

NEW JERSEY SITE REMEDIATION PROFESSIONAL LICENSING BOARD

FINAL

July 12, 2021 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
Jeffrey Hoffman
Mark Pedersen
Michael Renzulli
Kathi Stetser
Peter Strom
Ira Whitman

Absent

Joann Held

Others Present

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

Members of the Public that were present:

Alan Uminski, Bill Hose, Candace Baker, Caryn Barnes, Rebecca Hollender, Marlene Lindhardt,
Mark Pietrucha, David Morris, William Call, David Hoffman

Proceedings

- Meeting called to Order at 4:02 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 - absent
 Jeffrey Hoffman - present
 Mark Pedersen - present
 Michael Renzulli - 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 June 7, 2021 Board Meeting Minutes.

Motion seconded by Lawra Dodge.

Mark Pedersen amended the motion to include an amendment to add that Mark Annis, LSRP #668727 was the subject of Complaint 004-2020.

Roll Call Vote:

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

The motion to approve the minutes as amended was carried.

- Motion by Mark Pedersen to approve the June 7, 2021 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	- Absent
Jeffrey Hoffman	- Yes
Michael Renzulli	- Abstain
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 on September 7, 2021 the Department and Board staff will return to work in the Department building full time. He would like the Board to continue to hold Board public meetings via Teams in addition to in person, as it enables Board Members to attend more easily and it also provides greater public access.

Jorge Berkowitz, Phil Brilliant and Lawra Dodge agree that meeting via Teams would be helpful to ensure full attendance.

Ira Whitman noted that Board committee meetings are also held via Teams, and the Board should consider continuing holding committee meetings via Teams as well.

Kathi Stetser noted that in this past year holding meetings via Teams has allowed her to serve on the Board when personal and work issues may have prevented her from continuing on the Board if in person attendance was mandatory.

Mark Pedersen requested that Board Members provide feedback to himself and Janine MacGregor.

- **Executive Director's Report**

Janine MacGregor reviewed the members of the public who were in attendance.

Janine MacGregor noted that she is preparing the Annual Fee Report and working with the Licensure Committee to set the date for the next LSRP Exam.

Committee Reports

- **Audit Committee – Jorge Berkowitz**

Jorge Berkowitz thanks Judi Morrow, Dana Haymes and the members of the Audit Committee for their efforts in completing audits. At this time, the Committee is caught up on reviews, and is currently reviewing June auditees. At the Audit Committee meeting today the Committee concluded 13 audits. The names of the 13 auditees will be announced at the August Board Meeting.

- 6 LSRPs were selected for July 2021 audits
- The Audit Committee completed audits of the following LSRPs, with no additional action required:

- **Selected January 6, 2021:**

Brian Fennelly, 573630

- **Selected February 1, 2021:**

Philip Kunkle, 668396
Frederick Stratton, 587682

- **Selected March 3, 2021:**

William Pendexter, 573490
Michael Kozar, 573988

- **Selected April 7, 2021:**

Hunter Blair, 748620
Matthew Coller, 747193
Matthew Martello, 783664

- Number of Audits referred to PCC:
To date the Audit Committee has not referred any LSRPs selected for audit in 2021 to the PCC.

- **Continuing Education – Lawra Dodge**

Lawra Dodge reported that the following Continuing Education Programs have been approved by the Continuing Education Committee to be offered both in-person and via AVLF. The providers have been notified by letter.

TITLE	PROVIDER	DATE	CECs	PROPOSED COURSE NUMBER
EnviroClasses – April 2021	EnviroClass	April 8, 21, 28, 29, 2021	2 Technical for each date, except 2 Regulatory for April 28, 2021	2021-068 through 071
Regulatory Roundtable October 2021 – Navigating the Choppy Waters of Remedial Action Permits	LSRPA	October 19, 2021	1 Technical and 0.5 Regulatory	2021-072
NJDEP Alternative Remediation Standards Training	NJDEP and LSRPA	June 15, 2021	5 Technical	2021-073
PCB Analytical Options	Alpha Analytical	May 19, 2021	1 Technical	2021-074
Northeast Sustainable Communities Workshop 2021	BCONE in cooperation with Rutgers NJAES - OCPE	June 22-23, 2021	Varies	2021-075
NJDEP Remediation Standards Training	NJDEP and LSRPA	June 9, 2021	4 Regulatory and 1 Technical	2021-076

