The Tisbury Board of Selectmen met in Executive Session on August 9, 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 and Board of Public Works Commissioner David Ferraguzzi.

**Motion:** To adjourn to Executive Session for the purpose of discussing strategy with respect to real estate negotiations (Connector Road), contract negotiations for curbside refuse collection and collective bargaining agreement with general union, not to reconvene in Open Session. Seconded.

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

Convened in Executive Session: 6:32 p.m. M/s/c.

**Property Acquisition for the Connector Road:** was the topic of discussion with Messrs. LaPiana and Ferraguzzi.

Mr. LaPiana noted that a portion of a 6-acre parcel of property presumably owned by the Martha's Vineyard Hospital, identified as Assessors Map Parcel #20-A-3, is the target of acquisition to accommodate a bicycle path adjacent to the connector road.

Mr. LaPiana noted that the Town is only requiring a small portion of the property, but noted that he has learned that the Martha's Vineyard Hospital urgently needs to be able to provide housing for summer employees, adding that the VNA is also negotiating with the hospital for this property for a new facility, and added that during these negotiations it has become apparent that the hospital does not have a clear title to this parcel.

Mr. LaPiana mentioned that this parcel could also be used for housing as an added attraction if proceeding with a taking of this property by eminent domain. Discussion followed on interest in this parcel by a housing developer who could build an attractive affordable housing development on a portion of the parcel. Mr. LaPiana commented that building a community-type housing project appears more attractive than building roads. A discussion followed on the scope of such a housing development, with 40 units possible.

Mr. Israel stated that a density of 40 units is too much, noting that such a project would have to be hooked into our sewer system. It was noted that the interested developer is also looking at property in Provincetown.

Mr. LaPiana suggested that the bottom line for the Town is to get access with utility line and sewer and to get someone else to pay for that, adding that this piece of property is necessary to complete the connector road to State Road and to be able to have a bike path. Mr. LaPiana noted that this parcel (20-A-3) was included in the Connector Road layout of parcels to be acquired through purchase, gift or eminent domain taking (under Article 8, of the April 6, 2010 Special Town Meeting).

Mr. LaPiana continued by stating that the intent was first to ask the Martha's Vineyard Hospital for an easement over the property in
question, but pointed out that it was discovered that the Hospital does not have title to the property as owner and therefore this cannot be done. He stated further that a small corner of the 6-acre parcel could be taken by eminent domain, which would then resolve title issues and clear the title to the entire property, and that the purpose would be to provide for a bike path adjacent to the connector road.

Mr. LaPiana also stated that there will be a three-lane approach to the bypass road, with the bike path going all the way to Stony Hill Road (West Tisbury Town line). He concluded by reiterating that the Town Meeting Article referenced gives the Town the ability to do this, but added that if the Town takes more of the parcel, we could accommodate parking and bus drop-off, and the sewer line could go to the proposed VNA facility and the VNA and the Hospital would be paying for the utility connection(s). He concluded by stating that this would not be a so-called “hostile taking”.

At this point Selectman Kristal suggested that the Town take the entire parcel to clear the title to the property adding that thus the hospital would get what they want and we would get the entire property which could be used for a housing development.

Mr. Israel commented that one example of a housing project that failed was Bridge Housing.

Mr. Kristal pointed out that this would be a different situation, as Bridge Housing did not have sewers and was located in a residential district, and then added that he does not want a Morgan Woods type project in Tisbury.

Mr. LaPiana described this as an opportunity.

Mr. Coogan commented that if the Town is taking the property for a public purpose (through eminent domain), the surplus property cannot be given back to the hospital.

Mr. LaPiana noted that an expanded sewer plant could deal with the additional wastewater from a housing development.

Mr. Ferraguzzi commented that what the DPW Commissioners really care about is getting the property for the connector road, adding that we can get the property by putting the housing development into the mix.

After a brief discussion,

Motion: That the Board of Selectmen instruct Town Counsel to begin the process of taking by eminent domain a portion of Assessors Parcel #20-A-3, as discussed. M/s/c.

Contract Negotiations for Curbside Trash Collection: was taken up for discussion next.

