The Board of Selectmen met in Executive Session on Tuesday, September 17, 2013 in the Tisbury Senior Center.

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

Also Present: DPW Director Fred LaPiana

Motion: To go into Executive Session to discuss strategy with respect to collective bargaining, pending and current litigation and contract negotiations, real estate acquisition and to investigate charges of misconduct or to discuss the filing of criminal complaints, not to reconvene in Open Session. Seconded.

Voting on the Motion: Mr. Israel: Yes; Mr. Kristal: Yes; Mr. Snyder: Yes.

Convened in Executive Session: 7:15 p.m. M/s/c.

Police Chief Dan Hanavan’s New 3-year Contract: as prepared in cooperation with Brian Maser and presented by Town Administrator Jay Grande was reviewed and discussed.

Mr. Grande reported that the contract is for 3 years, beginning July 1, 2013, through June 30, 2016, with essentially the same terms as in the prior contract and according to the Managerial and Professional Classification Plan, subject to favorable annual reviews.

The contract provides for 5 weeks of vacation and allows the carry-over of 240 hours of accrued and unused vacation time into the next fiscal year.

Mr. Kristal suggested that the contract should have a policy provision that prohibits taking vacation time during the peak summer season.

After a brief discussion on the terms offered the Police Chief in his new contract,

Motion: That the Board of Selectmen approve and sign the 3-year employment contract with Police Chief Dan Hanavan as presented, incorporating the updates and provisions listed as worked out with Town Administrator Jay Grande and Town Counsel Brian Maser, effective July 1, 2013 through June 30, 2016. M/s/c.

Selectman Kristal noted that at a future meeting of the Board he would like to have on the agenda a discussion on traffic flow and control. He further commented that he would like to have directives for personnel in the Tisbury Police Department to come from the Police Chief—not the Board of Selectmen.

The Board agreed that the contract would be voted in Open Session at the next meeting of the Board on October 1, 2013.

Martha's Vineyard Community Television Corp. Inc. - Proposed Contract Between Towns of Aquinnah, Chilmark, Edgartown, Oak Bluffs, Tisbury and West Tisbury: was brought up for discussion by DPW Director and Cable TV Representative Fred LaPiana.
Mr. LaPiana expressed some concern about certain provisions presented in this document, which is hereby incorporated by reference.

In particular Mr. LaPiana questions the reference to the maintenance of a so-called “media center” by MVTV, funding mechanisms for MVTV programming, insurance and liability issues, and COMCAST payments through the new 10-year contract which excludes Tisbury from paying these fees directly to MVTV, but funnels the funds through the Town Treasure, whereas the other five Island Towns have approved direct payment of COMCAST funds to MVTV.

Mr. LaPiana pointed out that the Board of Directors of MVTV has increased its members from 7 to 13, giving Tisbury a significantly “watered down” vote, adding that the member Towns have little voice in the MVTV organization’s actions.

Mr. LaPiana pointed out further that Tisbury will have a separate agreement with MVTV with a provision that the Town will stay with MVTV for 10 years as an independent contractor.

Mr. LaPiana stated further that there is a significant difference in the philosophy between Tisbury and the five other Towns, who say that we do not have the authority to get involved in personnel policy of MVTV, which is supposed to be recognized as an independent contractor.

Mr. Israel discussed briefly the fact that Tisbury has maintained that the funds from COMCAST shall be distributed to the Town first and then, based on budget needs and submissions from MVTV, the Town will pay to MVTV the funds that are need to maintain its operations.

Some discussion followed on the fact that a couple of years ago MVTV set aside $400,000+/- to cover future capital needs, which caused the Selectmen’s concern about proper budgeting and what MVTV’s actual needs are to operate its facility and maintain current programming levels.

Section 14 B – Funding: was discussed next. This section fails to take notice of the fact that Tisbury has a different agreement with COMCAST about providing funding to MVTV than that of the other 5 Towns. The total sum of $500,000 is to be provided to MVTV for capital funding during the term of the contract (10 years) and quarterly franchise payments of 5% also to be paid to MVTV.

Termination of Agreement: The only valid reason for termination of the Agreement is the loss of status as a non-profit registered corporation, i.e., loss of 501 3(c) status.

Discussion followed on the meetings that are to be covered by MVTV cameras and televised on the local access channel, including the Steamship Authority, Boards of Selectmen of the six Island Towns, Airport Commission, Island Board of Selectmen and the Martha's Vineyard Refuse Disposal and Resource Recovery District meetings.

Discussion followed on why this contract document is now being presented to the Town for approval. It was noted that the agreement is strictly between the Town and MVTV regarding its operations and responsibilities respectively of the Towns and MVTV.
Further discussion followed on the disbursement of payments from COMCAST which in the case of Tisbury will go first to the Town and then later distributed to MVTV based on budget needs. It was noted that if Town Meeting should vote to get out of this agreement it would not be possible.

Town Administrator Jay Grande recommended that the Board take no action to sign this agreement at this time, suggesting that MVTV is trying to make what he described as “an end run”. He suggested further that the Town check with Town Counsel to see if withholding funds from MVTV is an option, adding that the Town only today received a check from COMCAST.

Mr. Israel stated that he does not intend not to give the funds to MVTV, but noted that the Town wants to review the budget and other documents and a demonstrated accountability for expenditures.

Mr. Grande asked what the timeline is for acting on this document.

Mr. Israel pointed out that West Tisbury is proceeding to sign this contract, adding that Selectman Knabel has stated that West Tisbury will sign the agreement.