- **Ad Hoc Committee – Discharge Notifications – Phil Brilliant**

Phil Brilliant reported that the Ad-Hoc Committee was established on March 1, 2021 by Chairperson Mark Pederson to examine and then prepare a Statement of Interpretation regarding the obligation of an LSRP to report a discharge when retained to perform due diligence services, such as all appropriate inquiry (“AAI”), for a prospective purchaser.

The Committee has met four (4) times and spent at least 8 hours analyzing this topic, not including discussions outside of the meeting schedule. The Committee includes Phil Brilliant, Dr. Jorge Berkowitz, Dr. Peter Strom, and Kathi Stetser, as well as Executive Director Janine MacGregor and Regulatory Officer Dana Haymes.

The Committee has met with representatives of the LSRPA and received their written comments, as well as met with DAGs, the SRPL Board Rules Committee, and the NJDEP Rules Committee. At the present time, Mr. Brilliant reports the following:

- The Committee agrees that those individuals who are LSRPs shall be held out as professionals when it comes to the management and oversight of remediation in the State of New Jersey and they shall be held to the highest of standards. As such, each LSRP shall consider their professional obligations in accordance with the Code of Conduct as stated in the Site Remediation Reform Act (“SRRA”) and the Board Rules, when retained to perform remediation in the State of New Jersey.
- The Committee agrees that an LSRP has an obligation to report a previously unreported discharge to the Person Responsible for Conducting Remediation and the Department, as per SRRA and the Board Rules, when in their independent professional judgement a discharge has resulted in an immediate environmental concern.
- The Committee agrees that an LSRP has an obligation to report a previously unreported discharge to the Person Responsible for Conducting Remediation and the Department, as per SRRA and the Board Rules, when he or she is retained to perform remediation at a site or any portion of a site.

While the Committee agrees on these three statements, the Committee has been unable to reach agreement and draft a Statement of Interpretation to address specifically an LSRP’s responsibility to report a discharge during a Preliminary Assessment (“PA”) and/or Site Investigation (“SI”) conducted for the purpose of All Appropriate Inquiry. The Committee knows this is the guidance that over 700 LSRPs and many other members of the community are interested in from the Board, so the Committee will be back to work in September. The Committee plans on meeting to resume discussions, as well as meet with NJDEP relative to their progress on rule revisions regarding the completion of due diligence actions, such as AAI in New Jersey.

- **Finance Committee – Janine MacGregor**

Janine MacGregor reported that she is working on the Annual Fee Report and will send the draft report to the Finance Committee as well as appropriate Department staff to review.

- **Licensure Committee – Kathi Stetser**

Kathi Stetser reported that the Committee will be working on establishing a date and format for the next LSRP exam.

Janine MacGregor reported that the Board staff is reviewing applications for the October 2021 renewals. She reported that all approvals have been completed for the July 2021 renewals.

- **Outreach Committee – Peter Strom**

No report.

- **Rules Committee – Joann Held**

Joann Held is absent, she will provide a report at the next Board Meeting.

• **Professional Conduct Committee – Phil Brilliant**

- Phil Brilliant reported that the Board Members will soon be receiving a work product with proposed revisions to the complaint review process and penalty matrix. Please review and provide feedback to Phil Brilliant or Joann Held.

Mark Pedersen requested that the Board Members review the present complaint review process and penalty matrix in addition to the document that Mr. Brilliant will send.

- Motion by Phil Brilliant to approve a resolution to go into closed session to discuss Complaints 014-2020, 003-2021, and 004-2021.

Motion seconded by Mark Pedersen.

All present voted yes.

The motion was carried.

Open session resumed at 5:34 PM.

- Motion by Phil Brilliant, in the matter of Complaint 014-2020 to find no violation.

