

NEW JERSEY SITE REMEDIATION PROFESSIONAL LICENSING BOARD

FINAL

December 7, 2020 Meeting Minutes

4:00 PM

Meeting held via Microsoft Teams

Until further notice, the open public meetings of the Board will be held via Microsoft Teams.

To participate by phone, use the following:

Toll free number: 1-(856) 338-7074 and Conference ID: 906475949

Or connect via the link on the Board Website www.nj.gov/l srpboard

Board Members:

Present

Jorge Berkowitz
Phil Brilliant
Lawra Dodge
Joann Held
Jeffrey Hoffman
Mark Pedersen
Kathi Stetser
Peter Strom
Ira Whitman

Absent

Others Present

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

Members of the Public that were present:

Rebecca Hollender, Ken Haduch, Marlene Lindhardt, Mark Pietrucha, William Call, Rose DeLorenzo, Rodger Ferguson, Timothy Mangold, David Hoffman, Alan Uminski

Proceedings

- Meeting called to Order at 4:04 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
 Joann Held - present
 Jeffrey Hoffman - present
 Mark Pedersen - present
 Kathi Stetser - present
 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 the November 2, 2020 Board Meeting Minutes.

Motion seconded by Peter Strom.

Roll Call Vote:

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

The motion to approve the minutes was carried.

- Motion by Mark Pedersen to approve the November 2, 2020 Board Meeting Minutes of the Closed Session.

Motion seconded by Phil Brilliant.

Roll Call Vote:

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

The motion to approve the minutes was carried.

- **Chairperson's Report**

Mark Pedersen noted that former Board Member and DEP Commissioner Dick Dewling passed away recently on November 20, 2020.

Jorge Berkowitz, Ira Whitman, Phil Brilliant and Lawra Dodge added their remembrances of Commissioner Dewling and the Board held a moment of silence in his honor.

Notices for the Board Meetings for 2021 have been published.

- **Executive Director's Report**

Janine MacGregor asked the Board Members for their feedback with respect to the use of Teams for holding Board Meetings.

Mark Pedersen noted that Teams seems to be working for the Board Members.

Mark Pedersen also noted that Commissioner Catherine McCabe is resigning as the DEP Commissioner on January 15, 2021. He looks forward to working with whomever the Governor appoints as the DEP Commissioner to replace Commissioner McCabe.

Committee Reports

- Continuing Education - Lawra Dodge
 - Motion by Lawra Dodge to approve the following CEC applications to be offered both in-person and in AVLIF:

TITLE	PROVIDER	DATE	CECs	PROPOSED COURSE NUMBER
Update on Federal and State Cost Recovery and Remediation Litigation	Riker Danzig	November 6, 2020	1 Regulatory	2020-077
Vapor Intrusion Best Practices	Alpha Analytical	November 10, 2020	0.5 Regulatory and 1.5 Technical	2020-078
Trap and Treat Approach to Solvent Remediation	AST Environmental	November 12, 2020	0.5 Technical	2020-079
Hot Topics and New Developments in Environmental Land Use Law	Montclair State University and CPES	November 4, 2020	3 Regulatory	2020-080
Drones and You	Montclair State University and CPES	November 18, 2020	3 Technical and 0.5 Regulatory	2020-081
Historically Applied Pesticides	LSRPA	November 18, 2020	1.5 Technical and 0.5 Regulatory	2020-082
RAOs – Is There Ever Finality?	LSRPA	TBD	1 Regulatory	2020-083
Getting to RAO	LSRPA	TBD	1 Regulatory	2020-084
Remediation Standards: Proposed Rules and Amendments	LSRPA	TBD	1.5 Regulatory	2020-085
Practical Site Characterization for Planning In-Situ Remediation and Drilling and Subsurface Sampling and Delivery Technologies	LSRPA	TBD	2 Technical	2020-086
Working Smarter Not Harder to Characterize Fractured Bedrock	AST Environmental	December 3, 2020	0.5 Technical	2020-087
Unlocking the Secrets to Fractured Bedrock Injection	AST Environmental	December 10, 2020	0.5 Technical	2020-088
The Pre-drill Method: Overcoming Unconsolidated DPT Refusal	AST Environmental	December 17, 2020	0.5 Technical	2020-089
Remediation Success with the Trap and Treat Approach	AST Environmental	November 5, 2020	0.5 Technical	2020-090
Trap and Treat Approach – Petroleum Hydrocarbon Remediation	AST Environmental	November 19, 2020	0.5 Technical	2020-091

Motion seconded by Joann Held.

