

NEW JERSEY SITE REMEDIATION PROFESSIONAL LICENSING BOARD

FINAL

September 11, 2017 Meeting Minutes

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

Board Members:

Present

Jorge Berkowitz
Phil Brilliant
Jeffrey Hoffman
Christopher Motta
Mark Pedersen
Peter Strom
Connie Tsentas
Ira Whitman

Absent

Lawra Dodge
Joann Held
Kathi Stetser

Others Present:

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

Proceedings:

- Meeting called to Order at 4:04 PM by Chairperson Mark Pedersen.
- Chairperson Pedersen read the Statement of Adequate Public Notice of the meeting required by the Open Public Meetings Act.
- Roll Call – A quorum of the board was in attendance.
- Motion to approve August 7, 2017 minutes (regular and closed) will be tabled until the next Board Meeting.

- **Chairperson's Report**

Chairperson Pedersen provided an update from the Site Remediation Program (SRP). SRP had a backlog of approximately 1500 RAOs. With overtime work by SRP staff, all backlogged RAOs have been inspected and reviewed where warranted. SRP staff is working on eliminating the backlog on all other key documents. SRP is putting procedures in place to prevent backlogs from returning.

Chairperson Pedersen noted that he had previously directed the Executive Director and Board Staff to request a written opinion from Ray Papperman, the ethics liaison, prior to the August 7, 2017 Board meeting, with respect to the company formed by Jorge Berkowitz and Phil Brilliant and the effect on their involvement in Board discussions and votes concerning continuing education. Mr. Papperman's original opinion stated that Dr. Berkowitz and Mr. Brilliant should recuse themselves from participating in Board votes and discussions with respect to all continuing education matters. Mr. Papperman subsequently revised the opinion to limit recusal by Dr. Berkowitz and Mr. Brilliant to only those continuing education matters that directly involve themselves or their company. Consequently, from this meeting forward, in accordance with Mr. Papperman's opinion, Mr. Brilliant and Dr. Berkowitz may participate in votes and discussions with respect to applications for approval of continuing education, unless they or their company are directly involved in the matter under discussion or coming for a vote. Chairperson Pedersen noted that the LSRPA has requested that the State Ethics Commission further review this issue. The Board is not involved in this review. It is anticipated that any opinion issued by the State Ethics Commission will be communicated to the Board.

- **Executive Director's Report**

Executive Director Janine MacGregor noted that she had requested final comments from the Board Members with respect to the draft Guidance Document for Notifications and none were received.

Ms. MacGregor requested comments from the Board Members with respect to the Site Remediation Program – Professional Conduct Committee Memorandum of Understanding and some comments were received. She will request that DAG Nielsen Lewis review the document before it is signed.

Ms. MacGregor informed the Board that Tony Farro will be retiring, and apprised all present that they are welcome to attend his retirement party on December 7, 2017.

- **Committee Reports**

- **Report of the Continuing Education Committee: Connie Tsentas for Lawra Dodge**

Motion by Connie Tsentas to approve the following application for approval of Continuing Education Credits:

1. Application of GEI Consultants for approval of “ISRA and PA-SI Training for LSRPs” for 2 Regulatory CECs

Motion seconded by Phil Brilliant.

Roll Call Vote:

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

The motion was carried.

Ira Whitman asked for a report on the status of outstanding CEC applications. Chairperson Mark Pedersen replied he would follow up on this request.

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

No Report.

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

No Report.

- **Report of the Audit Committee – Jorge Berkowitz**

Jorge Berkowitz reported that Audit Review Teams will be asked to complete a form at the conclusion of an audit to record their decision with respect to the audit.

Dr. Berkowitz requested that a member of the public, John Oberer, President of the LSRPA, be permitted to address the Board with respect to proposed revisions to the audit selection and review process.

Mr. Oberer stated that the LSRPA has concerns with respect to the selection of LSRPs for non-random audits. The LSRPA has been told by Department representatives that they are not keeping a list of LSRPs that they consider to be “bad actors”. But if there is no list of “bad actor” LSRPs in the Department, how are non-random auditees being selected? Dr. Berkowitz will consider Mr. Oberer’s comments with the Audit Committee.

Five LSRPs were selected for audit today. Three were selected randomly and two were selected non-randomly.

- **Report of the Finance Committee – Chris Motta**

Chris Motta distributed a set of charts to the Board. One chart shows budgeted revenue and salary and operating costs, and actual revenue and salary and operating costs, for Fiscal Year 2017, July 2016 – June 2017. A second chart illustrates Fiscal Year 2017 Carry Forward through fourth quarter, July 2016 – June 2017.

In addition, a spreadsheet of the FY2017 Actual Quarterly Expenditures by line item was provided in the Board package, along with the Draft Fiscal Year 2018 Budget. Mr. Motta intends to present this to the full Finance Committee after the meeting, and then present the Final Budget to the Board for vote next month.

- **Report of the Licensure Committee – Kathi Stetser**

Janine MacGregor stated that the committee has requested a scope of work and cost estimate from Caviart.

- **Outreach Committee – Peter Strom**

No report.

- **Professional Conduct Committee – Phil Brilliant**

Motion by Phil Brilliant to approve a resolution to go into closed session to discuss Complaint 003-2016.

Jeff Hoffman seconded the motion.

All present voted yes.

The motion was carried.

Jorge Berkowitz is recused from the closed session.

Open Session resumed at 5:54 P.M.

Mr. Brilliant stated that there is nothing to report from the closed session.

- **Ongoing Business:**

No ongoing business.

- **New Business:**

Board Meeting dates from 2018 have been established as listed in agenda. Please provide any conflicts to Executive Director Janine MacGregor.

- **Second Board meeting in September:**

Motion by Ira Whitman to cancel the second meeting in September.

Motion seconded by Connie Tsentas.

Roll Call Vote:

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

The motion was carried.

- **Public Comments:**

John Oberer, LSRPA. Mr. Oberer believes it is important for the Board to be transparent as to why they are selecting individuals for audit. The criteria the Board uses for non-random selection should be made public.

Andrew Robins, Ocean, New Jersey. Mr. Robins requested that the Professional Conduct Committee keep metrics as to the process they are following to review complaints, and make those metrics public so as to better inform the public and those involved in the complaints as to the status of the complaint investigations and review process.

The meeting adjourned at 6:04 P.M.