

NEW SHOREHAM SEWER AND WATER COMMISSION
JOINT MONTHLY MEETING- OPEN SESSION
Monday • April 13, 2015 • 4 p.m.
Town Hall, Old Town Road, Block Island

PRESENT were SEWER Commission members: Wayne Battey (Vice Chair), Brad Marthens, Tom Doyle, Martha Ball, Steve Draper (Alternate), Terri Chmiel (Alternate)

PRESENT were WATER Commission members: Brad Marthens (Chair), Tom Doyle (Vice Chair), Wayne Battey , Martha Ball, Steve Draper (Alternate), Terri Chmiel (Alternate)

ABSENT was: P. McNerney

ALSO PRESENT were: Sewer Superintendent Christopher Blane, Water Superintendent John Breunig, Town Manager Nancy Dodge, Attorney David Petrarca, Administrative Assistant Mona Helterline, and BI Times reporter.

With a quorum present the meeting was called to order at 4:01 p.m. by B. Marthens.

JOINT WATER and SEWER DISTRICT

1. Discussion and potential action regarding the Open Session minutes of March 16, 2015.

The March 16, 2015 minutes were reviewed and accepted with one spelling correction. See also motion under agenda item #9.

MOTION by B. Marthens to accept with changes the Open Session Minutes of March 16, 2015. Seconded by T. Doyle.
Aye: 5 (Marthens, Battey, Doyle, Ball, Draper) Nay: 0. Abstain: 0.

2. Discussion and potential action regarding Recommendations to Town Council for Sewer and Water Commission appointments.

There were three commission members whose terms were going to expire in May: Steve Draper (Alt), Terri Chmiel (Alt), and Tom Doyle (Full Time). The clerk contacted all three members and they had confirmed they would like to be reappointed.

MOTION by B. Marthens to make a recommendation to Town Council that Steve Draper, Terri Chmiel, and Tom Doyle are reappointed to the New Shoreham Sewer and Water Commissions. Seconded by T. Doyle.
Aye: 5 (Marthens, Battey, Doyle, Ball, Draper) Nay: 0. Abstain: 0.

3. Discussion and potential action regarding Dates of Budget Work Sessions, Public Hearing, and Annual Financial Meeting.

The Commissioners were presented with potential dates for the FY 2016 Budget Work Sessions, Public Hearing to Adopt Budget, and Annual Financial Meeting.

MOTION by B. Marthens to approve the following dates for the FY 2016 Annual Financial Meeting and Budget Work Sessions:

Work Session #1: April 28, 2015, 4 p.m., Town Hall

Work Session #2: May 5, 2015, 4 p.m., Town Hall

Work Session #3: May 12, 2015, 4 p.m., Fire Barn (if needed)

Public Hearing to Adopt Budget: May 18, 2015, 4 p.m., Town Hall

Annual Financial Meeting: June 15, 2015, 4 p.m. Sewer, 4:15 p.m. Water (or immediately following Sewer Financial Meeting), Town Hall

Seconded by T. Doyle.

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

4. Discussion and potential action regarding Personnel Policies, including, but not limited to the development and adoption of an employee handbook, the handling of conflict in the workplace, the policy for employee files, and performance evaluations for all employees.

The need for an Employee Handbook had been a topic of discussion by the Commissions since the Sewer and Water employees succeeded from the New Shoreham Employees Association in 2004. Ample research had been done and drafts had been created, but no comprehensive policy or handbook was ever been adopted. It was agreed that the Commission needed to move forward with a handbook. D. Petrarca suggested a conference call in June with the superintendents, the clerk, and himself, after which he would report back to the Commission at the June monthly meeting regarding progress. It was understood that the process would likely require several work sessions with the Commissions and should remain on the agenda until adopted.

Annual performance evaluations were discussed. It was explained that employee performance evaluations had always been done by the Superintendents and would remain that way. It was questioned whether the Superintendent's annual evaluation should be done by the Chairman or by the entire Commission. Historically, they had been done by the Chair only, and if the Superintendent did not agree with their evaluation they had the option of taking it to the full Commission. The reason the Chair versus the Commission typically performed the evaluations was because they had direct contact with the Superintendents and were more involved in the day-to-day operations of the plants. Reference was made to the Superintendent's contracts which specified that the "Commission" would conduct the evaluation. Discussion continued as to the interpretation and historical practice of this. One Commission member suggested that the evaluation should occur before budget season when potential pay increases were discussed. Another member stated that going forward, the way in which the superintendent evaluations were conducted should be reconsidered and that she would like to see the language of the contract followed.

A Commissioner suggested that employee evaluations be kept at Town Hall. D. Petrarca disagreed and said he was trying to figure out if and why the Town Hall had a duplicate set of personnel files for the Sewer/Water Districts. It was clarified that the Town, acting as paymaster and payroll clerk holds financially related documents pertaining to personnel, such as applications, letters of hire, pay increases, etc.

