

NEW SHOREHAM SEWER COMMISSION  
SPECIAL MEETING  
**Monday • February 23, 2015 • 12:30 p.m.**  
FIRE BARN, 10 Beach Ave, Block Island

PRESENT were SEWER Commission members: Chair Peter McNerney, Vice Chair Wayne Battey, Brad Marthens, Tom Doyle (arrived after meeting opened), Martha Ball, Terri Chmiel (Alternate)

ABSENT were members: Steve Draper

ALSO PRESENT were: Sewer Superintendent Chris Blane, Clerk Mona Helterline, Attorney David Petrarca, Cash Shuman (BI Times).

T. Chmiel voting member until T. Doyle arrived at 12:35 p.m.

Meeting called to order at 12:30 p.m. by Peter McNerney.

**SEWER DISTRICT**

**MOTION by P. McNerney to allow Doc Willis to speak on behalf of the public. Seconded by W. Battey.  
Aye: 5 (McNerney, Marthens, Battey, Ball, Chmiel) Nay: 0. Abstain: 0.**

Island resident Doc Willis expressed his concerns regarding the Superintendent of the New Shoreham Wastewater Treatment Facility, Christopher Blane. He stated that there has been a “revolving door” at the Sewer Plant and he asked the Commission to consider that maybe it is not the personnel but the Superintendent that is the problem.

**1. The New Shoreham Sewer Commission may vote to move into Executive Session pursuant to RIGL §42-46-5(a) Subsection (1) Personnel (Discussion of job performance and character of the Class 2 Wastewater Operator, Christian Freund.)**

Pursuant to RIGL §42-46-5(a) Subsection (1)(Personnel), the Commission may convene into executive session by majority vote. The clerk has notified the affected person and he has been notified that the meeting may be held in open session at his option.

C. Freund stated that he wished the meeting to be held in open session.

The Sewer Commission’s legal counsel, D. Petrarca, explained that this meeting was known as a “pre-deprivation hearing” meaning before any deprivation of employment rights, the employee is entitled to a hearing in front of the Commission. The Superintendent will present his charges and recommendations, and the employee will get a chance to respond.

The Commission asked to hear from Sewer Superintendent Christopher Blane. Blane stated that he was contacted by the Chief of Police on February 18, 2015 by telephone. Chief Carlone informed Blane that threats had been made against him by sewer employee Christian Freund. Chief Carlone asked Blane questions, spoke to Freund and one other sewer plant employee before finalizing his report. Subsequent to the discussion between the Chief and Blane, as well as review of a document on workplace violence provided by the Chief, Blane decided to suspend Freund. On Thursday morning when Freund reported to work at 7 a.m. he was suspended with pay. Blane told him that this was a very serious matter, that the police were involved, and that he must not enter the premises except to access his apartment until the Commission decided what should be done. Blane immediately notified both the Sewer and Water Chair of his actions; at that point Blane assembled information dating back to 2011 in Freund’s personnel file regarding disciplinary action taken. Commissioners had this information in front of them at this meeting. Blane’s recommendation to the Sewer commission was that Freund be terminated and also stated that although there is no formal written policy, general consensus was zero-tolerance for work place violence.

Commissioner T. Chmiel stated that while Blane claimed to have had “conversations with other Commissioners” regarding this matter, she and Blane had not had any conversation until the morning of the current meeting (February 23, 2015). Chmiel stated that she had not been informed of the current meeting at the same time that the other Commissioners had, she also had not been informed of Christian’s suspension until she heard it from him while eating dinner at Club Soda. Legal Counsel, D. Petrarca clarified that once he was informed of the matter he suggested that all communication between Commissioners stop so as not to violate the Open Meetings Act, and a meeting was put together and posted only moments before the Thursday, February 19, 2015 meeting that began at 4 p.m.

Commissioner M. Ball made a statement directed to the rest of the board. She expressed her frustration with feeling like the “last to know” of the suspension or associated meeting. She continued to explain that even at the February 19, 2014 meeting, when asking what the meeting was about, she had a hard time getting answers even though it had already been publicly posted. She continued to say that she hoped it was a slip of the tongue when the Chair was contacting the other Commissioners to “make sure there was a full board” for the current meeting (2/23/15). It is understood that a full board is five members (with two alternates) and a quorum of three is required for any voting to take place. Chair P. McNerney responded by confirming that he knew what a full board was, and was sorry that it had been taken personally.

