The Board of Selectmen met in Executive Session on August 6, 2009 at 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: Finance Director and Union Negotiating Team member Tim McLean.

Motion: To adjourn to Executive Session to discuss strategy with respect to real estate negotiations and collective bargaining, not to reconvene in Open Session. Seconded.

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

Convened in Executive Session: 4:30 p.m. M/s/c.

Collective Bargaining (Police Union) Discussion:
Mr. Israel reported that Town Administrator John Bugbee several weeks ago had a casual conversation with a patrolman on the status of the police union contract negotiations, with a hypothetical informal proposal mentioned by Mr. Bugbee to that patrolman.

Mr. Israel stated that he feels that the Town has been giving, while the union has put nothing on the table. Mr. Israel continued by stating that the big issue is the shift selection policy which the Selectmen want to change. He described this issue as a “big problem”, but added that the Selectmen did not want to drop their position on the shift selection policy, while giving 3.5%, 3.5% and 4% over a 3-year contract.

Mr. Israel stated that throughout the negotiations he has been upbeat and pleasant, but acknowledged that he lost it when the police union brought an attorney to one negotiating session, when both parties had agreed not to do so.

Mr. Kristal suggested that there may be an effort by Michael Gately (on the negotiating team for the union) not to settle, and go to arbitration, and stated further that he feels that the other two on the negotiating team may want to settle, which Mr. Gately would have to agree to if the others wanted to settle.

Mr. Israel then proposed to offer the police Union 3.5% each year over 3 years and take the shift selection off the table for now, but with the intention to bring it back next year.

Tim McLean cautioned that taking the shift selection issue off the table now would be a “big mistake”, adding that if the Selectmen would like to offer 0-0-0 over 3 years, they would have no chance of getting the shift selection, which he suggested the Selectmen would win in arbitration. He concluded by stating that the Selectmen would be better off going to arbitration.

Town Administrator John Bugbee noted that he only spoke once informally with Patrolman Scott Ogden.

Selectman Coogan pointed out that arbitration would be taking place 6-8 months from now, adding that it would not get the Selectmen anywhere, and that everything would be off the table with a new
contract, which is what is being discussed at this time. He concluded by stating that he cannot see any benefit in pushing for a shift selection policy now since the contract will already be over.

Mr. Israel stated that the Selectmen would offer a shift differential, reduced vacation carry-over plus other areas where the Selectmen are giving. Mr. Israel reiterated that if the shift selection is taken off the table they will feel that they get 3.5% each year over a 3-year period. Strategy in presenting this proposal was discussed.

Mr. McLean pointed out that if the Selectmen could get the shift selection into the contract it would be hard for the union to get it out.

It was noted that what the Union wants is 4-4-4 plus a step. Mr. Coogan stated that he does not feel that arbitration has any advantage for the Town, suggesting that in 9 months the arbitrator might rule in the union’s favor.

It was further noted that a new contract cannot be negotiated while in arbitration. Cost of arbitration was discussed.

Mr. Coogan stated that he had an opportunity to talk with Robert Wasserman, who suggested adding a 4th year to the contract, noting that the Town has essentially already “bought” a year @ 0%.

Mr. McLean then stated that he’d be happy to go 3.5% - 3.5% - 3.5% and add a 4th year at zero.

Mr. Bugbee predicted that the Union would not accept a year at zero. Mr. Kristal stated that he has heard that the union expects zero.

Mr. Israel suggested that the Board can do either of the following: (1) do nothing, which will lead to arbitration; or (2) offer 3.5, 3.5 and 3.5 and drop shift selection; or (3) offer 3.5; 3.5; and 3.5 and not drop shift selection; or (4) offer 3.5; 3.5; 4; and 0.

Mr. Coogan suggested that the shift selection not be changed until the Chief of Police situation has been solidified.

Discussion followed on what the Selectmen should do.

Mr. Kristal stated that Bob Wasserman has stressed the need to settle the union contract. He then stated that if the Town of Oak Bluffs and Tisbury are talking about shared services, that could happen in 2 years. He concluded by stating that he wants to work this out.

Mr. Israel expressed opposition to settling at 3.5%; 3.5%; and 4% and dropping the shift selection issue. Mr. Israel continued by stating that he feels the negotiations have been what he described as a “joke” from the beginning, pointing out that adding the additional step, would give the officers a huge increase.

Mr. Coogan agreed, stating that he does not favor adding another Step.

Mr. Israel then said maybe he could “live with” 3.5%; 3.5% and 3.5%, but if 4% was used in the 3rd year, it would cost about $4,000. Mr.
Israel concluded by stating that he feels it would be wrong to give the union all this.

Mr. Kristal commented that if the Towns (Oak Bluffs and Tisbury) start talking about a merger, there is no need to talk about contract terms.

Mr. Coogan suggested that arbitration could cost as much as $10,000.

Mr. Israel questioned that estimate, noting that if giving the union all they ask for without any concessions would be wrong. He added that the Town offered a $5,000 stipend for the Detective, which is the only thing that the union agreed to.

Further discussion followed on what to offer the union and adding a 4th year to the contract.

Mr. Kristal suggested that with a new Chief, there would be a new tone, no matter who is the new Chief. Mr. Kristal inquired what would happen if the Selectmen established a policy of only one officer on the midnight shift.

Mr. Israel suggested that the officers would call that “micromanagement” of the department.

Town Administrator John Bugbee pointed out that the Board of Selectmen can adopt any policy it wants to, but having only one officer on duty during the midnight shift would go against National Police Standards, according to former Chief Ted Saulnier.

A lengthy discussion followed on what kind of offer to make to the police union, whether or not to take the shift selection policy off the table with the offer to be made.

