on the status of Scott Ogden who is currently [redacted], while the Chief conducts an Internal Investigation.

Mr. Bugbee reported that Chief Cashin has presented a report, which he has reviewed and sent to Town Counsel for further comment and review. He added that Town Counsel has several issues with the report which will be addressed next week.

Tashmoo Overlook – Payette Willow Trees Issue: was discussed next.

Mr. Wortman presented a set of photos of the area showing how the foliage of the willow trees on Payette’s property blocks the view from the Tashmoo Overlook. The Selectmen discussed the extent of the cutting back required to restore the view. Mr. Wortman asked if the view should include the horizon or the shoreline as well.

Sightlines, encroachment and future trimming required were discussed as well as the removal of some trees.

Mr. Bugbee pointed out that Town Counsel has stated that the Town needs two appraisals establishing the value of the view easement before the Town Meeting, in order to proceed with an Article on the Warrant to authorize the taking of a view easement.

There being no further business in Executive Session,

Motion for Adjournment: 6:50 p.m. M/s/c.

Respectfully submitted,

Denys Wortman, Chairman

Aase M. Jones, Asst. to Town Adm.

Tristan R. Israel

Jeffrey C. Kristal, Clerk