

NEW JERSEY SITE REMEDIATION PROFESSIONAL LICENSING BOARD

**October 17, 2016 Meeting Minutes**

4:00 p.m., Public Hearing Room, DEP, Trenton

**Board Members:**

***Present***

Jorge Berkowitz

Philip Brilliant

Lawra Dodge

Joseph Fallon

Joann Held

Jeffrey Hoffman

Christopher Motta (Participated via teleconference due to necessity, because of personal circumstances that prevented him from travelling to the meeting.)

Kathi Stetser

Peter Strom

Constantine Tsentas

Ira Whitman

***Absent***

Mark Pedersen

***Others Present:***

Board Executive Director Janine MacGregor

Board Staff Dana Haymes

DAG Nielsen Lewis

***Proceedings:***

- **Meeting called to Order at 4:02 PM by Acting Chairman Joann Held**
- **Roll Call**
- **Approval of the Minutes of August 15, 2016**

Motion to approve the minutes by Jeffrey Hoffman.

Motion seconded by Phil Brilliant.

Roll Call Vote:

Jorge Berkowitz: Abstain

Philip Brilliant: Yes

Lawra Dodge: Abstain

Joseph Fallon: Yes

Joann Held: Abstain

Jeffrey Hoffman: Yes

Christopher Motta: Abstain

Kathi Stetser: Yes

Peter Strom: Abstain

Connie Tsentas: Yes

Ira Whitman: Yes

Mark Pedersen: Yes by Joann Held, Acting Chair, on behalf of Mark Pedersen.

The motion was carried.

### **Approval of the Minutes of September 12, 2016**

Motion to approve the minutes by Jorge Berkowitz.

Motion seconded by Connie Tsentas.

Phil Brilliant requested that the minutes be revised so that audits are noted as “completed” rather than “concluded”.

Roll Call Vote:

Jorge Berkowitz: Yes

Philip Brilliant: Yes

Lawra Dodge: Yes

Joseph Fallon: Yes

Joann Held: Yes  
Jeffrey Hoffman: Yes  
Christopher Motta: Yes  
Kathi Stetser: Yes  
Peter Strom: Yes  
Connie Tsentas: Abstain  
Ira Whitman: Yes  
Mark Pedersen: Absent

The motion was carried.

**Approval of the Closed Meeting Minutes of September 12, 2016**

Motion to approve the minutes by Lawra Dodge.

Motion seconded by Peter Strom.

Roll Call Vote:

Jorge Berkowitz: Yes  
Philip Brilliant: Yes  
Lawra Dodge: Yes  
Joseph Fallon: Yes  
Joann Held: Yes  
Jeffrey Hoffman: Yes  
Christopher Motta: Yes  
Kathi Stetser: Yes  
Peter Strom: Yes  
Connie Tsentas: Abstain

Ira Whitman: Abstain

Mark Pedersen: Absent

The motion was carried.

- **Chairman's Report:**

No report.

- **Executive Director's Report:**

Executive Director Janine MacGregor reported that Mark Pedersen is recovering well.

Ms. MacGregor also reported that Kimberly Hahn sent a thank you note for the gift from the Board.

Ms. MacGregor reported that members of the Board, as well as Board Staff, teleconferenced with members of the Massachusetts Board and the Executive Director to discuss the disciplinary process. There are some differences in the way that the Massachusetts Board operates, but the Massachusetts Board has encountered many of the same issues as the New Jersey Board. Ms. MacGregor hopes to have another call with the Massachusetts Board soon to discuss more issues.

Ms. MacGregor explained that DAG Nielsen Lewis has some recommendations with respect to the process for entering closed session and the process for recusal. Mr. Lewis's recommendations are in memos included with the Board Meeting Packet. The Board Meeting Packet also contains a draft resolution to enter into a closed meeting of the Board and a draft letter of recusal.

Mr. Lewis explained the process he recommended in his memos. He said that the purpose of the recommendations is to follow the procedures set forth in the Board By-Laws, which the Board has not been following.

Acting Chairman Held recommended that the By-Laws Committee be reconvened to recommend revisions to the By-Laws to streamline the process. The Committee will prepare specific questions for Mr. Lewis.

