The Board of Selectmen met in Executive Session on Tuesday, April 2, 2013 in the Tisbury Town Hall.

Present: Tristan R. Israel, Chairman; Jeffrey C. Kristal and Jonathan V. Snyder, Clerk; John W. Grande, Town Administrator and Aase M. Jones, Assistant to the Town Administrator.

Also Present: Building and Zoning Inspector Ken Barwick.

Motion: To go into Executive Session to discuss strategy with respect to collective bargaining, litigation, contract negotiations and real estate acquisition negotiations, not to reconvene in Open Session. Seconded.

Voting on the Motion: Mr. Kristal: Yes; Mr. Israel: Yes; Mr. Snyder: Yes.

Convened in Executive Session: 7:40 p.m. M/s/c.

Tisbury v. Clarence A. Barnes, III Case: was discussed, with a focus on the recent court decision by Judge Foster, granting the Town a preliminary injunction against Mr. Barnes' operations at his property at 392 State Road at the intersection of High Point Lane, (Assessors Parcel # 22-A-12).

Mr. Barwick explained that the attorneys from Kopelman & Paige representing the Town, Messrs. Ugino and Doneski, moved the case to the Land Court where this injunction was won, which Mr. Barwick acknowledged that Mr. Barnes could appeal.

Mr. Barwick provided some background information about the property in question which was acquired by Mr. Barnes in January 2010, noting that Mr. Bernard, the former owner, kept no more than 5 vehicles on-site, and that Mr. Barnes recently had up to 12 vehicles stored on the property.

Mr. Barwick noted that the preliminary injunction granted by Judge Foster gives Mr. Barnes permission to store no more than 5 vehicles on the parcel. Mr. Snyder inquired if this in fact prohibits Mr. Barnes from using the property, which Mr. Barwick confirmed to be correct. Mr. Barnes also noted that the prior use of the property for vehicle storage was abandoned for over 3 years, which does no longer allow for vehicle storage on the property.

Mr. Barwick commented that he is satisfied with the judgment, which he described as "fair", allowing 5 vehicles to be stored on the property. He then informed the Selectmen that there is an additional criminal complaint filed against Mr. Barnes in Superior Court against Mr. Barnes, which Mr. Barnes wants heard in Dukes County Superior Court. Mr. Barwick informed the Selectman that he told Mr. Ugino that he is satisfied with the restrictions placed on Mr. Barnes by the injunction granted by Judge Foster in Land Court, adding that he would to drop the criminal case if Mr. Barnes would be willing to drop his appeal with the Zoning Board when the ZBA denied his application for a Special Permit on the property in question at High Point Lane.

Mr. Snyder commented that regardless, Mr. Barnes is still in violation of the ZBA decision.
Mr. Israel stated that although he feels certain that eventually Mr. Barnes will exceed the 5 vehicles the judge allowed to be stored on the property, but added that he wants to go along with Mr. Barwick's proposal to drop the criminal case if Mr. Barnes will drop his appeal of the ZBA decision.

Town Administrator Jay Grande inquired why the Town would not want to pursue this matter further.

Mr. Israel responded that it because the Town essentially has won (through the preliminary injunction) and pointed out that it would be very costly to pursue this matter further at this point. He clarified by adding that he is reluctant to go after Mr. Barnes beyond this injunction.

Mr. Israel then asked the Selectmen of they want to make this offer to Mr. Barnes, i.e., that we would drop the criminal complaint of Mr. Barnes will withdraw his appeal of the ZBA decision.

Mr. Kristal stated that he would like Mr. Barnes to declare where he resides, i.e., answer the question about his residency, adding that he does not trust Mr. Barnes.

Mr. Israel reiterated the Town has already won in the High Point Lane case.

Mr. Snyder acknowledged that he is ambivalent, but noted that he does not really want to spend any more money or time on the same issue, and concluded by stating that he would be willing to make this offer to Mr. Barnes and see what happens.

Mr. Kristal suggesting speaking with Town Counsel.

Mr. Barwick reported that Town Counsel has already said that it would be "OK" to do this.

Mr. Grande questioned if there is a downside to making this offer to Mr. Barnes.

Mr. Israel commented that by the Selectmen making this offer to Mr. Barnes it would show another side of the Board's position - i.e., that the Town is trying to accommodate Mr. Barnes.

After some discussion, Mr. Kristal agreed that if Town Counsel says it is all right to make this offer to Mr. Barnes, he would support doing so, as discussed.

Mr. Barwick stated that Mr. Ugino had said that to follow up on this would be like "beating a dead horse".