M. Ball directed a question to Blane, “you said Christian made no effort to come talk to you regarding this incident when he came to work that morning, did you make any effort to talk to him about this incident?” Blane responded that he “waited to see his reaction” and “I thought that if a conversation was going to occur it would be initiated by the person who was contacted by police regarding threats he made”. Blane confirmed that he did not initiate any conversation- “As soon I saw his reaction, I told him that he was suspended”.

As suggested by legal counsel, Freund was given a chance to speak. Freund stated that on Wednesday (2/18/15) Chief V. Carlone came to his apartment and asked him to come to the police station. Freund explained they talked further about the incident that, as Freund stated “supposedly took place when I was at a bar extremely intoxicated”. Freund further explained that he has been known to go out and get a couple of drinks, but does not get extremely intoxicated. At the conclusion of the meeting Chief Carlone told Freund that he was going to file the report stating that he did not find Freund a threat. Freund went home. On Thursday morning Freund reported to work, said “Good Morning” when he entered and Blane’s response was “Is it a good morning?” then told Freund that he was suspended and needed his keys. Freund said this all happened in the course of two minutes and he did not have the opportunity to talk to Blane about what had occurred the day before. Blane told Freund that he needed to seek help. Freund handed in his keys and left the premises.

Freund stated he works at Club Soda, doesn’t drink while he is working, and occasionally goes to the Old Island Pub afterwards to have a few beers and play pool. Referring to the police report he stated he did not know who would have been around that would have heard him make these threats. McNerney stated that the citizen was alarmed enough to go to the police. Freund asked if this was such a serious action, why it took the police 5 days to contact him about it. The incident allegedly happened Thursday the previous week and Freund was not contacted until Wednesday the following week. Discussion continued as to when the incident happened and when the report was written.

B. Marthens stated that this was brought to his attention on Thursday (February 19, 2015). Marthens stated that “openly threatening someone in public, no matter what the circumstances, was not right”. Threatening physical and bodily harm to anyone is “not tolerated”. Freund questioned whether others in the room had ever said anything they immediately regretted, stating “it happens to everyone”.

McNerney reiterated that he was concerned because whatever occurred on this night was enough to provoke a citizen to go to the police and that must be taken seriously. He questioned, “If we let this go, what happens the next time?” The police report prepared by Chief Vincent Carlone stated:

*“It is apparent that Christian is angry and has made threats against Mr. Blane. It is also possible that Christian has a substance abuse problem with alcohol and is in need of assistance. I do not believe that Christian is an imminent threat to Mr. Blane’s safety at this time.”*

McNerney continued to ask the Commission “What if next time it did go to the next level and the Commission hadn’t taken action at this point? It is not fair to other employees to be worried about this kind of action or

activity.” McNerney reaffirmed that he does not like these kinds of threats and that they have no place in the work place.

Freund questioned why this was being considered “work place violence” when the threat was made outside of work between him and whoever overheard him, also mentioning that he wasn’t even quoted correctly. McNerney asked how he could be sure of what he said since he was intoxicated. Freund stated that he was not intoxicated “Last time I got intoxicated was on my 30th birthday. I don’t drink hard alcohol and I don’t get drunk.” Freund said when the comment was made (about hurting Blane if he was found under his car), he said soon after, “I’ll just let police deal with it”. Freund stated “This happened at a bar, not at the work place.” McNerney referenced a portion of the report stating that an employee said he heard Freund make threats at work:

*“The worker stated Christian has made several statements and threats against Mr. Blane at the sewer plant such as “I am going to break his legs if he goes near my truck”, The worker stated that Christian has also mentioned having possession of firearms, but not on Block Island. The worker stated Christian has never threatened to shoot Mr. Blane. In further discussion with the worker concerning the firearms discussion it was determined that there was no causal connection between the mention of firearms and the ongoing issues with Mr. Blane. The firearms discussions were not contemporaneous with threats against Mr. Blane, and in the worker’s opinion unrelated.”*

*“The worker pointed out that there has been problems between the two, and that at one point Christian made the statement about Mr. Blane, “I feel like I’m going to kill him.” When pressed about this statement the worker felt that Christian was making a statement out of anger and did not feel he was an imminent threat to Mr. Blane’s safety. The statement was made after an apparent heated discussion between Mr. Blane and Christian, which was only in part witnessed by the worker; who stated it concerned Christian’s truck leaking fluid in the parking lot of the sewer plant.”*

Christian Freund stated that he never said “I feel like I’m going to kill him”, but instead “If I catch him under my car, I will break his legs”. He claims he then promptly retracted the statement and said that if he did in fact catch Blane under his car he would “call the police and let them deal with it.”

