The Board of Selectmen met in Executive Session on June 4, 2013 in the Tisbury Town Hall.

Present: Jeffrey C. Kristal, Chairman; Jonathan V. Snyder; and Tristan R. Israel Clerk; John W. Grande, 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, current and potential litigation, contract and real estate easement strategy, not to reconvene in Open Session. Seconded.

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

Convened in Executive Session: 6:20 p.m. M/s/c.

Telephone Consultation with Scott Ridley of Ridley Associates, Inc. Consultant re: CVEC Agreement for Phase II of Solar Array Project: was taken up next.

Mr. Israel noted that the Tisbury Board of Selectmen has several questions about the viability of the Town’s Phase II planned solar array project at the DPW and at the former Septage Lagoons property, and whether tying this property up for the next 20 years for a solar project that may not turn out to provide the best option for use of this Town land for the Town. He asked Mr. Ridley to comment on this.

Mr. Ridley referred to the report he had prepared dated May 28, 2013 which is hereby incorporated by reference, pointing out that the projected value for this project could not be better than this agreement with the Cape & Vineyard Electric Cooperative (CVEC). He noted that this project is much smaller than the Phase I project at the landfill with American Capital Alliance (ACE).

Mr. Ridley continued by stating that the Town on its own would have no guarantees, but with CVEC the organization would negotiate the contract and the Town would have more leverage.

Town Administrator Jay Grande raised questions about how this contract agreement with CVEC would work, noting that there is talk about a payment, but that it does not seem like this payment is coming to the Town, while CVEC is getting credits from NSTA, with the Town getting revenue of 8.7cents/kwh through the net metering agreement with CVEC. It was noted that as credits w/NSTAR go up, the Town would receive more revenue.

Mr. Grande asked if there is a direct payment to the Town or a credit on the electric bill.

Mr. Ridley noted that it will be a net credit on the bill, noting the NSTAR has the power to give direct payment or a credit towards usage on the bill. It was noted that the Energy Management Service Agreement is with CVEC and Broadway, the project developer, with the right for CVEC to exercise buy-out provisions in the agreement in certain years – 7, 10, 12, 15 and 20.

Mr. Israel inquired what would happen to the Town if CVEC bought out at 7 years.
Mr. Ridley reminded the Selectmen that after 20 years there is a so-called “sunset clause”, under which CVEC is obligated to buy out the equipment (solar arrays) and in turn sell them to the Town.

Other specific provisions in the Agreement were also discussed.

Mr. Ridley pointed out that the contractor, Broadway, is required to put up funds to decommission the site after 20 years, with a letter of credit to be posted by the contractor as well for the 20 year period of the agreement with Broadway.

Mr. Israel inquired what the time-frame is for the company to begin fulfilling the terms of the agreement after it has been signed by the Board of Selectmen.

Mr. Ridley described that as a performance issue.

Mr. Israel pointed out that the Board is concerned what is happening with the Phase I solar array project at the landfill, since nothing is going on at that site yet.

Mr. Ridley suggested that if ACE does not yet have a connection agreement with NSTAR, that could be what is holding up the project.

Mr. Kristal inquired if after 7 years there could be a competitive process.

Mr. Snyder asked if CVEC did this – it would not affect the Town – correct? Mr. Ridley confirmed that to be so. Mr. Snyder then asked Mr. Ridley whether this is a good and reasonable agreement for the Town.

Mr. Ridley assured the Selectmen that it is.

A discussion followed on whether Broadway is taxed or not. It was noted that taxes will be paid, but that the rate is not known at this time.

The issue of whether there would be any tax revenue from the project was also discussed and it was established that there will not be any tax revenue from the project per se.

Mr. Ridley estimated the net value of the project over a 20-year period at $126,599.

The Selectmen thanked Mr. Ridley for the information provided and the phone conversation ended at 6:45 p.m.

Phase I Solar Array Project @ the Landfill: was discussed next.

The matter of time limits on initiating the construction process at the landfill was discussed, and it was noted that there is a 320-period during which construction must begin after the signing of the agreement with American Capital Energy, which was approved to be signed on June 28, 2011. The construction has not yet begun.

It was further noted that Town Counsel David Doneski does not recall any amendment to reflect a change in the starting date for the project construction.

Mr. Israel pointed out that only one amendment to the initial proposal has been discussed and approved, which addressed
anticipated financial gains to be earned by the Town, going from $60,000 to $45,000/year.

A discussion followed on what to do about the stalemate in the construction process for Phase I of the solar array project at the landfill. It was noted that Bill Straw of the Energy Committee had said that the Town could “pull the plug” on the project at any time and further comment followed noting that David Doneski is not willing to do that at this point without reviewing the documents for the project.

