

**Meeting Minutes
Steering Committee Meeting
October 3, 2013
Roux Associates
Logan Twp., NJ**

ROLL CALL

In Person: K. Goldstein, J. Oberer, M. Pietrucha, J. Scagnelli, M. Fisher, C. Barnes, R. Ferguson, S. Boyle, D. Toder, D. Warner, N. DeRose, G. Martin, S. Drew, D. Morris, J. Davies, J. Hochreiter

Phone: A. Robins, B. Alter, B. Call, S. Posten, S. Senior

PRESIDENT'S REMARKS

K. Goldstein briefed the Committee on D. Sweeney's retirement party. The Association was well represented and our gift presented.

K. Goldstein also reported that T. Toskos is withdrawing from Board activities as well as his nomination for next year. A motion was made by R. Ferguson, seconded by J. Oberer and voted upon by Committee to appoint C. Barnes to fill the Board vacancy for the next three months vs. appointing someone else. She is also Acting Chair of the Membership Committee.

- Submission of Case Studies

A case study was received from J Davies. M. Pietrucha and C. Barnes will submit their case study shortly and R. Ferguson will have one in future.

S. Boyle will contact S. Danyew on website updates.

- Discussion of the LSRPA role in possible SRRA amendments

The Committee was urged to consider the Association's involvement in potential amendments to the May 2014 deadline and how to proceed with possible amendments.

- Executive Director's contract.

S. Boyle will be rehired for next year and a revised contract, with a slight increase in compensation. This increase will be included in the budget for 2014.

SECRETARY'S REPORT

M. Fisher reported that the August Steering Committee meeting minutes are still under review and should be circulated shortly. The draft September BOT minutes have not yet been received.

TREASURER'S REPORT

J. Oberer reported there is slightly more than \$200K in the Association's bank account. He is currently working on budget projections for next year, taking into consideration possibly four continuing education courses, RM/LP seminars and member breakfasts, which will increase our treasury. Need to increase the

budget for the Executive Director. All operating costs will likely remain the same. Evaluating the possibility that scholarship money could be set aside, with the Career Mentoring Committee determining who should receive the funding. J. Oberer will determine whether a signed contract with S. Danyew exists. In response to an inquiry on a contract for L. Watson, it was agreed this is not necessary since she is an at-will employee.

EXECUTIVE DIRECTOR'S REPORT

- Status of scheduling meeting with Commissioner Martin and trade groups.

A meeting with Commissioner Martin and trade groups is scheduled for October 9th from 2 -4 pm to discuss May 2014 deadline. Mark Pederson will attend this meeting. A meeting with M. Pedersen will be scheduled from 11 – 12:30, followed by the 2 pm meeting. DEP suggested a round-table listening format for this meeting.

The Licensing Board requested that anyone working on questions for the licensing exam should treat their work as confidential.

The Committee discussed several issues for inclusion in an amendment in response to Senator Smith's comment to submit ideas. It was agreed to compile a list of several issues internally and survey LSRPs to decide which ones the Committee should push forward. Senator Smith might appreciate receiving only a few issues with justification and examples of what LSRPs confront in carrying out tasks of their profession. K. Goldstein suggested contacting Senator Smith on his ideas. Nothing will be done until a meeting is held. Ken will check with David Glass to determine whether DEP has issues to move forward. Send suggested items to K. Goldstein.

The North Jersey venue for the October 16 Business Practices Workshop had low registration, therefore the course was cancelled. The Association is losing 80% of the cost, which is \$2400. Seminars held at the National Conference Center in Hightstown always result in respectable numbers. Possibly consider a Rt. 1 corridor location for northern NJ venue. Suggested keeping seminars to half-day sessions. Members are advised to contact S. Boyle if they have conference rooms or an auditorium that would accommodate a group of approximately 25-35 individuals.

COMMITTEE REPORTS

External Stakeholder Committee

- 2014 RI deadline

N. DeRose reported that representatives from Langan, LSRPA and NAIOP, along with Commissioner Martin and Deputy Commissioner Sikerka, met with the Governor's Office staff on September 12th to discuss their concern with the May 2014 deadline. Langan and LSRPA stated that the penalty of direct oversight for not meeting the deadline is counterproductive to goals of SRRA, thus slowing down remediation. As a profession, we don't want to see sites taken over by DEP and LSRPs put in a position of not controlling the site. Both the Governor's Office and Commissioner Martin were receptive and agreed that the 2014 deadline needs to be fixed (likely via a new extension provision). Discussion included reasons for extensions and how they are granted. Concern by both Commissioner Martin and Governor's Office that an extension be granted only to those who have made a good faith effort to meet deadline. The Governor's Office, as well as Commissioner Martin, would support a legislative amendment to fix the

extension issue. Senator Smith acknowledged during a Plan Smart meeting that he was open to this. Legislative action would likely occur in the Lame Duck session of the legislature. Discussion could start after the election and continue into January, with the amendment and bill sent to the Gov. in January 2014.