Mr. Barwick reported further that Mr. Barnes has an application before the Martha's Vineyard Commission to build a 3,500 sq. foot building on Evelyn Way, noting that the Town will have an opportunity to "get back to Mr. Barnes" when he comes to the Town for a building permit for that project.

Mr. Israel stated that he does not want Mr. Barnes to appear to be a "martyr".

Mr. Kristal reiterated his concern about Mr. Barnes' residency.
Mr. Israel then stated that he thinks it would be "overkill" to pursue this further and additionally would not be good PR.

After further discussion, the Board agreed that Messrs. Barwick and Grande would get together ASAP in a conference call to Mr. Ugino at Kopelman & Paige to discuss the option of dropping the criminal case against Mr. Barnes on terms as discussed.

Police Union Negotiations Update: was presented by Town Administrator Jay Grande, who reported that the two-year contract for FY2011 and FY2012 is ready to be signed. He added that there will be a separate side letter of agreement for the longevity issue which will only be retroactive to FY2013.

Mr. Grande commented that there is a good direction adding that the team has tweaked the list of proposals.

Mr. Grande noted further that the cost of required EMT certification by all full-time officers is not universally supported, adding that all police officers are required to be certified as "first responders", and that reports indicate that the police officers rarely use their EMT skills.

Mr. Israel commented that it bothers him that the full-time officers already get a $2,500 stipend built into their base salary for having the EMT certification.

Mr. Grande reported that according to the rules agreed to for the negotiations, new items can still be put on the table for two more meetings, but noted that he wants the union to explain why they are asking for 4% - 4% - and 4% over the three-year contract.

A brief discussion followed on the fact that several years ago the $2,500 EMT stipend which was paid separately to the members, was made part of the base salary.

Kelly Kershaw Update: was provided next by Town Administrator Jay Grande who reported that a letter was sent out to Ms. Kershaw today reminding her of her obligation to report regularly to the Police Chief on her medical status.

Mr. Israel inquired how long this can go on and a discussion followed on the need to get her cleared to come back to work so that the Town can proceed with certain other necessary steps in this case.

Stop & Shop Project: was taken up next. The issue of a potential easement, the scope of the project and its impact on the Town and mitigation requests that the Town could consider and make part of the permitting process, were discussed.

Mr. Israel noted that Geoghan Coogan who is acting as the local attorney for the applicant, also has some ideas he wants to introduce and wants to meet with the Board, adding that the Town has not had a presentation by the Stop & Shop to date about the project, and suggested that the Town discuss the previously mentioned options in Executive Session prior to a formal meeting with the Stop & Shop.

Selectman Kristal concurred, noting that this should take place prior to a public presentation of the Stop & Shop.
Mr. Israel suggested that the Town could ask for another shuttle bus from the SSA to the Park & Ride Lot.

Mr. Grande inquired if the Town has an improvement plan for the downtown area.

Mr. Israel reiterated that mitigation is necessary from the Stop & Shop for the impact that this development will have on the Town, adding that he wants to retain the annual $10,000 "contribution" that the Stop & Shop now make to the Town for upkeep and maintenance of the Town's parking lot adjacent to the store, and then suggested that additional funds could be obtained from the applicant (the Stop & Shop) for public transportation costs and long-range planning as it relates to the rising water table and other issues.

Mr. Kristal urged being specific about asking for a given amount that would take care of various mitigation effects, increased traffic to be kept to manageable levels, with some unassigned funds set aside to match DPW applications for grants, etc.

Mr. Israel commented to Jay Grande that he "will be spending a lot of time on this project".

Luce Property at 14 Pine Street: was discussed next. It was noted that the property, within walking distance from the downtown area and adjacent to the present Superintendent's office, contains 5+ acres with a distinguished older colonial residence on the site.

Mr. Grande asked what the Selectmen plan to do with the property.

Mr. Israel responded that it could be a campus, a site for a new Town Hall, elderly housing, a location for additional WICKS for an expanded sewer collection system, or any number of other uses.

Mr. Kristal suggested that the present Superintendent's Office building could be razed, a new Senior center built on the property plus senior housing at the rear of the parcel, and then transform the current Senior Center into a Town Hall to house all Town departments and employees. He described the property as having "a lot of potential", and concluded his comments by stating that Dr. Weiss has told him that the Town can have the Superintendent's Office Building "for not too much".

Mr. Israel commented in conclusion that the Selectmen must have a plan of action and be pro-active when dealing with the Planning Board.

There being no further business in Executive Session,

Motion for Adjournment: 9:05 p.m. M/s/c.

Respectfully submitted,

Tristan R. Israel, Chairman Aase M. Jones, Asst. to Town Adm.

Jeffrey C. Kristal Jonathan V. Snyder, Clerk