The Tisbury Board of Selectmen met in Executive Session on May 19, 2009 in the Tisbury Town Hall.

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

Also Present: Officer Dan Hanavan.

Motion: To adjourn to Executive Session to discuss strategy with respect to collective bargaining, contract negotiations and real estate acquisition. Seconded.

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

Convoked in Executive Session: 6:45 p.m. M/s/c.

Police Department Status re: Chief Cashin and Appointment of Dan Hanavan as Interim Chief: was taken up for discussion first.

Selectmen Israel reported that he called all the patrolmen to inform them of Chief Cashin’s departure, inviting them all to a voluntary meeting at 4:00 p.m. Thursday afternoon, May 21, 2009 at the Police Department, when the Selectmen would speak to the officers about the current and future status of the Department. Mr. Israel reported that he left messages for some officers inviting them to the meeting where attendance would be voluntary, adding that three of them never called him back.

Mr. Hanavan pointed out that officers Gately and Ogden and Sgt. Fiske would be at the 3(A) Investigative Hearing at the Joint Labor Management Committee Office in Boston on May 21st.

Mr. Israel noted that Messrs. Ogden, Fiske and Gately were the officers that never returned his call, adding further that he is distraught that they did not call him back which he further described as part of the problem within the (police) department. Mr. Israel continued by stating that he was informed that one of these officers did not want to be in the station when Chief Cashin was there.

Mr. Israel stated further that he would like to have Robert Wasserman present at the 4:00 p.m. Thursday meeting at the Police Station as a resource for the Selectmen. He then noted that a press release will be issued on Wednesday morning about the appointment of Daniel Hanavan as Interim Chief of Police. Mr. Israel then read into the record the public announcement to be made the following day. The press release is hereby incorporated by reference.

Mr. Hanavan pointed out that the year listed (1989) as his employment date is incorrect as he was hired in 1988. This will be corrected by Mr. Bugbee before the announcement is made.

Mr. Israel continued his comments regarding his effort to contact the officers in the department about the Thursday afternoon meeting, noting that one officer who called him back was Kelly Kershaw, who mentioned that she was “distressed” that Sgt. Stobie was back, working the same shift as she was. Mr. Israel noted that he has asked Town Administrator John Bugbee to reach out to Officer Kershaw.
on this issue, adding that the Board has to deal with the issue of her claims of discrimination. Mr. Israel stressed the importance of making sure that Sgt. Stobie and Officer Kershaw do not work overlapping shifts, adding that the Board of Selectmen has to show that definitive steps are being taken to correct the schedule issue to prevent additional concerns being raised.

Mr. Israel noted that he has not been able to find out what the issue was in one incident regarding Tim Stobie.

Town Administrator John Bugbee reported that he found out that a person was arrested over the West Tisbury Town line, and that false imprisonment and other charges are involved. He added that the planned meeting on Thursday afternoon should focus on Cashin and what happened, suggesting that the Board will hold a kind of "seminar" on what is conduct unbecoming of an officer.

Mr. Israel suggested that Selectman Kristal speak with the State Police and others to find out what their policies and procedures are and whether they could be used in the Tisbury Police Department. He commented further that there has to be a penalty for starting rumors within the Tisbury Police Department.

Mr. Israel reiterated that he is "furious" that certain officers did not return his call, noting that he reached out to them, adding that it cannot continue like this. Mr. Israel noted that with Ted Saulnier the reason he left was a salary dispute and some other "stuff", adding that the only thing Chief Saulnier was asked to do was to hold sensitivity training sessions for the department, which Mr. Saulnier did - reluctantly. Mr. Israel strongly denied that the Board of Selectmen had micromanaged the Police Department as charged by Chief Cashin, acknowledging that he knows nothing about law enforcement himself.

Mr. Israel concluded his comments by stating that he wants a cooperative environment with the Police Department, and stated to Dan Hanavan that he hopes that he (Hanavan) would disseminate that message to "the guys".

Selectmen Kristal then addressed what the agenda would be for the Thursday meeting with the Police Officers.

He suggested the following agenda items:

- Command structure. He stated that the Selectmen do not want calls from the officers.

- Role of the Selectmen in department operations. Mr. Kristal stated that it is not true that the Selectmen are not going to be involved, but noted that the Selectmen will work through Town Administrator John Bugbee. Mr. Israel stated that the Board will not micro-manage the department. As an example, Mr. Kristal stated that if a cop is seen at the Tattoo Parlor on Main Street for 2 hours, the Selectmen would call the Chief or one of the Sergeants.

