

NEW JERSEY SITE REMEDIATION PROFESSIONAL LICENSING BOARD

FINAL

**November 4, 2019 Meeting Minutes**

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

**Board Members:**

***Present***

Jorge Berkowitz  
Phil Brilliant  
Lawra Dodge (via teleconference)  
Joann Held  
Jeffrey Hoffman  
Christopher Motta  
Mark Pedersen  
Kathi Stetser (arrived at 4:20 PM)  
Peter Strom  
Ira Whitman

***Absent***

None

***Others Present***

Board Executive Director Janine MacGregor  
Board Staff Dana Haymes  
DAG Nielsen Lewis

***Proceedings***

- Meeting called to Order at 4:05 PM by Chairperson Mark Pedersen
- Mark Pedersen read the Statement of Adequate Public Notice of the meeting required by the Open Public Meetings Act.
- Roll Call:
  - Jorge Berkowitz - present
  - Phil Brilliant - present
  - Lawra Dodge - present via teleconference
  - Joann Held - present

Jeffrey Hoffman	- present
Christopher Motta	- present
Mark Pedersen	- present
Kathi Stetser	- absent
Peter Strom	- present
Ira Whitman	- present

A quorum of the Board was in attendance.

- **Approval of the Board Meeting Minutes**

- Motion by Mark Pedersen to approve October 7, 2019 Board Meeting Minutes.

Jorge Berkowitz seconded the motion.

Joann Held commented that the minutes didn't mention that names were drawn for audit for October 2019. The minutes will be amended accordingly.

Roll Call Vote:

Jorge Berkowitz	- Yes
Phil Brilliant	- Yes
Lawra Dodge	- abstained due to absence
Joann Held	- Yes
Jeffrey Hoffman	- Yes
Christopher Motta	- Yes
Kathi Stetser	- absent
Peter Strom	- Yes
Ira Whitman	- Yes
Mark Pedersen	- Yes

The motion was carried.

- Motion by Mark Pedersen to approve October 7, 2019 Board Meeting Minutes of the closed session.

Jeff Hoffman seconded the motion.

Roll Call Vote:

Jorge Berkowitz	- Yes
Phil Brilliant	- Yes
Lawra Dodge	- abstained due to absence
Joann Held	- Yes
Jeffrey Hoffman	- Yes
Christopher Motta	- abstained due to absence

Kathi Stetser	- absent
Peter Strom	- Yes
Ira Whitman	- Yes
Mark Pedersen	- Yes

The motion was carried.

- **Chairperson's Report**

Mark Pedersen reported that the Department sent an email to stakeholders to follow up on discussions held during the SRRA 2.0 stakeholder meetings regarding topics raised by stakeholders that were not to be addressed through SRRA 2.0, but rather to be considered through rulemaking. The intent of this email was to identify the topics and to ensure that the list was complete. Topics include remedial action permits, historic fill, historically applied pesticides, alternative fill, flexible risk-based program, and impacts of SRRA on municipalities and public entities. There will be a meeting on November 18, 2019 regarding this "transitioning" of items from SRRA 2.0 into potential rule topics, and for the Department to hear from stakeholders on what they intended in regard to these potential rule topics.

During the SRRA 2.0 discussions, the Board authorized Joann Held and Phil Brilliant to represent the Board with respect to SRRA 2.0, so currently only they can speak for the Board at the SRRA 2.0 follow up meeting unless the Board votes to authorize others. Regarding SRP rulemaking, Mark Pedersen would like Board Members or Board staff to be present in any stakeholder meetings that may take place, to identify if there are issues that impact the Board or should be considered by the Board. The Board would need to vote on Members to represent the Board.

Joann Held commented that the Rules Committee did discuss this and felt that there was a role for the Board to be represented in the SRP rulemaking stakeholder meetings. Phil Brilliant and Joann Held expressed an interest in representing the Board, and Kathi Stetser did as well.

Mark Pedersen commented that after the SRRA 2.0 followup meeting on November 18, 2019, the SRP rulemaking process, including any stakeholder meetings, will be picked up by the Department rulemaking team lead by rule manager Lynne Mitchell, and supported by Rafael Rivera and Christina Page.

- **Executive Director's Report**

Janine MacGregor stated that she drafted a listserv to remind LSRPs of their responsibilities with respect to notifications for timeframes that are missed. The listserv will be released within the next week, unless there are comments or concerns from the Board Members who have been sent the draft listserv to review, including Peter Strom, Jorge Berkowitz and Phil Brilliant.

The listserv will mention that the Board took action with respect to four LSRPs that failed to make notifications for missed timeframes. But the main focus will be to inform LSRPs with respect to how they can be in compliance with the notification requirements, including the forms to use for notifications, where the forms can be found, and how to use the Department database to determine the regulatory and mandatory timeframes for their projects.

Janine MacGregor will also prepare a listserv summarizing the many complaints that were settled this year. This will be sent to Phil Brilliant and Peter Strom for review.

### ***Committee Reports***

- **Continuing Education Committee – Lawra Dodge**

- Motion by Lawra Dodge to approve the following CEC applications.

