The Board of Selectmen met in Executive Session on August 23, 2011 in the Tisbury Senior Center.

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

Also Present: DPW Director Fred LaPiana.

Motion: To adjourn to Executive Session for the purpose of discussing strategy with respect to contract negotiations for curbside refuse collection scope of services and action on Union Grievance at Step 2 of the grievance process, not to reconvene in Open Session. Seconded.

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

Convenered in Executive Session: 5:55 p.m. M/s/c.

Proposed Scope of Services for Curbside Trash/Rubbish and Recycling Collection Contract: was presented for BOS review and discussion by DPW Director Fred LaPiana. The document received by the Selectmen’s Office on 8-22-2011 is hereby incorporated by reference.

Mr. LaPiana noted that the proposal is to have a 6-month “break-in period” for the contractor, with well-defined terms, including maintenance of the current $4.00 sticker fee for a 40 gallon container, and sale of stickers at the same locations as where currently available, including the Town Hall. Following the break-in period there will be a “post break-in period”, during which Mr. LaPiana stated he wanted as much flexibility as possible, including the requirement that trash collected be delivered to the Oak Bluffs/Tisbury Transfer Station. Mr. LaPiana acknowledged that this latter provision, must be discussed further, adding that one of the prospective bidders on this contract (ABC) is not likely to want to use our Transfer Station for disposal. Mr. LaPiana continued by speculating that if the trash collected is delivered to the Refuse District’s Transfer Station, it would force consolidation of the Transfer Stations.

Mr. LaPiana continued by stating that the company would have the option of where to dispose of the trash after the initial break-in period, and could take materials directly to the District’s Transfer Station, and thus we would be subsidizing the District and would have to close down our Transfer Station.

Mr. LaPiana continued by suggesting that the RFP should mandate that the trash collected be delivered to our Transfer Station in order to protect Greg (Carroll of Bruno’s).

Mr. LaPiana commented further on the eventual possibility of a future plan for a consolidated Transfer Station and a Regional Refuse District, and if this is what the Board of Selectmen wants to pursue. He stated further that after the 6-month break-in period, certain conditions within the contract must be approved by the Board of Selectmen, and recommended that public hearings be mandated to authorize any changes.
Mr. LaPiana stated further that under the proposed terms of the contract, a $120,000 performance bond will be required, which would cover bringing back employees to work. Mr. LaPiana also noted that he thinks that the Public Works Commissioners want the Selectmen to be responsible for the rate setting for this service.

Mr. Coogan commented that this proposal does not make the trash collection service completely privatized, as the Town still has a union contract.

Mr. Israel asked if the Town could get some of the receipts from sale of trash stickers.

Mr. LaPiana noted that ABC proposed that adding that he spoke to Greg (of Bruno’s) about this as well, adding that Greg understands that the Town has to proceed with an RFP for this service. He stated further that the Selectmen in both Oak Bluffs and Tisbury are in charge of the Transfer Station, but added that the DPW only has to do curbside pick-up during the transition period, noting that during this privatization we are in a transition period and added that Oak Bluffs is not pursuing a similar plan.

Mr. LaPiana stated further that the authority to do this (privatize the trash collection service) is under the purview of the Selectmen and the Public Works Commissioners, and that within the contract with the prospective vendor the Board of Selectmen will have the authority to do this. Discussion followed.

Mr. LaPiana acknowledged that he is not sure what the DPW Commissioners will think about this. He then recommended a public hearing on the proposal before selecting a contractor, and reiterated that a vote of the Board of Selectmen will be required before proceeding.

Mr. Israel commented that this concept is quite controversial, noting that if the cost per barrel goes up from $4.00 to $6.00, for example, within a few months after privatization, following the six-month break-in period, the Selectmen would be blamed for that. He noted further that a broader base is needed to make a decision on this.

Mr. LaPiana suggested that once proposals are presented we will know what the initial cost will be, and predicted that the Town will have 1½ years of price stability. Mr. LaPiana suggested further that the prospective vendor will want to go with larger type barrels, i.e., barrels that can be picked up by the trucks, which he noted is something that the Town cannot do.

Mr. LaPiana pointed out that another component in the proposed terms of the contract will be that the contractor takes over education of the public. He then concluded his comments by stating that if the Selectmen do not want to take over the responsibility for participation in this, that’s OK.

Mr. LaPiana noted further that the contractor will be required to provide a database for complaints, etc and added that a fee of $500 will be assessed per complaint.
Mr. Israel asked the DPW Director to confirm that price changes have to be approved by the Board of Selectmen, which Mr. LaPiana did, noting that this would be part of the contract, and hearings scheduled according to a specific time-table after the contractor notifies the Town of a planned price increase.

Selectman Kristal then stated that he does not mind that the Selectmen assume the responsibility and take over for this privatization effort as proposed by DPW Director Fred LaPiana, but added that he does not want to see any changes prior to the 6-month break-in period. He commented further that he has spoken with both potential vendors and pointed out that changes will be discouraged.

Mr. LaPiana then stated that assuming that the Board of Public Works Commissioners and the Selectmen agree in this matter, “we will proceed”.

Mr. LaPiana noted further that an Evaluation Committee will be established as part of the RFP response review process, noting that this is according to the procurement law. He added that the evaluation of the RFP responses will be done in Executive Session, questions will be posed to each vendor and responses evaluated. Some of the questions that to be asked could include what type of containers will be used, what frequency of recycling pick-up is planned, weekly or less frequently, days of pick-up, customer service and resolution of complaints, etc.