- Wasserman will be used as a consultant/resource.

- Dan Hanavan as Interim Chief will be introduced.
- Quarterly meetings with the officers will be reinstated.
- Cooperation will be requested.

Selectman Coogan stated that he is new here, adding that he as well as the other Selectmen will depend a lot on Dan Hanavan during this time, and assured Officer Hanavan that he would have the full support of the Board in this transition period.

Mr. Israel continued to express his anger that his phone calls were not returned by three officers.

Mr. Kristal noted that there is a lot of anger “down there” (at the police station) at this time. A discussion followed on how to bridge the gulf of distrust that exists.

Mr. Israel stated that if the officers have legitimate concerns the Board will always listen.

Mr. Kristal stated that he does not want the officers to go to the press with any issues they may have.

Mr. Israel commented that Chief Cashin is a nice man, about whom there were vicious rumors, some of which he stated he knew came from within the Town Hall, adding that a certain part of him wants to investigate the origin of these rumors.

Mr. Kristal stated that he would like there to be ramifications for conduct such as spreading rumors.

Mr. Israel commented that when former Police Chief John McCarthy began e-mailing the officers, instead of talking with them, that was the last straw.

Mr. Coogan then asked Dan Hanavan how he plans to move forward.

Mr. Hanavan responded by stating that after the meeting with the Selectmen and the staff he would like to set up a meeting with himself and the three sergeants to see what they have to say, then later speak with the entire department’s personnel.

Mr. Coogan next inquired about Mr. Hanavan’s future plans.

Mr. Hanavan responded that this time would be a good trial period, adding that he would see how things work out until mid-October.

Town Administrator John Bugbee assured Officer Hanavan that he and the Selectmen would not leave him “all alone down there”, adding that he would work closely with him on issues and noted that there is a lot of “stuff” going on within the department right now.

Mr. Israel concurred noting that the Board would also have Robert Wasserman, who gave the Town a roadmap out of the McCarthy era, available as a resource. He agreed that some of the officers in the department are resentful.

Dan Hanavan stated that this is a minority of the officers, noting that he was part of the hiring process during the past few years and had participated in hiring the last 6 officers now on the department, adding that he does not expect a problem there.
Mr. Kristal commented that these officers (that are disgruntled) may be a minority (within the department), but they are more negative and vocal.

Mr. Israel reiterated that he respects Chief Cashin who he described as a very nice man, but added that Dan Hanavan had been his choice for the Chief the last time.

Dan Hanavan stated that he also likes John Cashin and had spoken with him earlier in the day.

In conclusion Mr. Israel cautioned Dan Hanavan to speak with the Selectmen before going public speaking to the press. Mr. Kristal commented that Mr. Hanavan probably noticed what happened to the last person who did that.

Mr. Bugbee reported that he has discussed these issues with Dan Hanavan and is clear on this.

Mr. Israel then asked Mr. Hanavan about Det. Santon and what he would do about that.

Mr. Hanavan commented that Det. Santon is a great investigator.

Mr. Israel pointed out that there is a link between the Town Hall and Det. Santon, suggested that some of the rumors that arose originated with Mark Santon and the Town Hall front office, but concluded by stating that the Town Administrator will deal with this issue.

Mr. Kristal asked if the Thursday afternoon session with the police department staff will be in Executive Session.

Mr. Bugbee responded that it probably would not (meet Executive Session criteria).

Mr. Israel stated that he would like to involve Dan Hanavan at the planned meeting, letting the officers know that Hanavan would have the full support of the Board of Selectmen, and requesting that the officers also support him.

Dan Hanavan pointed out that three of the full-time officers (Ogden, Gately and Fiske) will be away on Thursday, adding that Joe Ballotte is at the Police Academy, and then suggested perhaps another date for this meeting when more of the officers can be present, on a Monday or next Thursday.

Discussion followed on whether the planned Thursday afternoon voluntary attendance meeting should be postponed. The Selectmen agreed that the meeting would be taking place and that it should take no more than half an hour.

The Selectmen then voted to make the appointment of Dan Hanavan as Interim Chief effective Wednesday, May 20, 2009 at 5:00 p.m. through the week of Columbus Day, October 17th, 2009. M/s/c.

The Selectmen agreed that an announcement would be made at the planned meeting with the Police Department staff on Thursday, May 21, and that the Board would vote, in Open Session at the next
regularly scheduled Board meeting on June 2nd, the appointment of Dan Hanavan as Interim Chief until October 17th.