Terri Chimel asked Freund if he felt threatened. He responded that “absolutely”, he did feel threatened. Chimel asked Freund to explain the situation with the truck. He explained that his vehicle was leaking anti-freeze, he spoke to a mechanic who suggested a product that did help temporarily. Freund then took some time to get an estimate for repair. Blane asked him to keep the vehicle off the property, and he complied. When there were no more leaks visible on the ground Freund brought it back on the property. Blane confronted him about bringing the car back to the property at which time Freund claimed that it was no longer leaking. According to Freund, Blane stated that he saw it leaking the previous night, to which Freund replied that the only way to know this was to get under the vehicle. Freund stated “He told me that if I did not move the f’ing vehicle off of the property, I would get written up and that would be the end of me”. Freund promptly removed the vehicle and has kept it off until recently.

Chmiel asked Freund about being “bullied” and if there had been more than this one incident. Freund discussed a time where his electricity usage (he rents an apartment on the property of WWTF) was brought up as a concern. Elaborating on the incident, Freund explained that every month electricity usage in the two apartments was monitored and a graph prepared. He reminded the Commission that his wife was unemployed and stayed home often. The individual in the other apartment was single and often not at home, so naturally electricity usage would not be as high. Blane told him that if he did not reduce the usage, he would have to raise Freund’s rent. Freund said that he did not feel Blane had the authority, that the Commission owned the apartments, not the superintendent and that there was a fine line between work versus personal and he seemed to be “trying to overstep his bounds”.

P. McNerney stated that the three of them (McNerney, Blane, Freund) had a meeting in April at which point past problems were discussed. He emphasized that the police report was the big concern and the reason that the current meeting was taking place, stating he felt like it would be wrong to “do nothing about this”.

W. Battey noted that according to the police report, Freund stated that he has had problems with Blane for the past couple of months, and asked what those problems were. Freund stated that the vehicle was the current issue exacerbated by having multiple people tell him that they saw Blane looking at the car when it was parked at the

Manisses. Blane referenced other verbal and written warnings that dated back to the previous superintendent. Freund responded that “people make mistakes at work, I took my licks, signed the write-ups”. He said that in his eyes Blane is “beyond reproach”. When referencing the police report Freund stated that the night currently in question, at the bar, he didn’t actually say anything. He had a few beers and shot pool. Battey asked if the problem with not getting along was all due to dripping antifreeze. Freund replied that had been the dominant issue this month.

P. McNerney noted that the warnings and write ups go back to 2011, Freund agreed to having made mistakes. He said that he feels like he has to walk on eggshells because anything he does, however inconsequential, may result in a write up.

A member of the audience asked if there was any history of violence referring to the warnings Freund had received. McNerney responded that some of them reference verbal altercations with Blane as well as other employees. M. Ball asked why the warnings that went in his file years ago are just being addressed now. McNerney affirmed that they had been addressed prior to this meeting. There were meetings held in 2013 and 2014 regarding issues, but no action was taken as far as suspension or termination.

Member of the public Doc Willis stated his distaste for the “he said/she said” nature of the police report. If the police department decided that no charges should be pressed, then where is the seriousness of the situation?

Town Council member Chris Warfel made a statement about the accuser being unidentified, “which of you would stand for that? Someone saying something about you, remaining anonymous, and the statement being given weight by the police? Anyone could make a statement like this- it is extremely troubling, this could have never actually ever happened!”

C. Warfel stated that there is a problem at the Sewer Facility because other employees have complained to him of the Superintendents conduct; it is not isolated to one person. He further explained that this occurs at every company, workers and supervisors have differing opinions and everyone complains about each other, it’s a normal work environment. Warfel said he thinks that there is a problem between personnel (at the Sewer Plant) and perhaps it is collective. He reiterated that there “seems to be history of problems that are not getting any better”.