Jeff Hoffman left the meeting at 4:30 PM.

- **Report of the Ad-Hoc Committee on Board Operations: Joann Held**

Acting Chairman Held noted that the Committee has continued to meet and examine the Board operations. Something the Committee has directed its attention to is Committee assignments and Chairpersons. She would like all Board Members to consider their assignments, and send a note to Ms. MacGregor with respect to any changes that they

would like made, particularly if they would like to be removed from or appointed to a committee position, or chairmanship. Please have those comments to Ms. MacGregor by the next Board Meeting.

Acting Chairman Held noted that Ms. MacGregor circulated a proposed definition of “professional judgement”. Only Jorge Berkowitz provided comments. Please have comments to Ms. MacGregor by the next Board Meeting.

- **Report of the Ad-Hoc Committee on Discharge Notification: Joann Held**

Acting Chairman Held reported that the Committee has prepared a draft document. The document was distributed to Board members, and the Committee has received feedback. The Committee will meet to discuss the proposed revisions soon.

- **Report of the Professional Conduct Committee: Jorge Berkowitz**

Motion by Jorge Berkowitz to approve the resolution to go into closed session

Motion seconded by Phil Brilliant

Roll Call Vote:

Jorge Berkowitz:	Yes
Philip Brilliant:	Yes
Lawra Dodge:	Yes
Joseph Fallon:	Yes
Joann Held:	Yes
Jeffrey Hoffman:	Absent
Christopher Motta:	Yes
Kathi Stetser:	Yes
Peter Strom:	Yes
Connie Tsentas:	Yes
Ira Whitman:	Yes
Mark Pedersen:	Absent

The motion was carried.

Closed session commenced at 5:00 PM. Christopher Motta left the meeting.

The Board resumed full session at 5:45 PM. Jeff Hoffman returned to the meeting.

Motion by Jorge Berkowitz to amend his motion made on June 6, 2016 with respect to Complaint 008-2014 as follows:

Motion by Jorge Berkowitz to find the subject of Complaint 008-2014 in violation of the following provisions of the Site Remediation Reform Act, and assess a \$7000 penalty as follows:

N.J.S.A. 58:10C-16a - \$5000

N.J.S.A. 58:10C-16i and 16b - \$2000

Motion seconded by Lawra Dodge.

Roll Call Vote:

Jorge Berkowitz:	Yes
Philip Brilliant:	Yes
Lawra Dodge:	Yes
Joseph Fallon:	Yes
Joann Held:	Yes
Jeffrey Hoffman:	Abstain
Christopher Motta:	Absent
Kathi Stetser:	Yes
Peter Strom:	Yes
Connie Tsentas:	Yes
Ira Whitman:	Yes
Mark Pedersen:	Absent

The motion was carried.

Motion by Jorge Berkowitz to find the subject of complaint 010-2015 in violation of the following provisions of the Site Remediation Reform Act, and assess a \$7000 penalty as follows:

\$1000 penalty for violations of N.J.S.A. 58:10C-16b and 16i with respect to soil.

\$1000 penalty for violations of N.J.S.A. 58:10C-16b and 16i with respect to groundwater.

\$5000 penalty for violation of N.J.S.A. 58:10C-16a.

Motion seconded by Kathi Stetser.

Roll Call Vote:

- Jorge Berkowitz: Yes
- Philip Brilliant: Yes
- Lawra Dodge: Yes
- Joseph Fallon: Yes
- Joann Held: Yes
- Jeffrey Hoffman: Abstain
- Christopher Motta: Absent
- Kathi Stetser: Yes
- Peter Strom: No
- Connie Tsentas: Yes
- Ira Whitman: No
- Mark Pedersen: Absent

The motion was carried.

Motion by Jorge Berkowitz to accept the recommendation of the PCC to not initiate a new complaint in order to continue the investigation of Complaint 007-2015, since the complainant withdrew the complaint.

Motion seconded by Phil Brilliant.