The Chemistry Council is working on legislation detailing the sites that could be eligible for an extension to the May 2014 RI deadline. The Department would review the legislation. The Association should meet to discuss how to differentiate between those who make a good faith effort to meet the deadline vs. those who do not. This will be a topic for discussion at the October 9th meeting with the Department and stakeholders.

N. DeRose has a telephone call scheduled for October 11 with David Glass, DEP Chief of Staff. Suggested K. Goldstein join the call. S. Boyle will reach out to Senator Smith to discuss future amendments. Preliminary versions of the legislative amendment bill prepared by the CCNJ includes self guarantee provisions for RA Permit financial assurance and RBCA-type standards. N. DeRose commented that when speaking with LSRPs, the general feeling is that regardless of their best efforts to remediate their sites, the fear is they will not meet the deadline. J. Oberer suggested working with DEP to develop policy on how to implement direct oversight. In order to get an extension, it is necessary to demonstrate continuous remediation by the Responsible Party with certification by the LSRP. Suggestions should be submitted to either N. DeRose or S. Boyle. N. DeRose, K. Goldstein, M. Fisher, S. Posten and S. Boyle will work as a committee on suggested policy.

A. Robins advised the Committee to consider what you are changing from into what you are getting. Although Senator Smith suggested introducing a bill in January, the difficulty could be the May deadline and it could take until March or April for the bill to pass. J. Oberer emphasized spelling out objective measures on who gets extension since the Department could be wary of folks pursuing those criteria rather than remediation. In addition to extension issue, if Senator Smith and others are open to amendments, consider what additional topics to include.

Reporting on behalf of the External Stakeholders, C. Barnes advised that the Committee wants to increase the number of Associate Members. J. Postorino suggested possibly creating an email list of these individuals to receive marketing information on the Association, which could possibly increase attendance at our events. S. Boyle will work with S. Danyew on this effort.

- Reciprocal Membership

The most active organizations identified for possible reciprocal membership are NAIOP, CCNJ, CIANJ, NJBIA, Builders Association, NJ Chamber and Environmental Law Forum. The goal is to schedule a meeting, decide what reciprocal membership includes and get the groups involved in our subcommittees. S. Boyle advised that we should consider a program for non-LSRP partners, such as what non-LSRPs need from LSRPs and vice versa. Possibly reciprocal membership would include a position on each other's subcommittees to share ideas and promote educational opportunities. A member of the External Stakeholders Committee would form a contact with a member of the reciprocal organization. Question remains how to reach the non-LSRPs who are not members of a targeted group.

- SRAG Meeting

Discussed Ecological Risk Assessment and how to streamline to meet that deadline. S.Boyle commented that B. Frasco indicated that the RI deadline for Eco can be satisfied by delineating to the default screening levels or background screening levels, whichever is lower. S. Boyle will confirm with B. Frasco.

Continuing Education Committee

D. Toder reported on the following upcoming Continuing Education events: An October 22 Rutgers University training course involving case studies and offering 7 CECs. Course can be used for regulatory category or those planning to take the March LSRP licensing exam. A GIS course is scheduled for November 14 at the National Conference Center of the Holiday Inn in East Windsor. An Ethics Course is scheduled for December 4th at the same location. A Member Breakfast is scheduled for December 12 at Ponzio's in Cherry Hill. The Annual Meeting is scheduled for January 14 and an Exam Review course on February 19th. Both will be held at the National Conference Center of the Holiday Inn in East Windsor.

D. Toder also reported that Northwest Environmental Training Center is interested in partnering with us on environmental courses. They will provide the classes to us and offered us a partnership of 85%/15% (85% to them and 15% to us). We would be responsible for registering and they would absorb all other expenses. Question was raised on who would absorb the credit card fees.

Montclair University approached us to have a course there. S. Boyle needs our administrative fees for previous courses. D. Toder and S. Boyle will calculate the costs and return to the Board with a recommendation and a decision made whether a contract should be signed. A. Robins will assume all contract issues.