Mr. Kristal stated that he does not want to spend any money on legal fees regarding this document. Mr. Israel asked who is being paid as legal counsel for this document, and was informed by Mr. LaPlana that Mr. Solomon has been the attorney of record throughout the contract negotiations with COMCAST. Mr. LaPlana stated further that he does not want too much friction with the Committee right now, but did not specify why. He concluded his comments by suggesting that the Town have our own attorney review this document.

Town Administrator Jay Grande stated that he feels that the document should not bind the Town to a ten-year agreement with MVTV on these terms.

Mr. Kristal questioned why the Town would enter into such an agreement at all.

Mr. Israel compared this entity (MVTV) to the Island Housing Trust which he described as a quasi-public organization, which has a similar organizational structure. Discussion followed on how the members of the Board of Directors are selected and appointed to serve. The question was raised whether or not the agreement contradicts any of the terms in the COMCAST agreement with the Towns.

Mr. Kristal pointed out that MVTV needs to present a Capital Plan in order to receive funds contributed by COMCAST.

Mr. Israel commented that he is not interested in giving the money to MVTV or to sign this Contract Agreement at this time, adding that the Board voted to give the first quarterly COMCAST payment of $26,656.54 to MVTV at the meeting held on September 10, 2013, based on the budget received from MVTV.

The Selectmen continued discussing the terms in this contract agreement and voted not to take any action at this time. M/s/c.
8:10 p.m.: DPW Director Fred LaPiana left the meeting at this time.

Collective Bargaining Issues Were Discussed Next as Follows:

Part-time Receptionist Position @ the Senior Center: was discussed next.

Mr. Grande reported to the Board that he has worked with Hillary Conklin to develop a slightly revised job description, reduced the regularly scheduled hours of work to 14/week, a letter has been sent to union president Laura Barbera regarding this change in hours, giving the union until October 23rd to respond, or it will be assumed that the Union will not object to the reduced hours for the position, which will no longer be classified as a union position due to the weekly regularly scheduled hours (less than 15). Mr. Grande pointed out that this reduction in hours can easily be covered by volunteers, will save the Town a considerable amount in BC/BS benefit payments, paid holiday and accrued sick and vacation time, and will not affect any current employee.

He noted further that the job is being re-advertised with the new terms and hours specified, adding that applicants who applied earlier for the 20 hours/week position as well as the temporary receptionist, will be considered.

Mr. Israel commented that he learned that Council on Aging Director Joyce Stiles-Tucker had already promised the 20-hour union position with benefits to the temporary receptionist, and questioned if this is an ethical question and could result in a grievance being filed by the union.

Mr. Grande suggested that would be determined if there is a response by the Union to his letter informing the Union of the reduced hours and giving the union a certain time to respond to that letter.

MOU with the General Union: is now available for BOS review and later action.

Working Foreman – Roads and Sanitation Position: was discussed next.

Mr. Grande informed the Selectmen that he has been working with DPW Director Fred LaPiana on the requirements and the process to follow in filling the position, adding that two members of the DPW Department bid the job when it was posted and that Mr. LaPiana wants to give the job to Thomas Mello whom he has declared to be the best qualified to fill the position.

Mr. Grande reported that after some discussion and review of the applicant’s file and credentials, he has written a letter supporting that decision, declaring Mr. Mello to be the best qualified candidate of the two who applied to fill the position from within the Union.

Laboratory Director Position – DPW/Wastewater Plant: Mr. Grande reported that the DPW has one applicant for the position that meets the qualification criteria and is approved by the Department of Environmental Protection (DEP)

DPW Training Program: was discussed next.
Mr. Grande discussed briefly Mr. LaPiana’s proposal to establish a training program for employees, which is a concept that has some merit but which has been resisted by the union membership.

Mr. Grande explained that although the program could if developed with some restrictions on who is eligible to receive this training, the downside is that in its current form the program has no cap on the number of people who could get qualified, which could lead to what he described as an “open wallet situation”. He stated further that while the Town needs more qualified employees in the middle tier of skill levels, this could lead to a lot of training for everyone with no promotion available even if the employee has some needed skills because these positions are already filled. Mr. Grande reiterated that the union membership has consistently resisted embracing this proposed Employee Incentive Training Program, which DPW Director Fred LaPiana has tried to get included in the collective bargaining agreement with the General Union.

**Real Estate Property Acquisition and Planning:** were taken up next.

**Luce Property at 14 Pine Tree Road:** There are ongoing discussions with the realtor, Payton Wallace, about the Town’s interest in the property and how this can move forward. The Selectmen discussed making a formal offer for the property, use of the property for municipal purposes, senior affordable housing, providing a site for the Center for Living, new WICK’s for the wastewater collection plant and other potential uses.

**Park & Ride Lot:** Mr. Grande reported that he is working on a proposal for the Selectmen to review, which would resolve some of the enforcement issues at the lot and also substantially increase revenue from use of the lot. He added that he thinks this new proposal will work out existing problems, keep an area for metered parking, with annual and seasonal parking in one area and free parking at the rear of the lot, with some landscaping, fencing, a sidewalk and striping also to be added. He stated that his proposal will be ready for review in a couple of weeks.

**Clarence A. Barnes, III Deposition:** in the legal matters before the Town will take place in the Katharine Cornell Theatre at Town Hall on October 18th by Jeff Ugino of Kopelman & Paige

There being no further business in Executive Session,

**Motion for Adjournment:** 8:30 p.m. M/s/c.

Respectfully submitted,

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Jeffrey C. Kristal, Chairman  Aase M. Jones, Asst. to Town Adm.

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Jonathan V. Snyder  Tristan R. Israel, Clerk

BOS Executive Session Minutes – September 17, 2013
Page 5 of 5