Mr. LaPiana continued by stating that he will get feedback from his Commissioners and from the Board of Selectmen and will put together a list of questions and proceed to develop an RFP, noting that the resolution of complaints and how they are handled will be important.

Selectman Kristal suggested some questions (to the prospective vendors) for the evaluation of the RFP, including how many years the company has been in business, capitalization plans, on-Island office, noting that he wants to see a real office in a business area, local hiring practices, etc.

Mr. Kristal reported that he spoke with Greg Carroll (Bruno’s) and Mike Camara (ABC) last week about some of the privatization plans, and commented that Mike may not pass on the savings to Tisbury and Oak Bluffs for use of the Transfer Station, adding that the Town must consider the impact of this privatization on the Transfer Station when selecting a vendor. He concluded his comments by stating that ABC would take the trash to the District, and questioned what the Town(s) would then do with the Transfer Station.

Mr. LaPiana commented that if ABC gets the contract, it would hurt the transfer Station, and Greg (Bruno’s), and would lead to eventual consolidation of trash collection Island-wide.

Mr. Israel stated that as a private citizen he would no longer be able to use the Transfer Station. It was clarified that Mr. Israel was not talking about the Transfer Station, but the LDO at the landfill, which Mr. LaPiana stated will remain regardless, and will continue to be operated by the Town, for now.
A discussion followed on the various scenarios, depending on which vendor gets the contract, which would impact the Transfer Station in that Bruno’s would take the trash to the Oak Bluffs/Tisbury Transfer Station, while ABC would take it to the District.

Mr. LaPiana noted that beyond the first contract period, the contract could be extended, by mutual agreement between the parties.

Mr. Israel commented about the prospect of purchase of the selected contractor by the other party bidding for this service, citing the case of several years ago when Frank Fenner’s business was awarded the contract to collect the trash for the Tisbury/Oak Bluffs District, and the company was immediately purchased by BFI.

Mr. Israel commented further that if Bruno’s gets the contract, Greg (Carroll) would have the opportunity to sell the business at a certain point.

Mr. Kristal commented that he is aware that Mike Camara of ABC and Greg Carroll of Bruno’s have been talking together.

Mr. Coogan questioned why the Selectmen should care about that, adding that it might “save our face politically”.

Mr. Israel stated further that the Selectmen must wait to hear what the Public Works Commissioners say about this plan.

Mr. LaPiana then stated that he feels that the Selectmen have made a decision adding that he will now take this to his Commissioners.

Mr. Kristal reiterated that he is OK with the Selectmen’s role in this (privatization move).

Mr. LaPiana summarized the various points of agreement on how to proceed: Both full Boards, Selectmen and DPW Commissioners, will participate in the evaluation of the responses to the RFP; if the DPW Commissioners agree, he will develop an RFP, a contract, and evaluation criteria to be used in the evaluation of the responses to the RFP.

Mr. Kristal suggested that Town Administrator John Bugbee prepare a press release to be ready for publication at the appropriate time. He then asked Mr. LaPiana if he, in his “crystal ball”, has a prediction on which company will get this contract.

Mr. LaPiana responded that this would be hard to say, and declined to speculate.

Mr. Coogan asked what the savings would be by doing this, and whether the trash collection laborers are still on the payroll.

Mr. LaPiana noted that two have recently resigned, added that the Town would still need to purchase a small packer truck and a recycling truck soon. He noted further that the attrition rate in the Department of Public Works is high.

6:50 p.m.: At this point Mr. LaPiana left the meeting.

General Union Contract Status Report: was requested by Selectman Coogan, who asked when the contract will be signed.
Town Administrator John Bugbee responded that the Union said that they would be ready within a few weeks, adding that a side letter of agreement must be prepared.

Mr. Israel then asked about the status of the “cops” union agreement.

Mr. Bugbee responded that the Town does not want to go anywhere with that right now.

Mr. Israel then inquired whether the current use of Special Officers by Chief Hanavan is similar to that of former Police Chief McCarthy.

Mr. Kristal responded to that inquiry by stating that Chief Hanavan is managing the personnel in the Tisbury Police Department well.

Joe Ballotte Grievance – Request for Hearing at Step 2: was discussed next.

Mr. Bugbee summarized the facts of Mr. Ballotte’s grievance filed May 5, 2011, citing failure by the Town to pay for OT within a week that contained a legal holiday and during which Mr. Ballotte worked additional hours. Mr. Bugbee stated that the grievance was denied by him on the basis of past practice and the fact that under the Fair Labor Standards Act (FLSA) holiday time is not counted as hours worked, to make up a 40-hour work-week, as required under FLSA, to qualify for OT pay. Mr. Bugbee’s response to the grievance dated July 8, 2011, is hereby incorporated by reference.

Mr. Bugbee commented further that this grievance is similar to the one filed by officer Kelly Kershaw who also claimed that she was due OT for hours worked within a week that contained a holiday, and then asked if the Selectmen would like to hear the grievance at Step 2 of the grievance process.

Mr. Kristal stated that he has no problem hearing the grievance, and after a brief discussion, the Board agreed to do so with a hearing to be scheduled. M/s/c.

There being no further business in Executive Session, Motion for Adjournment: 6:55 p.m. M/s/c.

Respectfully submitted,

Geoghan E. Coogan, Chairman
Aase M. Jones, Asst. to Town Adm.

Tristan R. Israel
Jeffrey C. Kristal, Clerk