Legal and Legislative Committee

- Section 20 of the SRRA - The LSRP's obligation to retain and preserve all data, documents and information concerning remediation activities at each site the LSRP has worked on.

John Scagnelli's interpretation is that LSRPs need to inform their employers that an LSRP has an individual obligation to retain records. All documents related to LSRP activities are taken with the employee when they leave employment. Employers cannot interfere with LSRPs legitimately taking documents since that is statutorily driven. Possibly put the obligations between an employer and an LSRP in a contract.

No followup on this revision by the Licensing Board. J. Oberer will discuss with K. Hershey whether this is a public document.

Regulatory Outreach Committee

M. Fisher reported on six new guidance documents targeted for release as draft documents for public input by the end of the year. All committees are on track.

- Contaminated groundwater/surface water – No controversy and Scott Drew working on it and draft expected by the end of the year.
- Off site source – Administrative procedures hold up. Listserv email to be released shortly to explain administrative process for notifying DEP of a documented off-site source.
- Comingled plume – document about 80% complete; issue with off-ramps regarding upcoming May 2014 deadline. Committee is elevating some issues with upper management. Performance monitoring – nothing controversial.

- Historical pesticides – Insert in RAO guidance document with non-investigation of pesticides. Will also be identified in PA guidance document.
- Capping – on target/no issues.

Other guidance document related items:

- Clean Fill – Revisions being addressed. R. Ferguson prepared and sent update to stakeholders for review and then back to DEP and released for public comment.
- QA/QC – meeting on a weekly basis to go through comments. No time frame for public release at this time.
- TI – final revisions completed and under final review by NJDEP.
- Forms - Meeting on a monthly to 6 weeks basis to get RI form online by end of the year; PA/SI form under review for online use. CID form will also be an online document, possibly by early 2014.
- Daycare – disparity between public vs. private land. Draft document written by DEP with no input from external committee members. Many problems exist. M. Fisher to discuss with DEP whether to elevate to George Nichols. Proposed including as agenda item for meeting with Assistant Commissioner Pedersen. Dave Morris to provide Mark F. with top issues for possible elevation.
- IGW - Dilution attention factor to be changed from 13 to 20, which will increase the default IGW screening values. Expect to be released by DEP after the elections. AT123D Model (point of compliance component) is also under modification. Lastly, capping for IGW compliance may be approved by DEP (still somewhat contrivertal).

Risk Management and Loss Prevention Committee

B. Call reported that the Business Practices seminar may be held as a half-day session in March 2014.

- Primary employer/secondary insurance coverage for LSRPs

B. Call reported that his individual insurance is retroactive to July 1987. Both Falcigno and Dale can provide personal LSRP and corporate LSRP insurance products. Vincent Falcigno has an intriguing proposal to provide insurance to all LSRPs in the LSRPA through a group insurance plan. They can/would also review our D&O policy to protect the Association and its officers. Member LSRPs would then draw a certificate from the LSRPA. This would bring the cost down from \$2500 to ~\$500/LSRP/year. This could be a huge draw for new members and added value for existing members. The RM&LP Committee would like to research and have V. Falcigno discuss with the BOT in a suitable forum to lay out his ideas. Product includes viable cover with pollution and professional liability coverage, but needs further review by Risk Management Committee in order to give a recommendation. Uncertain if Association can legally do this under its 501c(6) status. A copy of Bylaws and current insurance policy needed to start a review. S. Boyle suggested this issue as a topic for the Annual Meeting. Questioned whether a minimum number of people needed in order to receive a discount. S. Boyle is working with the two firms but a survey is needed to make sure we aren't eliminating anyone.

- Standard of care/guidance documents development (all pending SRPLB rules adoption)

Waiting for final rules from the Licensing Board.