A brief discussion followed on the issue of what constitutes slander and whether gossip could be the basis for litigation. Mr. Bugbee will check with Kopelman & Paige on that.

Officer Hanavan left the meeting at 7:30 p.m.

Tisbury/Oak Bluffs Watcha Path Joint Land Purchase from Mr. Gitlitz for Solid Waste: was taken up next.

The Selectmen discussed the status of the Gitlitz land purchase which has run into a problem as it has been ascertained that Mr. Gitlitz does not have a clear title to the property.

Mr. Bugbee reported that our attorney, Kathleen O’Donnell of Kopelman & Paige, is preparing a letter to Mr. Gitlitz informing him that he has 30 days to clear the defective title or the “deal” is off.

Mr. Israel inquired what happens after 30 days.

Mr. Kristal suggested that we begin talking to Edgartown about other options.

Mr. Bugbee noted that if Mr. Gitlitz is unable to get a clear title to the property the deal is through, but we could request a partition of the land and a judge would appoint a conference group to determine if partitioning is the best solution.

Mr. Kristal suggested approaching Edgartown to see if Edgartown would agree to take the property by eminent domain. Mr. Israel asked if we are now talking to Edgartown.

Mr. Kristal responded - not yet, adding that we were trying to get the title issues cleared up first, which may not be happening. Discussion followed on how to proceed.

Mr. Kristal stated that the Town(s) would have to escrow the funds for the purchase. Further discussion followed on the Towns’ ability to convince Edgartown to take the property by eminent domain, and how as part of a new Refuse District we could negotiate with others to participate in the payment for the land.

Mr. Coogan suggested that if Gitlitz gets 50% of the heirs to agree to sell their shares to him, he would have some leverage in the negotiations.

Town Administrator John Bugbee pointed out that he has the agreement with Gitlitz and added that Gitlitz may have the right to opt out of the agreement.

Mr. Coogan pointed out that the Town(s) may walk away from this deal if it is not settled within 30 days, but added that if he is able to make deals with the heirs within 30 days, he can hold us to the contract.

Mr. Kristal pointed out that we need to check with Kathleen O’Donnell if the Refuse District has the ability to take land by eminent domain.
Separation Agreement with Chief Cashin: was taken up next.

Town Administrator John Bugbee reported that Chief Cashin has requested payment for 84 hours of so-called comp time. Mr. Bugbee reported having discussed this matter with Labor Counsel Michelle Randazzo who has reviewed his contract. Ms. Randazzo noted that the contract acknowledges the Police Chief’s status as an exempt employee, and does not recognize an obligation by the Town to pay for comp time. Mr. Bugbee concluded by suggesting that in the spirit of being able to close this agreement the Selectmen could consider talking about paying Cashin for the requested comp time.

Mr. Israel asked how much money is involved.

Mr. Bugbee responded that the Chief has 204 sick hours, (payable at 25% of his pay-rate), for a total of $2,267.46, plus 74 hours of accrued vacation and 12 hours holiday time for $3,823.56 with a total for vacation, holiday and sick-time buy-back of 6,091.00. He added that the Chief is also asking for compensation of $3,700 for 84 hours of comp time @ $44.46 (actually $3,734.64). It was noted that the terms of the contract also provides for 3 months of severance pay.

Mr. Bugbee added that Town Accountant Suzanne Kennedy said this would depend on whether there is enough money in the current (FY2009) budget to pay this amount.

Mr. Bugbee suggested that he tell Chief Cashin that we only have a certain amount of money available within the current budget and can only pay up to that amount – no more unless we go to the Finance & Advisory Committee with a Reserve Fund Transfer Request for the rest.

A brief discussion followed on the issues of rumors and innuendo about Chief Cashin that had been brought up during this time. Mr. Bugbee described Chief Cashin as “tight-lipped” about whether he would sue for defamation, and it was suggested that Mr. Cashin might have been advised by an attorney that a defamation suit was not likely to succeed.

Further discussion followed on what to do about Chief Cashin’s request for payment for 84 hours of comp-time. Mr. Kristal suggested that Mr. Cashin’s attorney might have told him that he is not entitled to comp time under the terms of his contract.

After some discussion, it was agreed that the Town Administrator would work to resolve the issue of comp-time with Chief Cashin.

There being no further business in Executive Session,

Motion for Adjournment: 7:55 p.m. M/s/c.

Respectfully submitted,

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

Jeffrey C. Kristal  Geoghan E. Coogan, Clerk