Mr. Israel characterized the shift selection issue as a major one, having been rejected by the union for several years. He added that the Selectmen are in charge of the Police Department and the way the shift selection is currently is a source of problems within the department, making it difficult to manage the department. He added that new officers get the midnight shift no matter what.

Mr. Kristal commented that if the officers don’t like it, they can leave, and the Board could decide not to refill the position. He then suggested offering 3.5%; 3.5%; and 3.5% and zero in the 4th year. Discussion followed.

Town Administrator John Bugbee pointed out that the Selectmen’s offer would have to be taken to the bargaining unit or it could be deemed an “unfair labor practice”.

After a lengthy discussion about what kind of offer to make to the police union in an attempt to settle the contract, the Selectmen agreed that whatever the offer is it must be put in writing to the negotiating team for the police union with a request that the offer is shared with the union membership, making it clear that this offer is what the entire Board of Selectmen has agreed to make to the Police Union at this time.

Mr. Israel stated that the union wants 4%; 4%; and 4% plus a new step.
The issue of whether the negotiating team for the union will share the offer with the membership was discussed, as well as how to assure that the negotiating team will discuss the Selectmen’s offer with the union membership, and if the offer is rejected, the Selectmen stated that they would like to know if the offer was rejected by the members of the union, not only the negotiating team.

Mr. Israel emphasized that the offer make it clear that the Selectmen are taking the shift selection issue off the table, but that the Board will put it back in the table in future negotiations. He noted further that if an offer of 3.5% - 3.5% - 4% and 0% were offered the shift selection could remain on the table.

Mr. Coogan urged that the offer contain a requirement that the union respond to the offer by a certain date - within a week.

After further discussion, Mr. Israel summarized the offer to be made to the Police Union: 3.5% - 3.5% - 3.5% and 0%, with the shift selection issue taken off the table by the Selectmen, a request that this offer be taken to the union membership and a response to the Board of Selectmen within one week. The Board agreed, and so moved. M/s/c.

Some discussion followed on what the Selectmen should do if the union does not respond to the offer.

Mr. Coogan noted that within a few weeks the Board will be talking to Robert Wasserman. He stated that he wants a written response from the union, suggesting that the letter show that the Selectmen want this matter settled and resolved.

Oak Bluffs Letter dated July 29, 2009 Suggesting Cooperation between Oak Bluffs and Tisbury Police Departments: was taken up for a brief discussion next.

Mr. Israel stated that Mr. Wasserman had said he would provide language for the ad for Police Chief, and proceeded to speculate on whether Dan Hanavan would stay on as Chief after 10-17, while the towns “flesh out” the issue of possible cooperation between the two towns.

Mr. Israel pointed out that there are many issues to address, including how to deal with the fact that Oak Bluffs has 5 Selectmen and Tisbury has 3. He suggested that setting up an independent Police Board would be “problematic”, noting that there may be a simpler way of doing this, and added that one issue would be how to allocate manpower.

Mr. Coogan suggested that Bob Wasserman would have some ideas on how the cooperative effort between Tisbury and Oak Bluffs.

Town Administrator John Bugbee suggested that Mr. Wasserman can provide a “road map” on how the cooperation between the towns could work. Mr. Kristal asked what the benefit of such a cooperative effort would be. Mr. Israel stated that a Home Rule Petition is one way, noting that the legislature does not care what the Towns do cooperatively. Mr. Israel commented further that Oak Bluffs is approaching Tisbury now as the Town of Oak Bluffs is experiencing financial problems, noting that they have never reached out to us
before, and concluded by adding that he does not want to subsidize
Oak Bluffs (police) operations.

Town Administrator John Bugbee pointed out that this proposal is
different from what was discussed the last time shared services were
discussed, when the idea was to operate the two departments under
one Chief (the Oak Bluffs Chief of Police), while this proposal
involves merging both departments under one Chief.

Mr. Israel stated that he wants this to be under the Board of
Selectmen, not an independent (police) board.

In conclusion, the Selectmen agreed to wait for the Wasserman Report
after August 16th, before making public comment. The Selectmen also
instructed Town Administrator John Bugbee to send a letter to the
Oak Bluffs Selectmen acknowledging receipt of the letter proposing
the cooperative public safety effort and expressing an interest in
exploring this matter further.

Mr. Israel asked Mr. Bugbee if a discussion regarding Dan Hanavan as
Chief as well as discussions re: contract negotiations with Oak
Bluffs could be held in Executive Session. Town Administrator John
Bugbee responded in the affirmative.

At this point Mr. Israel suggested the need to bring the Finance &
Advisory Committee on board regarding the Oak Bluffs - Tisbury
police cooperation proposal. Mr. Kristal concurred, urging this
take place ASAP, and adding that legislation has been passed to
allow this. He predicted that initially this would cost more for
both towns, new insignia, logos, uniforms and cars, but in the long
run there would be savings.

Status of Gitlitz Solid Waste Property: was taken up next.

Mr. Kristal reported that the subcommittee consisting of Greg
Coogan, Richard Combra, Fred LaPiana, Town Administrators John
Bugbee and Michael Dutton and himself, met yesterday to discuss how
to proceed with the solid waste issues. He reported that it had
been suggested by Arthur Smadback that Fred LaPiana talk with Larry
Mercier of Edgartown.

Town Administrator John Bugbee conceded that he does not understand
how Larry Mercier plays a role in these negotiations.

Mr. Israel pointed out that former Edgartown Highway Superintendent
Larry Mercier still “calls the shots” in Edgartown.

After some discussion it was agreed that Town Administrator John
Bugbee will set up a meeting with Michael Dutton, Larry Mercier and
himself ASAP.

Motion for Adjournment: 5:40 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

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