Mr. LaPiana reported that in a conference call with Town Counsel and Town Administrator John Bugbee the issue of privatizing trash collection was addressed, particularly as it relates to the union issue of outsourcing labor traditionally covered by Union employees. Mr. Doneski has informed the Town that this must be done via a contract to prevent a grievance due to terms in the Town’s collective bargaining agreement, noting that relief from the union
contract language is needed, which could be done via a side letter of agreement drafted by Town Counsel with terms to which the Union appears to be amenable, and which will give the Town the ability to enter into a contract with whomever we wish to for privatizing the trash collection service. At this point Mr. LaPiana presented copies of the side letter of Agreement with the Union for BOS review.

Mr. LaPiana pointed out that the Union agreed to these terms when told that the savings made by this privatization would be used to pay for the raises agreed to in the new Union contract.

Mr. LaPiana continued by stating that he wanted the transition to a private trash collection service to be “seamless”, noting that the terms of how long the vendor will sell garbage stickers at the same price remains an issue, and added that stickers will still be sold at Town Hall, Cronig’s, Leslie’s, and Cumberland Farms, but not at the DPW.

Discussion followed on the need to address the issue of fee increases, how that will be handled, whether this would require a hearing before a regulatory board, how such increases would be approved, how the Town could through the contract still retain control over the operations of the vendor, and which commodities will be included in a recycling program.

The Selectmen and Mr. LaPiana continued discussing terms of a contract, size of containers, cost of providing new containers, and the ability of the Town to specify 40-gallon containers for use, and the fact that there will be a six-month “break-in” period, after which an extension may be approved.

Mr. Israel inquired why only one vendor, Bruno’s, is considered.

Mr. LaPiana agreed that this is a good question, noting that he has been looking at this option for year, and now finds that it may be feasible to privatize the trash collection. He then added that there will now be competition for this contract adding that ABC Disposal Service, Inc. of New Bedford is also interested in this contract.

It was noted that according to David Doneski, this contract does not have to go out to bid.

Mr. LaPiana then asked if the Town should prepare an RFP or just give the contract to Bruno’s.

Mr. Israel stated that he likes the idea of an RFP.

Mr. LaPiana pointed out that for the first 6 months everything will be the same as it is now, but noted that after that time, things may change.

Mr. Kristal proposed a cut-rate for seniors and limited increases in the contract for others.

A discussion followed on how to proceed to select a contractor, how to establish parameters for the initial 6-month trial period and the subsequent period, and what the possible outcome of the RFP process will be.
David Ferraguzzi stated that he does not want to eliminate Bruno’s, adding that he would like to award the first 6-month trial period contract to Bruno’s.

Mr. LaPiana cautioned that capital investments would be recouped by the vendor in a lengthier contract, adding that the contract needs to be established for a specific term. He further emphasized the need for the Town to retain control, and commented that if ABC gets the contract, the transfer Station is “gone” and Bruno’s will be “dead”. He stated further that at one point Bruno’s had the opportunity to sell to ABC, and commented further that if Oak Bluffs can save money they would “cut us off”.

Discussion followed on strategy to pursue in these negotiations. It was generally agreed that through the contract the Town could force whatever vendor gets the contract to be required to bring the trash collected to the Transfer Station.

Mr. Kristal suggested a possible rate structure that would reflect different rates for seasonal and year-round trash pick-up, noting that more money is collected from seasonal pick-ups than for year-round.

Mr. LaPiana pointed out that the next step will be to prepare a tentative contract for BOS review.

Mr. Ferraguzzi noted that he expects that costs will go up after privatization of the trash collection service.

Mr. Israel pointed out that trash collection is a municipal service for which the Selectmen are responsible to the taxpayers.

In conclusion Mr. LaPiana asked the Board to look over the proposed text and it was agreed that the discussion will continue in Executive Session in two weeks.

An Internal Police Department Disciplinary Issue: was addressed briefly. Mr. Bugbee reported that there will be a disciplinary hearing before the Board of Selectmen and a recommendation from the Chief on what action to take. Mr. Bugbee noted that the issue is whether the action taken by the officer in question was egregious enough that further action be taken. It was agreed that a hearing may be scheduled perhaps in two weeks.

A Summary of Union Contract Settlement Terms for the General Union: was distributed for BOS review.

There being no further business in Executive Session,

Motion for Adjournment: 7:45 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