The Board of Selectmen met in Executive Session on August 25, 2009 in the Tisbury Town Hall.

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.

Motion: To go into Executive Session to discuss strategy with respect to real estate negotiations and collective bargaining, to reconvene in Open Session. Seconded.

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

Convened in Executive Session: 7:50 p.m. M/s/c.

Payette Willow Trees @ Tashmoo Overlook: was discussed first.

Chairman Tristan Israel reported that he met with Land Bank Executive Director James Lengyel regarding the view easement at the Tashmoo Overlook last week. He noted that Mr. Lengyel stated that although he is sympathetic to the Town’s position on the willow trees, he feels that the Land Bank cannot support the Board of Selectmen in this effort as the Payettes are very attached to their trees.

Mr. Israel reported further that he told Mr. Lengyel that the Land Bank has never supported Tisbury on any of its requests for assistance. Mr. Israel stated further that he feels that if Mr. Lengyel does not want to do something it does not get done.

Mr. Israel then stated that Mr. Lengyel said that the Board voted against Mr. Israel’s request, and added that he is annoyed that the vote was taken without letting him know when.

Discussion followed on the concept of a view easement, and it was stated that the Land Bank Commission may support in philosophy the Selectmen’s position, but feels that getting involved in this would be “intrusive government” and therefore cannot support the Selectmen in this matter.

Mr. Israel reported that he asked Tisbury’s representative to the Land Bank Commission to bring this matter up at the Land Bank meeting.

Discussion followed on whether Conservation Agent Jane Varkonda could enforce the Wetlands Protection Act.

Mr. Coogan asked how the Selectmen could enforce a violation of the Wetlands Protection Act - would it be through Building and Zoning Inspector Ken Barwick?

Town Administrator John Bugbee stated that first the Conservation Commission has to issue a violation order.

Mr. Coogan stated that there could be an issue of how the Selectmen can make the Conservation Commission enforce the violation.

Mr. Israel suggested that one option would be to take the Conservation Commission to court.
Discussion followed on putting an Article on the next Town Meeting Warrant.

Mr. Coogan suggested that it might be faster to sue the Conservation Commission for failing to enforce a violation of the Wetlands Protection Act.

Mr. Israel expressed reservations about the latter course of action, suggesting that this would lead to a debate on “intrusive government” and accusations that the Conservation Commission is not doing its job.

Mr. Coogan pointed out that the Board needs something from the Conservation Commission.

Town Administrator John Bugbee reported that he spoke with Town Counsel who said that the Selectmen could sue the Conservation Commission for failing to take action and not issuing a violation order.

Mr. Kristal suggested proposing to plant something in the open field to get some leverage with Payette, noting that it was said that the Payettes were mad about some of the work that the Water Department did many years ago.

Mr. Israel described Mr. Payette’s behavior to date with the Selectmen as disingenuous and not honest.

Selectman Kristal offered to try to talk with Mr. Payette again.

Mr. Israel then stated that if Town Meeting does not support this concept, “we’ll drop it”.

At this point Mr. Kristal questioned whether this is the best use of Town funds at this time with financial constraints.

Mr. Coogan noted that the Selectmen have an obligation to assure that the Conservation Commission does its job.

Mr. Israel stated that he served on the Conservation Commission for seven years, and suggested that Selectman Coogan should approach the Conservation Commission about this matter.

Mr. Kristal suggested a joint meeting of the Selectmen and the Conservation Commission to request enforcement.

Mr. Israel suggested that Selectman Coogan go to the Conservation Commission with the request for an enforcement order.

Mr. Coogan agreed to go, adding that the Commission has not done its job.

Mr. Kristal stated that he would like to see the Water Department clear-cut the Water Works property.

After more discussion, the Board agreed to move ahead with an Article at the Annual Town Meeting in April.

Status of Interim Police Chief Dan Hanavan: was taken up for discussion next.

The Selectmen discussed their agreement to explore a police department merger with Oak Bluffs, noting that Dan Hanavan’s appointment as Interim Police Chief expires October 17th. The
Selectmen’s options were discussed: (1) extend Dan Hanavan’s appointment until June 30, 2010 or (2) appoint someone else. Discussion followed on whether an open-ended appointment would be best for Dan Hanavan.

Selectman Kristal stated that he would like to ask Bob Wasserman what he thinks the Board should do.

Selectman Coogan suggested that the Board extend Dan Hanavan’s appointment until the end of this year, i.e., December 31st, but added that better yet would be extending Mr. Hanavan’s appointment until January 31, 2010. The Board agreed.

The Board of Selectmen’s Recent Police Union Contract Offer: has been officially rejected by the Union, reported Mr. Bugbee. He noted that the arbitration date for this matter has been set for September 30th in Boston.

Mr. Bugbee reported that he had a conversation earlier in the day with Dan Hanavan, who stated that he had not seen the Selectmen’s offer (dated August 14th, 2009). Mr. Bugbee added that he gave Dan Hanavan the details of the offer, including the OIC stipend, shift differential, longevity and other provisions, and reported that Dan Hanavan stated that he thinks the union would have “jumped at this”.

Mr. Coogan reported that he called Officer Scott Ogden earlier in the day, noting that Mr. Ogden would not talk with him. Mr. Coogan suggested that the word be gotten out to the younger/newer members of the department about this offer.

Mr. Kristal agreed stating that he would take the proposal to some of the other officers (not on the police negotiating team).

After a brief discussion on who should go to Boston for the September 30th arbitration hearing, the Board agreed to reserve the off-island car and that all three Selectmen should attend the arbitration hearing.

Mr. Bugbee pointed out that usually at such hearings the attorneys for the parties do the talking, not the Selectmen.

There being no further business in Executive Session,

Motion to Reconvene in Open Session: 8:30 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