Warfel questioned the nature of the other write ups for Christian? Were they operational mistakes? How serious were they? McNerney replied that some were operational and some involved misuse of company property. Warfel asked if they were exceptional. Out of the ordinary? McNerney stated that there have been 6 verbal warnings, 4 write ups, 1 police report, and several meetings with the employee and chair. McNerney believes that on all issues, Freund was “given a fair shake”, again re-confirming that the police report was the main reason that all of this was being addressed. Warfel asks again about the write ups. Were they severe? Were they putting the plant in danger? Or were they something that would just happen with a normal employee? McNerney said “no, not normal”.

Superintendent C. Blane stated that the letter of discipline format is different than what was used by the past superintendents. As instructed by the previous Commission lawyer the employee should read and sign the letter, agreeing that they understand, not necessarily agree, and that they know they can bring the issue to the Sewer Commission. The letters of discipline are in his opinion, above a verbal warning. Blane explained that severe misuse of company resources and property or failure to fulfill the responsibilities and duties of a licensed operator at a Waste Water Treatment Facility are serious matters. He further explained that there is more flexibility given to an operator- in-training than a fully licensed operator. When a mistake is made during training, a verbal warning is sufficient. A fully licensed Class 2 operator is responsible for the consequences of their mistakes. Normally a verbal warning is enough to prevent a mistake from recurring, but if two verbal warnings and a letter of discipline does not work, then you have a problem. “Procedurally, we have always followed the same rule, a verbal warning is followed by a letter of discipline in this Town, if you get 3 letters of discipline you may be discharged anyone that has ever worked at that plant or the Water Company, knows that”. C. Warfel asked Blane- “Do you find that these kinds of things are unusual for employees?” Blane replied “Yes, everyone makes mistakes but things that are willful, are unusual and of great concern.” An audience member asked Blane if his recommendation for termination was based solely on this last incident. Blane replied “yes”, and explained that when followed up with other documentation, this latest issue was a “game changer”.

An audience member stated that during this meeting there had been two complaints regarding how the plant is being run by the superintendent. "Is that enough to look into the superintendent instead of continuing to go after this guy?" McNerney stated that he had spent lots of time at the plant, had lots of conversations with other employees there as a group and separately, he did not take this situation lightly. McNerney said "yes" he has looked into how the plant is run, had discussions and commission meetings regarding management training. The validity of the police report was brought to question again- "everyone has the right to face their accuser" (police report did not identify the person who reported seeing/hearing Christian making threats against Blane that night, many people felt that this was unfair and considered "hearsay"). McNerney agreed that everyone has the right to face their accuser, but that this was "not a murder trial". Freund stated that actually, this was potentially "murdering" his job. McNerney continued, explaining to Freund that he (McNerney) personally has tried to work with him, has spoken to Freund on numerous occasions regarding these other disciplinary issues, which then recurred. McNerney stated that the issues that happened in the past warranted the write ups, the verbal warnings and disciplinary actions that had been taken, but until now, he hadn't felt that they warranted dismissal. Freund stated, "We had our meeting in April (meeting was with C. Blane, P. McNerney, C. Freund), it was a taped conversation, and we were supposed to review progress at a meeting in October and that never happened".

McNerney agreed that yes that was correct; the meeting did not take place for a variety of reasons. Freund stated that he asked numerous times about the meeting and it never happened, and there had been no issues from May – October 2014.

W. Battey asked, "What do you feel the meeting would have benefitted you Christian?" Freund responded, "The fact that I hadn't had any issues after that meeting in April". M. Ball asked "If these offenses were as egregious as has been represented, why is it coming to Commission only now, when someone else (witness/police report) has made a complaint?" P. McNerney responded that for him, "it was the final straw". When asked if the police report was confidential the lawyer confirmed it was not.

C. Warfel referred to the comment that McNerney made "what are we supposed to do? Do nothing?" Warfel stated it is not black or white, something or nothing, there are other choices. There are a broader range of options, such as management strategy and employee strategy, it is not isolated. The employees need to be dealt with as a whole. There needs to be more work on employee/employer relationships, because "I think there is a big problem there".

