The Board of Selectmen met in Executive Session on June 16, 2009 in the Tisbury Senior Center.

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

Also Present: Officers Scott Ogden and Michael Gately, Police Union Steward; Sgt. Robert Fiske; Brian Maser, Town of Tisbury attorney and Officer Ogden's attorney Steven Pfaff.

Call to order: 4:00 p.m. by Chairman Tristan Israel.

Mr. Israel noted that the meeting is held to hear Step 2 of a grievance filed by Officer Ogden March 12, 2009, regarding his request for removal of the disciplinary letter of 2-12-2009 placed in his personnel file referring to an “Administrative Suspension”.

Mr. Israel then asked the grievant, Officer Ogden, if he wanted this grievance hearing in open or Executive Session.

Mr. Ogden responded that he would like the hearing to be held in Executive Session.

Mr. Israel then noted that the Board also wanted to discuss several other issues in Executive Session, following the grievance hearing, including contract negotiations, real estate acquisition, and potential litigation, to reconvene in Open Session at 5:30 p.m. He then asked for a motion from the Board to that effect.

Motion: That the Board of Selectmen go into Executive Session for the purpose of hearing a grievance at Step 2, to discuss strategy with regard to contract negotiations, real estate acquisition, and potential litigation, to reconvene in Open Session at 5:30 p.m.

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

Convened in Executive Session: 4:10 p.m. M/s/c.

Officer Scott Ogden Grievance – Step 2: was taken up first.

Chairman Israel noted that the group representing the Police Union and the grievant had left the room to caucus outside and that he and the attorneys for both sides were discussing settlement options.

Mr. Israel summarized the terms of the compromise settlement reached between the parties, Officer Ogden will

remain off the Task Force Team, and the Town’s attorney Brian Maser will work on a revised letter of reprimand to be placed in Officer Ogden’s personnel file to replace the one being removed.

After a brief discussion, Mr. Kristal made the following,

Motion: That the Board of Selectmen vote, that he will remain off the

BOS Executive Session Minutes – June 16, 2009
Page 1 of 4
Island-wide Drug Task Force and that the existing letter of reprimand be removed in his personnel file be removed and be replaced with a new letter of reprimand to be drafted by Town Counsel Brian Maser and that this will resolve the grievance. M/s/c.

Attorney Maser stated that he will prepare a new letter of reprimand for Officer Ogden’s personnel file to replace the current letter in his file.

At this point Attorneys Maser and Pfaff, Officers Ogden, Gately, and Fiske left.

Collective Bargaining Process (for General Union Contract): was taken up next.

Mr. Israel reported that the Finance & Advisory Committee has requested to be on the negotiating team for the new general union contract. He noted that when George Balco was a member of the FinCom he was also a member of the negotiating team. Mr. Israel commented that Mr. Balco acquiesced to many union demands without consulting with the other team members, and that he was not included in the negotiating team the following year.

Mr. Israel added that he does not want to codify the make-up of the negotiating team to have a representative of the Finance & Advisory Committee as part of the team, expressing some concern about who the potential candidate might be. He added that he would consider having Larry Gomez as an Ex Officio, non-voting, member of the negotiating team.

Selectman Jeff Kristal spoke about the possible make-up of the negotiating team, suggesting Bill Cini as a potential member, adding that if Tim McLean is on the team, the Town Accountant is not necessary. He concluded his comments by suggesting a negotiating team consisting of Finance Director/Treasurer Tim McLean, Town Administrator John Bugbee and himself.

Mr. Israel stated that he is not in favor of adding Bill Cini of the Personnel Board to the “team”, expressing some concern about “crossover” issues. He cited Suzanne Kennedy’s contributions to the Police Union negotiations, including a flow-chart showing how benefits and wages in Tisbury compare to those in other Towns.

Mr. Kristal suggested that such information could still be obtained even if she is not on the negotiating team.

Mr. Coogan expressed concern that the committee is too big, noting that he favors a negotiating team consisting of 3 members and an Ex Officio representative.

Motion: That a four-member negotiating committee be established consisting of Treasurer Tim McLean, Town Administrator John Bugbee, one Selectman (Jeff Kristal) and one Ex Officio member (Larry Gomez). M/s/c.

Motion: That the committee meet with DPW Director Fred LaPiana prior to being beginning of union negotiations. M/s/c.
Mr. Israel commented that the DPW Director can be available as a resource and requested that Town Administrator John Bugbee speak with Larry Gomez about reading and getting familiar with the current union contract.

