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
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:

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<thead>
<tr>
<th>Name</th>
<th>Vote</th>
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<tbody>
<tr>
<td>Jorge Berkowitz:</td>
<td>Yes</td>
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<tr>
<td>Philip Brilliant:</td>
<td>Yes</td>
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<td>Lawra Dodge:</td>
<td>Yes</td>
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<td>Joseph Fallon:</td>
<td>Yes</td>
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<tr>
<td>Joann Held:</td>
<td>Yes</td>
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<tr>
<td>Jeffrey Hoffman:</td>
<td>Abstain</td>
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<tr>
<td>Christopher Motta:</td>
<td>Absent</td>
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<tr>
<td>Kathi Stetser:</td>
<td>Yes</td>
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<tr>
<td>Peter Strom:</td>
<td>Yes</td>
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<tr>
<td>Connie Tsentas:</td>
<td>Yes</td>
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<tr>
<td>Ira Whitman:</td>
<td>Yes</td>
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<tr>
<td>Mark Pedersen:</td>
<td>Absent</td>
</tr>
</tbody>
</table>

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
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.