The Board of Selectmen met in Executive Session on July 24, 2012 in the Tisbury Town Hall.

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

Also Present: Christopher Cini, Paramedic, EMS Service; Ambulance Coordinator Jeffrey Pratt, AFSCME attorney Maureen Medeiros and Union Steward Cecily Greenaway.

Motion: To adjourn to Executive Session for the purpose of discussing strategy with respect to collective bargaining, litigation, real estate negotiations and the reputation, character, physical condition or mental health, rather than professional competence, of an individual, or discuss the discipline or dismissal of, or complaints or charges against, a public officer, employee, or staff member, not to reconvene in Open Session. Seconded.

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

Convened in Executive Session: 6:15 p.m. M/s/c.

Christopher Cini Grievance Hearing at Step 2: was taken up first. Those present and testifying, including Christopher Cini, Jeffrey Pratt, Maureen Medeiros and Cecily Greenaway were sworn in by the Chairman. All documents presented and discussed are hereby incorporated by reference.

It was noted that the grievance claiming violations of Article 6, Section 1; Article 8, Section 1 and 2; Article 12, Section 2 and Article 13, Section 1 of the collective bargaining agreement, filed on June 20, 2012, was denied at Step 1 by Town Administrator John Bugbee in a letter dated June 29, 2012.

The grievant claims he was required to complete a paramedic remediation/certification program and placed on administrative leave without pay, until the remediation program was successfully completed and he was able to return to active duty.

The grievance does not address the reason for the administrative leave.

Mr. Israel asked AFSCME Attorney Maureen Medeiros to make a statement.

Ms. Medeiros stated that the employee, Christopher Cini, was suspended and not paid during his suspension (administrative leave), as he did not have sick or vacation time available to use for the time of his suspension.

Ms. Medeiros stated further that the Union’s position is that Mr. Cini be reimbursed for all of the sick and vacation time used and paid for the time when no sick or vacation time was available to receive compensation when he was not working.

At this point Mr. Israel requested some background information about the case, noting that as he understands it the Union does not feel that the disciplinary action taken against Mr. Cini was not warranted, adding that he wants to talk about whether the Town had the right to discipline Mr. Cini.
Town Administrator John Bugbee pointed out that the Town took no other disciplinary action than non-payment of wages to Mr. Cini when he was unable to perform his job as a paramedic because he had lost his certification.

Mr. Cini commented that he was placed on administrative leave without pay.

Mr. Israel noted that it seems that the Union position is that the Town took action that was not appropriate by placing Mr. Cini on administrative leave without pay. (until be regained his certification).

Mr. Israel stated that he wants to know what is being talked about her, was it the incident itself or was it the action taken by the Town?

Ms. Medeiros explained that there is a committee that met (The Martha's Vineyard Quality Assurance Committee) which reviews incidents and recommends remedial actions if necessary in regard to medical services provided.

Mr. Israel stated further (to Mr. Cini) that he feels that the Town’s actions are not justified, but added that he wants to hear from the beginning what occurred.

AFSCME attorney Ms. Medeiros reiterated the union’s objections to the action taken by the Town.

Mr. Israel noted that this hearing will not address or go over the incident that led to the administrative leave without pay.

Town Administrator John Bugbee reported that Dr. Jeffrey Zack of the Martha's Vineyard Quality Assurance Committee for EMS, declared that Mr. Cini needed to complete a paramedic remediation program requiring retraining prior to being allowed to return to work as a paramedic, which meant that he could not be paid as a paramedic while not qualified and unable to serve as a paramedic.

Mr. Pratt pointed out that there is no provision or clause in the Union contract providing for a paramedic being requested to undergo remedial training to continue to serve as a paramedic, and because Mr. Cini could not meet the requirements to perform his job, he could not be paid for that. Mr. Pratt stated further that Mr. Cini did not lose his job but was required to undergo remedial training in order to retain his job.

At this point Mr. Cini informed those present that while retraining in the OR he was operating as a paramedic.

Mr. Pratt pointed out that this occurred under the direct supervision of the MD of the Quality Assurance Committee.