Roll Call Vote:

Jorge Berkowitz: Yes  
Philip Brilliant: Abstain  
Lawra Dodge: Yes  
Joseph Fallon: Yes  
Joann Held: Yes  
Jeffrey Hoffman: Abstain  
Christopher Motta: Absent  
Kathi Stetser: Yes  
Peter Strom: Yes  
Connie Tsentas: Yes  
Ira Whitman: Yes  
Mark Pedersen: Absent

The motion was carried.

- **Report of the Audit Committee: Philip Brilliant**

Phil Brilliant reported that the names of five LSRPs were drawn for the October 2016 audit and an Audit Review Team will be assembled.

12 Audits reported as completed:

September 2015 – Bob Blauvelt – 575013

September 2015 – Christopher Beriont – 524783

February 2016 – Thomas Uzzo – 574441

February 2016 – Robert Trepp – 586036

February 2016 – Amy Lopez – 668271

February 2016 – Charlene Drake – 587242

March 2016 – John Oberer – 576679

March 2016 – Michael Metlitz – 573681

December 2015 – Peter Palko – 627884

December 2015 – Thomas DeMichele- 576002

December 2015 – Edward Claypoole – 668240

December 2015 – Matthew Gordon - 579787

- **Report of the Continuing Education Committee: Lawra Dodge**

Motion by Lawra Dodge to accept the recommendation of Continuing Education Committee to approve applications for continuing education credit as follows:

1. Application of LSRPA for approval of 3 Regulatory CECs for “Attainment of Remediation Standards” – CEC recommends approval of 3 Regulatory CECs
2. Application of LSRPA and NJDEP Division of Water Quality for 3.75 Regulatory CECs for “CSO Training for LSRPs” – CEC recommends approval of 2 Technical and 1.5 Regulatory CECs
3. Application of Montclair State University – CEEP for 6 Regulatory/Technical CECs for “Technical and Regulatory Aspects of Remediating Environmentally Sensitive Areas” – CEC recommends approval of 3 Technical and 3 Regulatory CECs
4. Application of Montclair State University – CEEP for 3.5 Regulatory /Technical CECs for “GIS Data Submittal Requirements” – CEC recommends approval of 1.5 Regulatory and 2 Technical CECs
5. Application of LSRP Brian Martinek for 7 Technical CECs and 3 Regulatory CECs for giving a presentation entitled “The Evolution of PCB Discharge Limits – Re-evaluating Groundwater Remediation System Performance Requirements” – CEC recommends approval of 1 Technical CEC

6. Application of Rutgers NJAES – OCPE for approval of 7 Technical CECs for “PAH Forensic Geochemistry” – CEC recommends approval of 7.5 Technical CECs.
7. Application of Brownfield Coalition of the Northeast for approval of 2.5 Regulatory CECs for “Resources to Jump Start Your Vacant Property Redevelopment” – CEC recommends approval of 2 Regulatory CECs.

Connie Tsentas seconded the motion.

Roll Call Vote:

Jorge Berkowitz: Yes to all, except abstain with respect to application of Montclair State University – CEEP for 6 Regulatory/Technical CECs for “Technical and Regulatory Aspects of Remediating Environmentally Sensitive Areas” and application of Montclair State University – CEEP for 3.5 Regulatory /Technical CECs for “GIS Data Submittal Requirements”

Philip Brilliant: Yes to all, except abstain with respect to application of Montclair State University – CEEP for 6 Regulatory/Technical CECs for “Technical and Regulatory Aspects of Remediating Environmentally Sensitive Areas” and application of Montclair State University – CEEP for 3.5 Regulatory /Technical CECs for “GIS Data Submittal Requirements”

Lawra Dodge: Yes to all

Joseph Fallon: Yes to all

Joann Held: Yes to all

Jeffrey Hoffman: Yes to all

Christopher Motta: Absent

Kathi Stetser: Yes to all

Peter Strom: Yes to all, except abstain with respect to application of Rutgers NJAES – OCPE for approval of 7 Technical CECs for “PAH Forensic Geochemistry”

Connie Tsentas: Yes to all

Ira Whitman: Yes to all

Mark Pedersen: Absent

The motion was carried with respect to all applications.

Christopher Motta returned to the meeting at 6:15 PM.