When discussing access to personnel files, D. Petrarca referred to a letter he wrote dated March 4, 2015 in response to the same question. Petrarca's letter clarified that personnel files were confidential and exempt from public exposure. This was based on a variety of state, federal, and case laws. It was made clear that the Commission had no more rights than the general public regarding personnel files.

5. Discussion and potential action regarding proposed letter to Town Council re: Town Councilor presence and conduct at meetings of the Commissions.

B. Marthens stated that this agenda item was initiated by P. McNerney who was not able to attend the meeting. He summarized that McNerney's intentions were to get the Commission's feelings about formulating a letter to the Town Council requesting they reiterate what their capacities are in relation to overseeing the Commission. Town Council members had changed and perhaps they were not aware that the Sewer Commission was totally separate and that the Council had no responsibility to oversee the Commission. Marthens stated that according to enabling legislation the Town Council had the right to appoint Commissioners and remove for cause, but had no supervisory powers. Since McNerney was not present the agenda item was continued until the next meeting.

MOTION by B. Marthens to continue this agenda item at the next meeting. Seconded by T. Doyle.

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

WATER DISTRICT

6. Discussion and potential action regarding Financials and Aging

Financials and aging were reviewed. Commissioners acknowledged that it was very helpful to have the "Tax Sale" customers identified on aging and further requested that people who were on payment plans also be identified. The clerk agreed to identify tax sales, payment plans, and pay-offs that had occurred after the reports month end date on all future aging reports. A commissioner recalled that in the past years, the Chairs would meet with the Finance director prior to each meeting in order to review the financials and aging and address any questions they may have. The Commission agreed that this practice should be reinstated. The 90-Day Tax Sale letters were mailed out April 10, 2015.

7. Operations Report

Water Superintendent J. Breunig presented the March Monthly Operations and Maintenance Report. The Cross Connection Control and Backflow Device Testing program was in effect. Testing would take place the first week in May. A letter had been sent out to

the accounts with testable devices letting them know that a representative from Weston and Sampson would be contacting them to schedule an appointment.

The Town was currently repaving several roads around the island. There is a 5 year hiatus required before the paving can be disturbed for any reason. Commissioner B. Marthens asked if there were any other projects that needed to be completed or considered before the paving was complete. There were none that the Town Manager, Superintendents, or Commission could think of.

SEWER DISTRICT

8. Discussion and potential action regarding Doyle request for abatement.

Commissioner T. Doyle recused himself from this item of the agenda as he was the requestor. The Commission was presented with a letter from T. Doyle of 347 High Street requesting a sewer usage abatement of 13,000 gallons (letter said 3,000, but this was a typo). Doyle had a frozen pipe that burst in February, and the water went to ground as opposed to sewer system. Plumber Dave Schaller had written a letter confirming the freeze had occurred.

MOTION by B. Marthens to abate 13,000 gallons of sewer usage in the month of February to T. Doyle of 347 High Street. Seconded by W. Battey.

Aye: 5 (Marthens, Battey, Ball, Draper, Chmiel) Nay: 0. Abstain: 0.

9. Discussion and potential action regarding the Closed Session minutes of March 9, 2015 and March 16, 2015 Sewer District meetings.

The Closed session minutes of March 9 and March 16, 2015 were reviewed by the Commission. A Commissioner asked if the full terms of the Settlement Agreement should be disclosed in these minutes. D. Petrarca stated it wasn't necessary because the Settlement Agreement was public record, but that the Settlement Agreement could be attached to the Open Session minutes of March 16, 2015.

MOTION by B. Marthens to approve the Closed Session Minutes of March 9 and March 16, 2015 without changes and to also attach the Freund Settlement Agreement to the March 16, 2015 open session minutes. Seconded by T. Doyle.

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

10. Discussion and potential action regarding Littlefield request for transfer of allocation.

A letter was presented to the Commission from customer Amelia V. Littlefield. The letter explained that years ago her lot (06/047) located on 488 Old Town Rd. had been divided into two lots. The additional lot created was identified as 06/048, located at 487 Old Town Rd. When this property was divided and a meter installed at the new house, allocation was not assigned, resulting in zero allocation for the property which in turn triggered penalties each year. Littlefield was requesting that the allocation of 26,500 assigned to lot 06/047 be divided equally between the lots.

MOTION by B. Marthens to divide the allocation of 26,500 currently assigned to property 06/047 (488 Old Town Rd.) evenly with 06/048 (487 Old Town Rd.) resulting in allocation of 13,250 for each. Seconded by T. Doyle.

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

11. Discussion and potential action regarding Financials and Aging

Financials were reviewed by the Commission, there were no further questions.