Attorney Medeiros at this point stated that Mr. Cini was only required to “hone his skills”.

Mr. Pratt objected to that statement.

Ms. Medeiros then stated that in other cases like this, people continue to get paid while re-training, adding that the Town had no authority to take away Mr. Cini’s pay while re-training.
Mr. Cini stated next that the week that he was given the letter (dated June 13, 2012), from Mr. Pratt about the required remediation program and being placed on administrative leave without pay, effective immediately, he had already worked 33 hours. He added that he was then required to do the re-training in the Martha's Vineyard Hospital ER within a certain schedule, and worked about 64 hours there during the next 10 days, during which he used vacation time. Mr. Cini reported further that he was later told that he could use accumulated vacation time to receive pay during this time.

Mr. Cini continued by stating that he continued to work with the ER medical director to complete the re-training and during this time he lost four (4) days plus holiday, vacation time and OT hours. He explained further that half-way through the process he was told that he would be allowed to use accumulated and available sick and/or vacation time to get paid.

Mr. Pratt commented that only 27 hours total was lost, i.e. unpaid during this period.

Mr. Kristal questioned the OT hours mentioned by Mr. Cini as “lost” time.

Mr. Pratt responded that he does not know about OT hours, they are not guaranteed, added that he is very careful about OT, and reiterated that the total number of hours that were not paid for one way or another was 27 hours.

Mr. Pratt commented further that this is not the first time that Mr. Cini was required to undergo training due to lack of proper credentialing, pointing out that this is the second time this year, adding that he allowed him to use available vacation & sick time during the re-training period. Mr. Pratt explained further that he is a member of the Quality Assurance Committee, in fact it is a requirement, and has nothing to do with Tisbury, adding that runs are assigned to make sure that everyone gets a fair share. Mr. Pratt commented further that this decision was no made lightly, but pointed out that if a person cannot fulfill the responsibilities of his position he cannot get paid for doing the job, which would set a bad precedent if that was done. Mr. Pratt concluded his comments by stating that administrative leave without pay was the proper action in this case.

Mr. Kristal then inquired about the previous incident in which Mr. Cini was involved and which required re-training.

Mr. Pratt reported that Mr. Cini was suspended before but allowed to use accumulated sick and vacation time to get paid during that re-training period.

Mr. Israel asked if additional sick or vacation time was available during this re-training period, and was informed that Mr. Cini had minimal accrued time available.

Ms. Cecily Greenaway, Union Steward, pointed out that as a reference librarian at the Vineyard Haven Public Library she is often sent to take training classes off Island and is always paid for that time.

Mr. Israel noted that this type of training is hardly comparable to mandated re-training as a paramedic, adding that the retraining for
Mr. Cini was based on two incidents where Mr. Cini’s actions on duty were below expected standards.

Mr. Israel stated further that the two incidents are not going to be discussed under this grievance, and then asked for a motion to close the hearing.

**Motion to Close Mr. Cini’s Grievance Hearing at Step 2:** 6:45 p.m. M/s/c.

Town Administrator John Bugbee reported that all of this was fully vetted through Town Counsel, pointing out that if a person working as a paramedic is not fully certified as such, he cannot be paid while retraining (to regain his certification).

He noted further that the issue brought up by Ms. Greenaway about being paid while training for her job in the Library, is totally different from Mr. Cini’s case, as she is being trained to learn something new and different. Mr. Bugbee concluded by reiterating that if Mr. Cini lacks the proper certification as a paramedic he cannot serve in that capacity or get paid while re-training.

A discussion followed on the sections in the Union Contract cited by Mr. Cini as violations of the collective bargaining agreement and the cause for his grievance. Mr. Bugbee pointed out that none of the sections cited are applicable to Mr. Cini’s situation.

Mr. Israel inquired about health insurance coverage while on administrative leave without pay and was informed by Mr. Bugbee that the payroll department withholds the appropriate percentage from the weekly paychecks in advance of the time covered, and if there is no paycheck, the employee would have to pay that to the Treasurer.