P. McNerney responded "I agree with you, and we have been doing that, and most of the time it is not required..."

When asked why the full Commission was not informed about the police report Blane explained that after bringing it to the Chairs attention and discussing it with the lawyer he was told to keep the report confidential. Blane further stated that "Every employee is treated the same regarding discipline, I don't make decisions in a vacuum. People choose to remain confidential because they may be afraid of retaliation". Blane explained that he talked at length to the other employees at the plant before he made his recommendation to the Commission and stressed that the employees and the plant are what he is thinking of first and foremost. "The job is extremely stressful, the operators have to trust each other and watch each other's back every day. If you don't trust the people you work with it is an impossible environment to work in".

An audience member agreed that everyone should be comfortable in the work environment, and said "I highly doubt that anyone is mistrusting him (Freund) at work, I think it is a false accusation to even go there. There seems to be some bullying going on with Chris Blane lately, not just with Christian but with other people".

Another audience member stated "if anybody actually knows Christian, he has a rough façade but is the most sensitive, loving, and kind person I have ever known. He will put out this kind of bravado, but his real soul is a wonderful, sweet, I'll do anything for you person".

C. Warfel stated that he had two final points to make. He said that Christian had been complimentary of Blane's technical skills at the plant. He also stated that as a member of the Town Council he has a responsibility to oversee the Sewer Commission and "if ever the Sewer Commission is acting in a way that violates law, rights or faux pas, we (Town Council) have the responsibility or the option to remove them." Warfel stated that he was there trying to gauge if the Commission was acting properly, and was it giving an employee a "fair shake"?

Blane expressed his concern that Freund had contacted Warfel over a month ago. Blane stated he felt that Warfel was confusing his position as a Town Counselor and a member of the public, and felt that Warfel's comment regarding the responsibility of "overseeing the commission" was a veiled threat. Blane asked Warfel who he was attending the meeting as- Chris Warfel of the Town Council or Chris Warfel the individual? Warfel responded that he was at the meeting as both because he had to pay into Blane's salary, sewer overhead, and now the bond – so he was there as an individual to see how the Commission operates with his money. He was also attending as a member of the Town Council- due to the responsibility to oversee Commission. Warfel explained there was no "veiled threat", that he was merely describing what the Town Council requirements were. Blane stated that he perceived it as a veiled threat.

B. Marthens responded to Warfel's comments stating "I don't understand the comment regarding handling of money, we are not discussing budget today. I would like to know if the feedback received so far is concluded, and would like the lawyer to tell us what the options are as a Commission when it comes to discipline, resignation, and/or termination concerning the performance evaluation."

Terri Chmiel made a statement. She agreed with zero tolerance for workplace violence, however asked, "If there is bullying going on- are we going to tolerate that....something drove Christian to be upset and he made a statement, where did that come from?" Chmiel stated that Freund came to talk with her, she was also aware that he went to talk to John Breunig. She further stated that if "anger is part of the problem then the whole picture needs to be addressed". According to Chmiel, there have been a number of employees that have been terminated over the years and Chmiel felt that the "Sewer plant hasn't had time to heal." Responding to an audience member's question about past write ups/warnings being related to violence, Chmiel stated that she did not read anything in the warnings that related to violence.

Blane stated that there had been things that were going to be addressed at the meeting that never took place (October 2014, Mc Nerney, Blane, Freund). Blane said that employees had witnessed other instances of Freund making violent statements at work when he was not there. Blane said that this put employees in the uncomfortable position of having to go to the Superintendent and let him know what they heard.

Blane stated he heard "bullying" mentioned several times, but the only thing he heard Freund say about bullying related to the apartment electricity. Blane explained that it was the Superintendents responsibility to watch all expenses at the plant for ratepayers, which includes making an effort to lower utility costs when he can.

Chmiel asked Freund- "Do you feel threatened", Freund responded "Absolutely". Referencing the police report Chmiel reads "there was a heated discussion between the two of them (Blane and Freund)", and again reminded the Commission that they need to look at the big picture.

Freund asked the Commission about Blane's right to raise the rent if Freund did not bring utilities usage down, or Blane's right to tell him where he can/cannot park vehicle. Freund stated that people have told him that Blane had made comments at work "that he wishes I would just go away, to me that is bullying."