**Affordable Housing Opportunities**: were discussed next, with respect to the former Bridge Housing property on State Road, now under the ownership of Boston Capital Development Corporation.

Mr. Kristal stated that the Town must sit down with Boston Capital to discuss options for use of the property for affordable housing, perhaps as a home for the Center for Living. Mr. Israel noted that if the Town, in conjunction with Boston Capital, can develop the property with Boston Capital investing in the venture, for either of these purposes, the Town may gain some income. He urged considering all available options.

Mr. Kristal stated that the first step with regard to the bridge Housing property is talking with Boston Capital. The Board agreed and further discussed setting up a meeting with Boston Capital to talk about the Town’s interest in developing the former Bridge Housing property.

**Kelly Kershaw Case**: was discussed briefly next.

Mr. Israel speculated on whether she would seek unemployment and whether it would be approved.

Mr. Kristal stated that he is not in what he described as a “deal-cutting mood” with regard to Ms. Kershaw.

The Selectmen briefly discussed use of a video recording device in the police station.

Mr. Kristal noted that the Board needs to have a statement ready why she (Ms. Kershaw) is terminated, and then continued by speculating that there is a possibility that the story that the newspaper (MV Times) has, could be wrong.

Mr. Israel noted that what may come out is that there were two leaks from within the (police) department.

**Police Union (MASSCOP) Negotiations Update**: was provided next by Town Administrator Jay Grande.

**Also Present**: Finance Director Timothy W. McLean.

It was noted that the police negotiating team is citing the school department’s settlement of 2%, 2.5% and 3% over a 3-year contract period. The police union also claims that its base pay is lower than both Oak Bluffs and Edgartown and with regard to EMT required certification and stipend, now incorporated into base salary, feels that this is not adequate.
Mr. Grande asked if he could offer more of a percentage increase across the board than what is now under discussion.

Mr. McLean suggested that he thinks 2-2-2 would probably settle this contract, adding that the Town would probably have to do the same for the general union, adding that the only interest in the Managerial and Professional Classification Plan is whether these are fixed amounts.

Town Administrator Jay Grande pointed out that the Police Union is mostly interested in three basic issues: longevity, base salary and COLA, suggesting that they also want a simplified contract.

Mr. Grande suggested an offer of 2% - 1.7% - and 2% for the police union, over a 3-year period.

He then suggested for the general union $1.7% - 2% - and 2%, also over a 3-year contract period, and stated that the Board of Selectmen needs to make a decision on this now.

**EMT Police Union Stipend:** was discussed next.

Mr. McLean pointed out that the police union members say that they now have to do the EMT training on the computer at the station, and they also think that there is no compensation for the EMT certification, which is not correct, as the Town pays an additional $2,500/year, incorporated into the wages paid to police officers.

Mr. McLean noted that the officers want the EMT requirement removed from the Union Contract, but are not willing to have their wages reduced by the amount that the Town is paying for the EMT certification. Discussion followed on the fact that on-line training is now available for EMT certification and required maintenance of the certification. Mr. McLean reiterated that the $2,500 was added to the officers’ base pay for the EMT certification several years ago.

The Selectmen noted that they are not inclined to waive or do away with the EMT certification as part of the employment requirements for Tisbury officers.

Town Administrator Jay Grande brought up another approach by suggesting that the police union accept one year of a contract at 0% and then eliminate the EMT requirement, as follows: 0% - 1.7% - 2%, with no EMT certification required.

After a brief discussion the Selectmen agreed that it would be OK with them that Mr. Grande make this proposal to the union and see what happens.

**General Union Negotiations:** were discussed next.

Mr. McLean stated that he hopes the so-called ancillary stuff from the union will evaporate, noting that Fred LaPiana’s Apprenticeship Program is a problem, which will have a cost if everyone is entitled to participate and do it, with no controls and no ceiling.

Mr. Grande suggested that it should have a required sign-off by the Town Administrator / Personnel Director and there should also be a budget for such an advancement program.
Mr. McLean suggested that perhaps this can wait until after Mr. LaPiana retires, when the proposed program itself may go away.

It was established that the Board of Selectmen does not favor the DPW program as presented and thinks that the proposal needs more work.

Emergency Services Facility Close-out Discussions w/Seaver: was taken up next.

Mr. Grande reported that the Town is making a nominal payment of $10,000 to Seaver this week as part of the ongoing discussions with the contractor. He stated further that the HVAC system remains a problem, adding that when it is working properly the DPW will maintain the system, as the Fire Department does not want to maintain it. Mr. Grande pointed out that the Town is relying solely on the DPW to maintain Town buildings. He suggested that the Town could hire an outside building maintenance service to take care of Town buildings under the Selectmen’s purview.