Owen Little Way Beach Issues: were taken up next.

Mr. Israel spoke about the Planning Board’s position on the Owen Little Way Beach and asked if the Board wants to meet with the Vineyard Haven Yacht Club to have a discussion about use of the beach and a possible informal swap.

Selectman Kristal reported that he spoke with someone at the Yacht Club in February/March adding that at that time he was informed that this was not the right time for a discussion as the Yacht Club had too much on its plate at that time.

Mr. Kristal added that he feels this is a Planning Board issue, which he would like to stay as far away from as possible (as a Selectman). He suggested that the Board could write a letter to the Planning Board asking the Planning Board to contact the Yacht Club, provide the name of a contact person there, etc. He concluded his comments by stating that he feels that the Planning Board is making a “mountain out of a molehill”.

Mr. Israel suggested that the Planning Board be reminded that they cannot make any “deals” with the Yacht Club, and asked in conclusion: “What do we get out of this?”

Status of Petition to Land Court for partition of Darius Norton Land: was requested by Selectman Israel. Mr. Bugbee responded that this is being done through attorneys and is moving forward.

Tashmoo Overlook Issue – (Payette Willow Trees): was taken up next.

Mr. Israel noted that an evaluation of the value of the willow trees to the people that own them (the Payettes) is required to proceed with the taking of a view easement. He noted that the attorney wants two estimates of value. Mr. Bugbee will get the names of two people who are qualified to provide written estimates of the value of the trees to be removed.

A discussion followed on who will provide enforcement if the Conservation Commission makes a determination that the Wetlands Act was violated by the Payettes when they planted the willow trees in 1974, within the shoreline area, after the Wetlands Act was adopted.

Town Administrator John Bugbee pointed out that if the Conservation Commission makes a determination of a violation, the Tisbury Conservation Commission would then file a DEP Enforcement Order, which he added the Board of Selectmen cannot do.

Ted Saulnier v. Town of Tisbury and Health Agent Tom Pachico: was taken up next.

Mr. Israel requested a status report on the case filed by former Police Chief Ted Saulnier a few weeks ago.

Mr. Bugbee reported that the case was referred to Town Counsel and the Town’s liability insurance company.
Mr. Israel suggested that Town Administrator John Bugbee speak with Jim Pringle, Chairman of the Board of Health to suggest that this is not a Board of Selectmen issue, but concerns their employee, Health Agent Tom Pachico, who made public comments on a blog in the Martha's Vineyard Times. He suggested that the Board of Health should tackle this issue, not the Selectmen.

Status of Board of Selectmen v. Water Commissioners Legal Action: was addressed by Selectman Kristal who inquired why the Town has not yet withdrawn its suit against the Water Commissioners.

A discussion followed on the rationale for not dropping the case yet, in view of the current MCAD complaint filed by Water Systems Administrator Lois Norton. Mr. Bugbee stated that Town Counsel recommended against dropping the suit at this time.

Motion: (Mr. Kristal): That the Board of Selectmen withdraw the legal action against the Water Commissioners. Not seconded.

Further discussion followed on why the suit should not be dropped at this time. Mr. Bugbee cited Ms. Norton’s involvement in the lawsuit and her current MCAD complaint against the Town, which involves issues related to our suit against the Water Commissioners. According to Mr. Bugbee one of Ms. Norton’s demands in her legal action against the Town is that her name be removed from the Town’s suit against the Water Commissioners.

After some discussion, the Board agreed to defer action on withdrawing the lawsuit against the Water Commissioners until after July 1st.

Mr. Bugbee suggested keeping this legal action on the table until the Lois Norton MCAD case is settled.

Approval of Executive Session Minutes: January 13, 2009 and February 10, 2009, were approved as submitted. M/s/c. (Mr. Coogan abstaining).

At this point Mr. Bugbee asked if the Board wanted to approve the wage rate change for interim Police Chief Dan Hanavan. The Selectmen agreed that this would be addressed in Open Session. The Board also agreed that the Planning Board would be on the agenda for the next meeting (June 30th) for further discussion of Owen Little Way issues.

There being no further business in Executive Session,

Motion: to go out of Executive Session and reconvene in Open Session at 5:30 p.m. Seconded.

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

Adjourned: 4:55 p.m. M/s/c.

Respectfully submitted,

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

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Jeffrey C. Kristal       Geoghan E. Coogan, Clerk

BOS Executive Session Minutes - June 16, 2009
Page 4 of 4