Roll Call Vote:

Jorge Berkowitz	- Yes to all, except recused from 2020-080 and 2020-081
Phil Brilliant	- Yes to all, except recused from 2020-080 and 2020-081
Lawra Dodge	- Yes to all
Joann Held	- Yes to all
Jeffrey Hoffman	- Yes to all
Kathi Stetser	- Yes to all, except recused from 2020-082
Peter Strom	- Yes to all
Ira Whitman	- Yes to all
Mark Pedersen	- Yes to all

The motion was carried with respect to all applications.

- Motion by Lawra Dodge to disapprove the following CEC application:

Health in All Policies provided by Rutgers NJAES – OCPE

Motion seconded by Ira Whitman.

Roll Call Vote:

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

The motion was carried.

- Motion by Lawra Dodge to approve the following previously approved continuing education programs to be offered in Alternative Verified Learning Format:

Continuing Professional Education Services:

2016-047 - Effective Use of Compliance Averaging
 2015-066 – Ecological Risk Assessment
 2018-026 – Environmental Issues Encountered in Demolition
 2018-070 – Environmental Forensics

2019-090 - Identifying and Solving Environmental Problems for Municipalities
 2016-056 - Technical and Regulatory Aspects of Remediating Environmentally Sensitive Areas
 2019-091 - Linear Construction
 2014-029 - The LSRP: The Obligations, the Requirements, and Professional Judgment
 2014-051 - Current Approaches to Treatment Technologies in Site Remediation

Rutgers NJAES – Office of Continuing Professional Education:

2014-077 – Environmental Law for LSRPs

Motion seconded by Mark Pedersen

Roll Call Vote:

Jorge Berkowitz	- Yes to all, except recused from the 9 CPES courses
Phil Brilliant	- Yes to all, except recused from the 9 CPES courses
Lawra Dodge	- Yes to all
Joann Held	- Yes to all
Jeffrey Hoffman	- Yes to all
Kathi Stetser	- Yes to all, except recused from 2014-077
Peter Strom	- Yes to all, except recused from 2014-077
Ira Whitman	- Yes to all
Mark Pedersen	- Yes to all

The motion was carried with respect to all applications.

Peter Strom asked whether the Board could delegate the authority to approve applications for approval of continuing education credits to the Continuing Education Committee given the difficulty that there could be to approve courses because of recusals and absences of Board Members from meetings.

Jorge Berkowitz asked whether a new process could be instituted to provide temporary approvals, and when the Board has a full complement of members the Board could then re-review the applications for full approval.

Lawra Dodge noted that a temporary delegation of authority to the Committee would be less problematic than temporary approvals. She noted that the Committee has already looked into the possibility of temporary delegation of authority which is possible provided there be a revision to the Board By-Laws.

- **Audit Committee – Jorge Berkowitz**

5 LSRPs were selected for December 2020 audits

The Audit Committee completed audits of the following LSRPs, with no additional action required:

July 2020:

Todd Gerber, LSRP 573618

August 2020:

Eric Meyer, LSRP 574059

Matthew Sweet, LSRP 747347

Deborah Bolduc, LSRP 748626

September 2020:

Charles Martello, LSRP 586488

Erik Drew, LSRP 748619

Michael Newton, LSRP 746705

In addition, during October and November the Audit Committee referred five audits to the PCC to initiate complaint procedures for apparent violations of the Board Rules.

- **Finance Committee**

No Report.

- **Licensure Committee – Kathi Stetser**

The LSRP exam is ready to be held on December 16, 2020.

The 2021 Annual Licensing Fee is due January 16, 2021. If an LSRP hasn't received their invoice by now they should contact the Board.

LSRPs that are renewing in 2021 should be receiving the invoice for the license renewal fee soon. Any LSRPs that still need to earn CECs will be able to earn the credits through AVLf.

Mark Pedersen commended Janine MacGregor for her hard work to organize the exam. Kathi Stetser requested that Janine MacGregor update the Board on the exam.

Phil Brilliant asked whether administering the exam in the same format would be possible in the future. Janine MacGregor responded that this format could be included in future contracts.

- **Outreach Committee – Peter Strom**

No report.

- **Rules Committee – Joann Held**

Joann Held presented the revisions that the Rules Committee is proposing to make to Subchapter 2, and requests that Board Members provide their comments to her. Proposed revisions are summarized as follows:

7:26I-2.3 Title changed to “License required to perform remediation” for clarity

7:26I-2.4 Eligibility requirements

Changed three years to thirty-six months for clarity.