Motion seconded by Mark Pedersen.

Roll Call Vote:

- Jorge Berkowitz - Yes
- Phil Brilliant - Yes
- Lawra Dodge - Yes
- Joann Held - Absent
- Jeffrey Hoffman - Yes
- Michael Renzulli - Yes
- Kathi Stetser - Abstain (not visible during closed session)
- Peter Strom - Yes
- Ira Whitman - Yes
- Mark Pedersen - Yes

The motion was carried.

- Motion by Phil Brilliant, in the matter of Complaint 003-2021, to find the subject of the complaint in violation of N.J.A.C. 7:26I-6.8(c), and to notify the subject through correspondence under signature of the Board chairperson of the Board’s intent to assess a penalty of \$250.00 through a formal disciplinary action unless settlement is reached, and to authorize the Settlement Team to negotiate a settlement within the parameters

discussed in closed session, and if no settlement is reached to proceed with formal disciplinary action.

Motion seconded by Lawra Dodge.

Roll Call Vote:

Jorge Berkowitz	- Yes
Phil Brilliant	- Yes
Lawra Dodge	- Yes
Joann Held	- Absent
Jeffrey Hoffman	- Yes
Michael Renzulli	- Yes
Kathi Stetser	- Abstain (not visible during closed session)
Peter Strom	- Yes
Ira Whitman	- Yes
Mark Pedersen	- Yes

The motion was carried.

The subject of the complaint is LSRP Paul McGaha, #586577.

- Motion by Phil Brilliant, in the matter of Complaint 004-2021, to find the subject of the complaint in violation of N.J.A.C. 7:26I-6.8(c), and to notify the subject through correspondence under signature of the Board chairperson of the Board's intent to assess a penalty of \$250.00 through a formal disciplinary action unless settlement is reached, and to authorize the Settlement Team to negotiate a settlement within the parameters discussed in closed session, and if no settlement is reached to proceed with formal disciplinary action.

Motion seconded by Jorge Berkowitz.

Roll Call Vote:

Jorge Berkowitz	- Yes
Phil Brilliant	- Yes
Lawra Dodge	- Yes
Joann Held	- Absent
Jeffrey Hoffman	- Yes
Michael Renzulli	- Yes
Kathi Stetser	- Abstain (not visible during closed session)
Peter Strom	- Yes
Ira Whitman	- Yes
Mark Pedersen	- Yes

The motion was carried.

The subject of the complaint is LSRP Craig Kunz, #573632.

- **Ongoing Business**

None

- **New Business**

None

- **Next Board Meeting**

The next scheduled Board Meeting will be August 2, 2021 at 4:00 pm via Microsoft Teams unless otherwise noted on the Board website. Joann Held will run the meeting as Mark Pedersen will be absent.

- **Public Comments**

William Call, Penn-Jersey Environmental. When a case is created an automatic letter goes to the Person Responsible for Conducting Remediation (“PRCR”). The schedule of deliverables should be imported into that letter, so the PRCR has that letter when the case is created. That would negate the need for notifications, unless the schedule is changed, and thus increase efficiency, streamline the process and eliminate a lot of stress for everyone.

Jorge Berkowitz agrees this is a good comment. Mark Pedersen suggests that this comment be brought to the Department.

David Morris, LSRPA. Mr. Morris agrees with William Call’s comment. In addition, with respect to virtual Board Meetings, Mr. Morris agrees that the Board should continue to hold meetings in this format. He also suggests that Closed Sessions be held at the end of the meeting so that attendees don’t have to hold on for an extended period of time. The LSRPA looks forward to further discussion regarding reporting of discharges. If the obligation is extended to LSRPs, it should be extended to others as well. With respect to disciplinary decisions, he notes that the Board publishes them in different ways. He requests that the format be standardized.

Candace Baker, LSRP. Ms. Baker agrees with William Call’s comment. She also agrees that live in-person meetings are a good idea, but virtual format greatly increases the accessibility of meetings, and requests that the Board continue to have a virtual option.

The Meeting adjourned at 5:45 PM.