- **Report of the Finance Committee: Joseph Fallon**

Joseph Fallon reported that the Finance Committee is proposing to adopt the 2017 budget presented at the last meeting of the Board on September 12, 2016.

Follow up items the Committee is working on include:

1. Working with other Committee Chairs/Groups to look for opportunities to reduce costs during the fiscal year;
2. Working with the Board Executive Director to monitor charges to the Board to provide some assurance that charges are directly related to Board business;
3. Assessing potential fee increases (excluding annual fee) in current fee schedule;
4. Assessing potential new fees in areas such as CEC reviews;
5. Setup system that will allow tracking of costs incurred under professional conduct cases to allow cost recover actions; and
6. Explore asking for an annual allocation from the state to cover some operating expenses.

Motion by Joseph Fallon to approve the 2017 budget.

Motion seconded by Peter Strom.

Roll Call Vote:

Jorge Berkowitz: Yes

Philip Brilliant: Yes

Lawra Dodge: Yes

Joseph Fallon: Yes

Joann Held: Yes

Jeffrey Hoffman: Yes

Christopher Motta: Yes

Kathi Stetser: Yes  
Peter Strom: Yes  
Connie Tsentas: Yes  
Ira Whitman: Yes  
Mark Pedersen: Absent

The motion was carried.

- **Report of the Licensure Committee: Ira Whitman**

Ira Whitman reported that the Licensure Committee is scheduling the IT contract discussions in early November.

With regard to the exam contract, the public bid opening occurred. Three bids were opened but there were administrative issues with each of the bids. The Committee is not involved in the resolution of those issues. At this time the Committee cannot set a date for the next LSRP examination or the application period. It is unlikely that the Board will be able to have the examination administered in Spring 2017. Caviart will be developing the next examination and delivering it to the Board within the next three months. But at this time it is not known when that examination will be administered or who will administer it.

Phil Brilliant suggested that the Board make a statement in November with respect to whether or not there will be an examination administered in Spring 2017.

- **Report of the Outreach Committee: Christopher Motta**

Christopher Motta reported that the Committee has posted on the Board website a guide to hiring an LSRP that will be useful for small business owners. In the future the Committee will let the Board know before posting something. The Committee is considering a wider distribution of this document so that the target audience will be reached. Janine MacGregor has contacted ANJEC and NJ Realtors Association to find out if they would be willing to distribute this.

- **Ongoing Business:**

Janine MacGregor has been collecting suggestions from Board Members on SRRA 2.0, and has distributed these to the Board Members for comment. She has directed the question to the Board Operations Committee how to move forward with this. Connie Tsentas suggested that the second Board Meeting of the month in an upcoming month be

dedicated to discussing SRRA 2.0. The Board could establish an ad hoc committee that could bring the SRRA 2.0 suggestions to the Board at a second monthly meeting.

Jorge Berkowitz, Kathi Stetser, Chris Motta and Joe Fallon volunteered to serve on the ad hoc committee. Joann Held will appoint a committee chairman before the next meeting.

- **New Business:**

Proposed Board Meeting dates for 2017:

January 9  
January 23  
February 6  
February 21  
March 6  
March 20  
April 3  
April 17  
May 1  
May 15  
June 5  
June 19  
July 10  
August 7  
September 11  
September 25  
October 2  
October 16  
November 6  
November 20  
December 4  
December 18

Motion by Jeff Hoffman to accept the proposed meeting dates.

Ira Whitman seconded the motion.

All present voted Yes. The motion was carried.

- **Next Meeting Date:**

November 7, 2016 at 4:00 PM.

- **Public Comments:**

Rodger Ferguson, LSRP. The LSRPA teaches an examination preparation course, so they would like to know when the next examination date is set as soon as possible. Also, the LSRPA would like to provide comments on the LSRP hiring guide recently posted by the Board.

John Zdepski, LSRP. He believes that the Department employees should take the same ethics course that LSRPs take. The Department has made complaints against LSRPs, but the Board has found no basis for those complaints. He also believes there should be coordination between site remediation rules and land use rules.

The meeting adjourned at 6:40 PM.