7:26I-2.11 Renewal of a license

(j) A pending hearing on the denial of a license renewal shall not extend the original expiration date of the license

Removed due to inconsistency with the Administrative Procedures Act.

7:26I-2.12 Expiration of a license

Removed statement that LSRP’s license shall immediately expire ninety days after the LSRP’s receipt of the Board’s annual license fee invoice, if the LSRP fails to pay the annual license fee within that 90-day period, due to inconsistency with the Administrative Procedures Act.

Added reference to Section 6.27 with respect to maintenance and preservation of documents in Sections 2.12, 2.13, 2.14, 2.15

7:26I-2.5 Application

Reference to “notarized affidavit” changed to “certification.”

Removed requirement for applicant to submit reference from LSRP and current or past employer, to allow three references from any person of the LSRP’s choosing with personal knowledge of the applicant’s training, experience, and professional conduct who are not related to the applicant. Joann Held noted that the Committee would especially like feedback from the Board on this proposed revision.

7:26I-2.11 Renewal of a license

Add (i)2. Instructions for reapplying for license renewal, which shall include resubmission of a complete application as specified in (c) and (d) above

Purpose is to clarify instructions and provide small disincentive for late submission.

Additional revisions were made to be consistent with revisions made in SRRA 2.0. in Sections 2.3(b), 2.4(a)2, 2.4(a)6, 2.4(a)7, 2.11(b)3, 2.11(b)4.

- **Professional Conduct Committee – Phil Brilliant**

- Motion by Phil Brilliant to approve a resolution to enter closed session to discuss Complaints 006-2015 and 001-2018.

Motion seconded by Joann Held.

All present voted yes.

The motion was carried.

Open session resumed at 7:02 PM.

- o Motion by Phil Brilliant, in the matter of Complaint 001-2018, to find the subject of the complaint in violation of N.J.S.A. 58:10C-16.i. and N.J.A.C. 7:26I-6.8(a) and to assess a penalty of \$8,000.00 and to authorize transmission of an offer of settlement in the amount of 80% of the assessed penalty under signature of the Board Chairperson, and if no settlement is reached to proceed with formal disciplinary action.

Motion seconded by Mark Pedersen.

Roll Call Vote:

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

The motion was carried.

Phil Brilliant noted that the Subject of the Complaint is James Mack, LSRP 576435.

- o Motion by Phil Brilliant, in the matter of Complaint 006-2015, to approve, and authorize the Chairperson to sign, a settlement agreement with the Subject who was previously found in violation of N.J.S.A. 58:10C-16.i., 16.b., 16.n., 16.h., and 16.a., to reduce the previously assessed penalty from \$25,000.00 to \$15,000.00 and to reduce the previously imposed period of suspension from 24 months to 12 months.

Motion seconded by Mark Pedersen.

Roll Call Vote:

Jorge Berkowitz	- Yes
Phil Brilliant	- Yes
Lawra Dodge	- Yes
Joann Held	- Yes
Jeffrey Hoffman	- Yes
Kathi Stetser	- Yes

Peter Strom - Yes
Ira Whitman - Yes
Mark Pedersen - Yes

The motion was carried.

The Subject of Complaint 006-2015 is Harold Blaine, LSRP #573634.

- **Ongoing Business**

None

- **New Business**

Janine MacGregor noted that the LSRPA requested that the Board hold the February Board Meeting as part of the New Jersey Site Remediation Conference on February 10, 2021.

The Board discussed this request and decided to keep to the previously established schedule, and therefore declines the request to hold the February Board Meeting as part of the LSRPA New Jersey Site Remediation Conference in February 2021.

- **Next Board Meeting**

Motion by Mark Pedersen to cancel the Board meeting previously scheduled for December 21, 2020.

Motion seconded by Ira Whitman.

All present voted yes.

The motion was carried.

The next scheduled Board Meeting will be January 4, 2021 at 4:00 pm via Microsoft Teams unless otherwise noted on the Board website.

- **Public Comments**

Mark Pietrucha, LSRPA. Asked for clarification as to which sections of the Subchapter 2 are being revised to conform with SRRA 2.0.

Marlene Lindhardt, LSRPA. Commented that holding virtual meetings is more convenient for attendees than meetings held in Trenton.

David Hoffman, LSRPA. Asked for clarification as to which provisions of the SRRA the Subject of Complaint 006-2015 had been found to have violated.

The Meeting adjourned at 7:24 PM.