Motion seconded by Mark Pedersen.

	TITLE	PROVIDER	DATE	CECs	PROPOSED COURSE #
1	Identifying and Solving Environmental Problems for Municipalities	CPES	TBD	3 Regulatory	2019-090
2	Linear Construction	CPES	TBD	3 Regulatory	2019-091
3	Vapor Intrusion Risk Assessment	TRC Environmental	May 22, 2019	1 Technical	2019-092
4	Remediating Sites	LSRPA	TBD	1 Regulatory	2019-093
5	What SRRA 2.0 Means to LSPRs	LSRPA	TBD	2 Regulatory	2019-094
6	Remediation Workshops	Environmental Workshops	September 24, 2019 and September 25, 2019	4 Technical for each workshop	2019-095
7	Assessing Complex Hydrogeologic Systems	NYSCPG/Midwest Geosciences	October 29-30, 2019	16 Technical	2019-096
8	Remediation Funding Source and Financial Assurance Training	NJDEP Site Remediation Program and LSRPA	December 11, 2019	2 Regulatory	2019-097
9	Case Study Training for LSRPs – the Next Generation	NJAES – OCPE and NJDEP-SRWMP Training Committee	October 24, 2019	2 Regulatory and 5 Technical	2019-098

10	Waste Classification and Management for LSRPs	LSRPA	TBD	1 Technical and 1 Regulatory	2019-099
11	Site Characterization for In Situ Remediation	LSRPA	TBD	2 Technical	2019-100
12	PFAS 101	LSRPA	TBD	1 Regulatory and 1 Technical	2019-101
13	LSRP Project Management	LSRPA	TBD	2 Regulatory	2019-102
14	LSRP Practitioners Strategies for Ensuring Regulatory Compliance	LSRPA	TBD	1 Regulatory	2019-103
15	Changes to NJ Cleanup Laws	CPES	September 27, 2019	2.5 Regulatory	2019-104

Roll Call Vote:

Jorge Berkowitz	- Yes to all except recused for proposed courses 2019-090, 2019-091, and 2019-104
Phil Brilliant	- Yes to all except recused for proposed courses 2019-090, 2019-091, and 2019-104
Lawra Dodge	- Yes to all
Joann Held	- Yes to all
Jeffrey Hoffman	- Yes to all
Christopher Motta	- Yes to all
Kathi Stetser	- Yes to all except recused for proposed course 2019-098
Peter Strom	- Yes to all except recused for proposed course 2019-098
Ira Whitman	- Yes to all
Mark Pedersen	- Yes to all

The motion was carried with respect to all applications.

• **Professional Conduct Committee – Phil Brilliant**

Phil Brilliant reported that at the last Board Meeting the Board discussed modification of the By-Laws to allow Board Members to attend closed sessions via videoconferencing technology. There were some questions and concerns raised. With respect to technology, the Department facilities allow participation of multiple Board Members at once. All participants will be visible on the screen in the conference room, and the entire conference room will also be visible to remote participants. This was tested by staff to ensure that it worked.

Each individual Board Member will have to ensure that they have the appropriate technology to participate and will also have to ensure confidentiality and security on their end. Remote

participants will need to use a PC, tablet or smart phone with a camera and microphone. The medium for the video conference will be Skype for Business.

Phil Brilliant proposed that Board Members be required to submit a written notification that the Board Member cannot attend the meeting in person and would like to attend via teleconference and confirms that the Board Member will ensure that the call will be secure and confidential. All Board Members confirmed that they have the technology to participate. Mark Pedersen suggested that the language ensuring that the call is secure and confidential be signed and submitted by each Board Member beforehand.

Phil Brilliant read the proposed revision to the By-Laws. The text of this revision will be sent to all Board Members prior to vote.

- Motion by Phil Brilliant to adopt a resolution to enter closed session to discuss Complaint 005-2017.

Motion seconded by Jeff Hoffman.

All present voted yes.

The motion was carried.

Lawra Dodge departed the meeting at 5:05 PM.

Open Session Board Meeting resumed at 5:50 PM.

- **Audit Committee – Jorge Berkowitz**

- Five LSRPs were selected for audit this month.
- The audits of the following LSRPs are complete:

- January 2019:
  - David Puchalski, 591642
  - Lauren Schoenemann, 668236
  - Leslie Sparrow, 575488

Ira Whitman commented that the Committee and staff are working on constructing a checklist to be used during Audit reviews. This is an attempt to ensure consistency and make it easier for staff and Board Members to conduct reviews.

- **Finance Committee – Christopher Motta**

Christopher Motta reported that two documents were distributed to the Board, the “Notice of Availability of Annual Site Remediation Professional Licensing Board Fee Calculation Report – Calendar Year 2020” and a spreadsheet showing Fiscal Year 2019 Budgeted and Fiscal Year 2019 Actuals.

Christopher Motta explained that Department staff Frank DeFeo and Kevin Seymour prepared the Fee Calculation report and it will be published in the New Jersey Register. This is the first year the report proposes a change in the fees. Since the calculation showed the application and license renewal fees should be lowered, the recommendation is to lower those fees. The annual license fee will remain at \$900.00.