Mr. Kristal noted that he spoke about this issue with Treasurer Tim McLean, and was informed that in this instance the employee would not lose his BC/BS coverage.

Mr. Kristal then as if this could be treated as a disability issue and whether that could cover the wages lost.

Mr. Bugbee informed him that although the Town has a disability fund, it is not for disciplinary cases.

Mr. Kristal pointed out that an employee who is a paramedic is certified by the Martha's Vineyard Hospital to maintain a certain standard, and then asked if there was something in Mr., Cini’s file about a previous incident.

Mr. Pratt responded that he does not have anything to say about how to address an employee’s ability to perform his job as a paramedic, adding that there is no “light duty” for a paramedic.

Mr. Pratt then pointed out that a Managerial and Professional employee he could bring a request for desk duty to the Board of Selectmen following his knee surgery a few weeks ago.

Mr. Snyder commented that what he is hearing is that Mr. Cini during his remediation period and time away from his job (as a paramedic) cannot be compensated.
Mr. Israel observed that by taking the re-mediation class and training Mr. Cini has shown an interest in continuing to serve as a paramedic.

Mr. Kristal wondered if anyone else on-Island have been required to undergo remediation training to retain their jobs.

After a brief discussion,

Motion (Mr. Kristal): That the Board of Selectmen uphold the decision of the Town Administrator (to deny the grievance). Seconded by Mr. Snyder.

Mr. Israel noted that there is nothing in the Collective Bargaining (Union) Agreement that addresses this issue.

Voting: Mr. Kristal: Yes; Mr. Israel: Yes; Mr. Snyder: Yes. M/s/c.

7:00 p.m.: At this point Messrs. Pratt and Cini and Mmes. Greenaway and Medeiros left the meeting.

A brief discussion followed on the case. Mr. Bugbee pointed out in conclusion that it was the Martha's Vineyard Hospital Quality Assurance Committee that suspended Mr. Cini for retraining – not the Town of Tisbury.

Robert Fiske Department of Unemployment Assistance (DUA) Case: was discussed next.

Mr. Bugbee reported that Mr. Fiske won his case for unemployment benefits and then asked the Selectmen if they wanted to file an appeal. Mr. Bugbee pointed out that the Town rarely wins appeals in such cases and after a brief discussion, the Board members agreed that they would not pursue an appeal of the DUA decision in the Fiske case, and so moved. M/s/c.

Mr. Bugbee pointed out further that not appealing the DUA case would not affect the arbitration case.

Dukes County 13.3% Share Ownership of Tashmoo Beach: was addressed by Selectman Kristal, who stated that he would like the Town to have the County’s share of the Tashmoo Beach and to ask the County about this matter.

At this point Selectman Israel, now also a County Commissioner, summarized the history of the Tashmoo Beach acquisition (in 1974) at which time the property was acquired with the County contributing $10,000 toward the purchase price – thus the 13.3% ownership. Mr. Israel reported further that in the 1990’s the Town appropriated $10,000 and approached the County about taking over the ownership of the County’s share of the beach. The offer was rejected by the County Commissioners.

Mr. Kristal suggested that the Board through the Town Administrator again approach the County about taking over the County’s share of Tashmoo Beach, adding that he feels we should just ask for it, not offer to pay.

Mr. Israel suggested that Town Administrator John Bugbee speak with Town Counsel about this and place this matter back on the next Selectmen’s agenda in open session for further discussion.
Mr. Kristal asked if the Board could have Town Counsel approach the County Commissioners to ask for the County’s share of the Tashmoo Beach.

Some discussion followed on the cost. Town Administrator John Bugbee stated that he would see what can be worked out.

At this point Chairman Israel noted that the Selectmen would like to continue the meeting with only Town Administrator John Bugbee present.

7:10 p.m.:  Aase Jones left the meeting at this time.

Mr. Bugbee stated that he would keep a record and take notes during the rest of the meeting.

Respectfully submitted,

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

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Jeffrey C. Kristal  Jonathan V. Snyder, Clerk