C. Warfel responded to Marthens comment regarding Warfel's concern with money. He stated that there have been previous lawsuits/legal settlements made to past employees, and that came out of rate and tax payers pockets. Warfel stated he was concerned about "burning through employees and the cost of replacing them."

An audience member stated that he had three words to say and then he had to leave: "Bully, Bully, Bully".

Commission legal counsel, David Petrarca said that he could go through the different options now and that he could be more frank in closed session. When asked his preference, Freund chose to keep the discussion in open session.

Petrarca laid out the options as he saw them, stating there were pros and cons to each:

- 1) Terminate employment, as recommended by Superintendent.
- 2) Suspension without pay for any length of time the Commission deems necessary.
- 3) Suspend with pay for any length of time the Commission deems necessary.

- 4) Continue this for further investigation.
- 5) Take no action.

Petrarca also stated that Freund had the option to resign.

W. Battey asked what the repercussions on Freund would be if the Commission moved forward with termination. D. Petrarca explained that he would have a public firing on his record, would not be able to collect unemployment benefits, and would have the right to challenge the decision based on wrongful termination. Regardless, this would still cost the Commission money in legal fees and if in fact, something was deemed improper he would be entitled to back pay and possible statutory interest (12% per annum).

M. Ball asked if Blane's recommendation for termination was in writing. Petrarca stated that, no, it was an oral recommendation.

P. McNerney questioned the liability as a Commissioner of the town, if something happens following this incident. Petrarca answered that the Commission is responsible for its own budget, so it would be up to the Commission to raise funds that would be in any speculative judgement that could occur.

W. Battey asked, hypothetically, if the Commission took no action and Freund returned to work, then something drastically violent occurred, who would be liable? The Commission? The Town? The attorney's answer was that both bodies could be held liable.

W. Battey also asked if, hypothetically, it was decided that he be suspended and undergo some psychological evaluation, who would be responsible to pay that? Petrarca stated that would be up to the Commission to decide.

An audience member stated that he didn't know how Freund could be deemed violent if he had no past history of violence. In his report the police chief stated that he did not believe Freund a threat. The wife of Freund asked "how do we know that the call to police was not made by Blane himself? We don't know what happened and that seems like a convenient way to get him (Freund) out of the job."

A sentence from the conclusion of the police report was read once again:  
*"I do not believe that Christian is an imminent threat to Mr. Blane's safety at this time."*

T. Doyle recommended the Commission consider option #3: Suspension with pay, which would give the Commission a chance to do some further "tweaking and investigation into personnel relationships."

T. Doyle stated "we have been here for 1 hr. and 40 minutes; we have been presented 5 possible options. There is some question as to whether this report of violent behavior constitutes grounds for being dismissed; there is also some question if superintendent understands what the problem is. There has been some doubt expressed as to whether the superintendent really perceives what the problem is between him and Christian. The Commission needs more time to determine the truth and falsities in these assertions.

**MOTION by T. Doyle, that C. Freund is suspended with pay for a period of two weeks.**

There being no second, the motion was withdrawn.

Commission agrees to take a brief recess and reconvene at 2:30 p.m.

Meeting reconvened at 2:30 by P. McNerney.

**2. Discussion and/or Potential action, announcement and/or vote(s) from Executive Session and/or Open Session concerning Christian Freund's performance evaluation which may involve discipline, resignation and/or termination.**

**MOTION by P. McNerney, to continue the hearing in two weeks on March 9, 2015 at 12:30 p.m. Until that time C. Freund will be suspended with pay. The purpose being the opportunity to speak with other employees at the plant as well as the police chief, all of whom will be invited to the meeting on Mar 9, with one additional item on the agenda which would announce the intent to go into closed session for the purposes of potential litigation. Seconded by T. Doyle**

**Aye: 5 (McNerney, Marthens, Battey, Doyle, Ball) Nay: 0. Abstain: 0.**

3. Adjournment

**MOTION by P. McNerney to adjourn at 3:15 p.m., Seconded by W. Battey.**

**Aye: 5 (McNerney, Marthens, Battey, Doyle, Ball) Nay: 0. Abstain: 0.**

Respectfully Submitted,

Mona Helterline  
District Clerk  
Accepted: 3/16/15