Mr. Grande concluded his comments by stating that at some point down the road there will be an issue of who will be in charge of the maintenance of the Emergency Services Facility, adding that long-term maintenance issues at the ESF will eventually have to be resolved.

Mr. Grande stated further that he has had a conversation with David Lager and David Doneski about outstanding issues, including the HVAC, at the Emergency Services Facility.

Mr. Grande reported that Seaver is trying to get some of the subcontractors to come down to do some of the work required to correct deficiencies, and pledged to continue to work with Seaver.

It was noted that the DECAM report may come out negatively. Discussion.

Mr. Israel suggested that the Town hire contractors to take care of the outstanding issues that must be done at the Emergency Services Facility.

Mr. Grande suggested that the Fire department be asked to provide a prioritized list of what needs to be done before winter sets in, including the heating system, adding that it has been a problem to get such a list from the Fire Department group.

Mr. Grande reported further that due to the failure of the HVAC system the Town is due a credit for its contract value. However, he pointed out that any such system has manual controls which would do the work if an automated system fails to work properly. Mr. Grande reported additionally that he asked David Lager to help prepare a priority list of outstanding ESF issues, which would include puddling, humidity and fire suppression issues, while conceding that the HVAC system is the main problem.

Mr. Grande stated that he will communicate with David Doneski and see what kind of list he already has, noting that the list is “fluid” and changes from day to day, adding that alternative solutions will be considered and recommended as needed.
Mr. Grande reported that Mr. Doneski met for a full day with the Fire Department “group” on Island on May 20th to discuss strategy to get the HVAC system fixed and the ESF project closed out. In conclusion it was agreed that a priority list will be put together with assistance from David Lager for further review.

It was noted that the Town holds about $180,000 in retainage fees from the project.

Mr. Grande in conclusion stated that the Board of Selectmen needs to have a contract under the domain of the Selectmen for the maintenance of the new ESF building. Mr. Grande stated that David Doneski believes in the value of a settlement at the end of the day so that everyone can move forward and added that once the DCAM report is out, Seaver will not want to do much.

7:45 p.m.: Selectman Jonathan Snyder left the meeting at this point.

Tashmoo Overlook Draft MOU with the Payettes: was presented for BOS review.

Mr. Israel stated that he does not like the MOU that was presented for BOS review, adding that he objects to the reference to future actions by the Board with regard to the agreement, stating that he cannot predict how he may feel about this matter in the future.

Town Administrator Jay Grande then stated that if the Selectmen feel strongly that they could not agree to terms of the MOU in the future we have to discuss how this can be amended to reflect other options that would include the possible action by a petition at Town Meeting.

Mr. Grande noted that the parties are very close, but added that we will go back over the terms and revise and see if the parties can still agree and move forward.

In other business, the following matters were discussed briefly:

Old Fire Station: Mr. Kristal stated that the boundary lines must be established and if necessary, the property must be surveyed and the property lines clearly marked.

Old Hancock Hardware Building: on Boch property, Beach Road, will be torn down according to Building and Zoning Inspector Ken Barwick.

Packer Property - Fish Pier on Assessors’ Map Parcel #10-A-2; Beach Road: was discussed briefly next. It was noted that in a recent search for information about Beach Road waterfront properties, Building and Zoning Inspector Ken Barwick, discovered that the Assessors’ Maps reflect that the Town is the owner of the property adjacent to Mr. Packer’s property on the waterfront at the so-called “Fish Pier” on Beach Road. The Selectmen discussed whether to pursue this matter through a title search by an experienced researcher at the Registry of Deeds from Kopelman & Paige to see if this information is accurate. A brief discussion followed on whether or not to let Mr. Packer know that the Town may have ownership of the waterfront parcel at this location, previously believed to belong to the R. M Packer Company.
Cromwell Lane Property Title Search: is underway. The issue on whether the Town actually voted some 10+ years ago to take this property was also discussed in preparation to address issues associated with the expansion of the Stop & Shop and access via Cromwell Lane to Beach Street from Main Street as well as other options considered in relation to the Stop & Shop project.

The Selectmen agreed to have Kathleen O’Donnell of Kopelman & Paige proceed to perform the title search on both these properties and so voted. M/s/c.

There being no further business in Executive Session,
Motion to Reconvene in Open Session: 8:05 p.m. M/s/c.

Respectfully submitted,

Jeffrey C. Kristal, Chairman
Aase M. Jones, Asst. to Town Adm.

Jonathan V. Snyder
Tristan R. Israel, Clerk