Kathi Stetser commented that although the calculated 2020 fee is greater than \$900.00, the annual fee is not being changed in order to avoid swings in the fee amount.

Janine MacGregor commented that the application fee is reduced for Calendar Year 2020. However, since that fee doesn't take affect until 2020, it will not change the application fee amount for the current application period, which is now open, and ends December 31, 2019. The application fee will remain at the CY 2019 level of \$400.00 for this application period.

- **Licensure – Kathi Stetser**

Kathi Stetser requested that Janine MacGregor send a listserv announcing when the annual license fee invoices for 2020 will be sent.

Janine MacGregor reported that the invoices will most likely be sent about November 15, 2019.

- **Outreach Committee – Peter Strom**

No Report.

- **Rules Committee – Joann Held**

Joann Held reported that the rules committee has reviewed the oral and written comments received at the stakeholder meeting on September 23, 2019. From that meeting the Rules Committee has identified various issues, listed below under three categories determined by the Committee. The Rules Committee also acknowledges the comment of the LSRPA that there may be a need for additional stakeholder meetings. The Committee will wait until further into the process to identify the proper time and parties to involve in the meetings.

List of Issues by Category:

I. Rule modifications to be considered by the Rules Committee:

1. Clarify the term moral turpitude
2. Clarify the responsibility of the LSRP vs. the responsibility of the PRCR. For example, language in these sections suggests that LSRPs “conduct remediation:” 2.14(b), 6.6, 6.7(a), 6.7(b), 6.7(c), 6.28(b)
3. Modify the limits on services that can be provided during license inactivation

4. Clarify the language requiring justification for deviation from DEP guidance (6.3(c))
5. Review SRRA 2.0 draft statement of interpretation from Ad Hoc Committee (June 2017) and recent concerns re: reporting during Due Diligence and definition of remediation

## II. Procedural issues to be referred to other Committees:

### RULE COMMITTEE:

1. More transparency with respect to random audits
2. Concerns regarding Board query of NJEMS to identify LSRPs who failed to make notifications for missed timeframes

### PROFESSIONAL CONDUCT COMMITTEE:

1. Clarify procedures for release of names of LSRPs found to be in violation of Board Rules
2. Request for better and more timely synopses of complaints/violations so that regulated community can learn from them
3. Ensure adequate due process protection for LSRPs during complaint review

## III. Refer for consideration by the full Board:

1. Concerns about separation of Board from DEP and suggestion that Board staff relocate to somewhere other than the DEP building
2. Suggestion that Board establish a formal opinion process similar to statements of interpretation

Mark Pedersen requested that the Committee refer to what Senator Smith said when trying to determine roles and responsibilities of LSRPs and PRCRs with respect to discharges.

Jeff Hoffman departed the meeting at 6:30 PM.

## • Ongoing Business

Phil Brilliant noted that he previously suggested that the Board hold a meeting at the LSRPA conference to encourage LSRPs to attend Board meetings and gain some firsthand knowledge of the work that the Board does for the profession. There was no vote taken then, but a majority of Board Members commenting supported looking into this, seeing if it were permissible, and seeing what had to be done.

Janine MacGregor has looked into it and reported at the March 2018 meeting that the Ethics Liaison Officer said that it was permitted with the following conditions:

1. The Board cannot accept anything of value from the LSRPA (such as refreshments or the rental fee for the room)
2. A Board meeting held at the LSRPA conference would have to be free and open to the public



3. The change in venue would have be noticed to the public pursuant to the Open Public Meetings Act.

Janine MacGregor and Mark Pedersen noted that there will be approvals required for Department staff attending.

Mark Pedersen noted that it would be counterproductive if the Board held a closed session during this meeting, should it occur.

- Motion by Phil Brilliant to hold the first February Board Meeting of 2020 on Tuesday February 4, 2020 from 5:00-7:00 PM at the LSRPA conference in New Brunswick, NJ, and to appropriate \$200.00 for the cost of meeting room and refreshments, pending travel and ethics approvals and travel costs for Board staff and Department staff serving as Board Members, not exceeding \$100.00.

Motion seconded by Mark Pedersen.

Roll Call Vote:

Jorge Berkowitz	- Yes
Phil Brilliant	- Yes
Lawra Dodge	- absent
Joann Held	- Yes
Jeffrey Hoffman	- absent
Christopher Motta	- Yes
Kathi Stetser	- Yes
Peter Strom	- Yes
Ira Whitman	- Yes
Mark Pedersen	- Yes

The motion was carried.

- **New Business**

None.

- **Next Board Meeting**

- Motion by Mark Pedersen to cancel the November 18, 2019 meeting.

Motion seconded by Phil Brilliant.

All present voted yes.

The motion was carried.

The next Board Meeting will be December 2, 2019

- **Public Comments**

Marlene Lindhart, LSRPA thanks the Board for considering the LSRPA's comments with respect to the Board Rules.

- Motion by Ira Whitman to adjourn the meeting

Phil Brilliant seconded the motion.

All present voted yes.

The motion was carried.

Meeting adjourned at 7:00 PM.