12. Operations Report

Sewer Superintendent C. Blane presented the March Monthly Operations and Maintenance Report.

13. Correspondence

3-20-15 from C. Warfel

This letter will remain permanently attached to these minutes.

ANNOUNCEMENTS AND OPEN FORUM.

14. Commissioners' Announcements.

15. Public Comment for items not on the agenda.

C. Blane commented on the issues that were occurring due to the flushing of baby wipes and other non-flushable items. It was agreed that a letter or notice should be sent out with the next billing cycle, a public service announcement of sorts, which would inform the public of what products were inappropriate to flush. The clerk stated that there were already educational materials available on the internet and that she would do further research.

16. Adjournment.

MOTION by B. Marthens to adjourn the monthly meeting at 5:10 p.m. Seconded by T. Doyle.

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

Respectfully Submitted,

Mona Helterline

ACCEPTED: 5/18/15

ATTACHED DOCUMENTS: 3/20/15 Letter to Sewer Commission from C. Warfel.

March 20, 2015

To the Sewer Commission:

I am writing to express my opinion of how two members of the Sewer Commission (P. McNerny, B. Marthens) and the Sewer Superintendent (C. Blane) conducted themselves with respect to the discussion of my FOIA request read into the record of March 16, 2015. It was disturbing that my comments during the February 23, 2015 meeting were misconstrued by these Commissioners and the Superintendent. Their comments were concerned as to whether or not I stated that I was at the meeting representing the Town Council, or as a member of the Town Council, or as a private citizen. I stated at that meeting that I was there as a member of Town Council and a private citizen/rate payer/taxpayer.

Not only did these people initially misconstrue my statements, but they continued to misrepresent them even when the Sewer Commission minutes showed that my representation of the matter was borne out by the minutes, and not by the representation of the Commissioners or the Sewer Superintendent. These minutes were in the Sewer Commission possession, and not mine. To have the minutes before these Commissioners and to still misrepresent my words can only be seen as deliberate. But to what end? They also claimed that I was attempting to intimidate the Sewer Commission when I answered the question by the Superintendent regarding whether or not I was there as the Town Council. I do realize that there are at least two facets to language; words and tone. Perhaps my tone was offensive, but that is a subjective assessment. The words as borne out in the record should be the basis for fact finding. I believe that their conduct during the March 16, 2015 meeting could easily be construed as an attempt to silence or intimidate me. Who wants to go down that road?

The Commissioners in question, and the Sewer Superintendent's conduct appears to be eerily similar to the manner in which the matter of Christian Freund's disciplinary hearing was handled. I believe they did not consider the facts before them. I believe that there was a concerted effort to hound Mr. Freund out of the Sewer Company by the Sewer Superintendent using harassment, and that the Sewer Commission did not make any attempt to stop it and address this problem. The Sewer Commission has stated a "zero tolerance policy" on threats. You have selectively enforced that policy. A pattern has emerged over many years that you allowed this behavior, and it does not look good for the operation of the Sewer Department from my perspective. I believe that my FOIA request will provide data on this pattern.

I would also like to add some commentary to events that took place after the March 16, 2016 meeting. After the first meeting I was had a discussion with the Sewer Commission Chair who said he was resigning, that it was not worth the effort to serve. I replied that it feels that way on the Town Council too, just about 24/7, but to try and think about the situation longer. The Sewer Commission Chair then stated that what they really needed was an Employee Handbook. I met with the First

Warden the very next day and relayed the meeting's events, including the Chair's request for a handbook. This request is under consideration for the Town as a whole. It turns out though that the need for an Employee Handbook was identified years ago by the Sewer Commission, and is still outstanding. In fact money was expended for this purpose, but it resulted in no Employee Handbook being developed.

I was also approached by the Sewer Superintendent, who wanted me to look at Mr. Freund's disciplinary file. He insinuated that Mr. Freund was withholding damaging information from the public. I said that I would ask. I did, and Mr. Freund readily agreed and said he had nothing to hide. I sat down with him and went through the file and talked about it during a one hour meeting on March 8, 2015.

I did everything asked of me by the two people who I believe were most behind the removal of Mr. Freund. I feel that the decision to remove Mr. Freund was made in private, spearheaded by a small number of people, and was not based on the facts before the Sewer Commission during the meeting that was open to the public. The Sewer Commission has allowed a dangerous precedence to occur by how this matter was handled and puts all at risk for similar treatment.

I thought it very important that a member of the Town Council be present at this matter, and given the outcome, I know that I made the right decision. I will be copying the Town Council on this communication. Please do not consider this a threat. I believe it is my responsibility to ensure that they have this document for their records. .

Please read this in its entirety into the minutes of your next meeting under correspondence.

A handwritten signature in black ink that reads "Christopher Warfel". The signature is written in a cursive, flowing style.

Christopher Warfel