- LSRP reporting obligations – TBD (G. Forrest recently resigned from preparing this paper)
- Reliance on NFAs/RAOs – completed
- Clean Fill – R. Ferguson - stakeholder group to reconvene

- Oct 16th Seminar Status: only nine registrants as of September 25th S. Boyle and M. van der Heijden to decide whether to postpone session.
- NJDEP Inspectors & Reviewers September 11 Meeting Highlights – Meeting minutes will be generated by M. van der Heijden. A highlight of the meeting was that DEP will allow amendments to an RAO for admin issues/corrections. Other items included:
 - Soils only RAOs are media specific, not to be considered site-wide RAOs.
 - RAOs issued for receptors (i.e., impacted potable wells, or LNAPL as an AOC) are not appropriate.
 - New CID (online) coming in November 2013.
 - Soils RA permits should be obtained w/in 30 days of filing a deed notice, but this is not currently required in the regs.
 - Be careful with forms. Inconsistencies trigger further component and comprehensive reviews.
 - Call BCAIN when retained to check for any orphan case #s. We made the point the NJDEP should provide this info on their dataminer or OPRA.
 - NJDEP Field inspections - random selection of all child care facilities, and ~1/3 of PA/SI/RI cases also inspected; LSRP can also request an inspection, field memo prepared and sent to LSRP. (Child care facilities will be inspected).

J. Oberer advised the group to be aware that the financial assurances associated with SRP sites get a separate program interest number (PIN). Don't file RAO with that PIN.

Licensing Board Updates

R. Ferguson provided the following Licensing Board updates. More Board members are needed since two vacancies exist. There may be a potential academic candidate. Waiting for record retention and OPRA-ability rules that are holding up rule proposal. Rumor of a pending complaint brought by the Department against an LSRP because an RP failed to meet deadlines. Discussed scenario of an LSRP quits working on a case and case is taken over by another LSRP (i.e., there could be a time gap between LSRPs). Suggest letter from the Association to the Licensing Board advising that this is an important issue for the Association and to put the Board on notice that we have serious structural problem the Board potentially taking an action against on LSRP for an RP's failure to meet a regulatory timeframe; the Board needs to be reminded about the differing obligations between an LSRP and a Responsible Party. Letter can be sent to Association members requesting them to also submit a letter. K. Goldstein and S Boyle will draft letter and inform Mark Pedersen that the Association is tracking this issue.

Membership Committee

- Member Breakfasts

Summarizing the September 17, 2013 Member Breakfast at Mastoris Diner, C. Barnes reported that it was successful with many LSRPs and Associate Members attending. The next Member Breakfast is scheduled for December 12th at Ponzio's in Cherry Hill. It will be geared toward Associate Members, their issues and how they relate to LSRPs. The goal to hold the breakfasts on a quarterly basis. Discussed preparing a survey on the benefits of membership to be distributed before Annual Meeting and to contact the chair of each committee for their input.

- Membership Fees

College students are entitled to free membership; aspiring LSRPs can receive a \$50 discount and possible corporate membership. Send suggestions to J. Postorino.

- Social Media

A link in addition to LinkedIn is needed to junior professionals.

- Move to make Sponsorship separate from Membership. S. Boyle will discuss with B. Blauvelt.

Career Mentoring Committee

B. Alter updated the group on the following:

- Feedback on Young Professionals Mixer – Planning for next event, possibly in February. Previous event was well attended.
- University outreach initiative and HAZWOPR course offering – given by Camden Community College possibly when college students are on break, after spring semester in May. Committee to reach out to universities.
- Job posting portal initiative – Members only section since job searches need to be kept confidential. LinkedIn was better forum, but wait for final recommendation from Career Mentoring Committee. Who is going develop and staff the portal? If interested, contact Ben.

- **Nominating Committee**

Place at the beginning of agenda for next Steering Committee meeting. D. Warner reported that Nominating Committee met, but did not receive a large response to our Call for Nominations. There are five terms expiring at the end of the year and six nominees, three are Board members. Questionnaires were mailed to three new candidates. Deadline is October 28. Committee will meet around Nov. 15 and decide upon a slate for presentation to the Board during the December 5th Steering Committee meeting at Environ. Recommendations will be circulated to the Board beforehand. Discussion on nominees will only be with the BOT before the Steering Committee meeting.

By-Laws Committee

J. Hochreiter reported on three issues – mechanism for adopting annual budget; establishing voting protocols at annual meeting and noninterference of business practices clause. Bylaws revised to address all these issues. Revisions to Bylaws will be available by December for review.

NEW BUSINESS

- Affidavit of Merit Doctrine (“Category Q”) Statutory Amendment – D. Morris

D. Morris reported there are 16 categories of licensed professionals in NJ, with LSRPs potentially being the next in line as “Category Q”. It would protect us against frivolous lawsuits. Statutory amendment needed, not part of Smith proposal. Questioned whether the timing is right for us to pursue now or in the future. Determine the appropriate legislative committee. Decision made to assign to proper committee next year.

- Issue on trigger dates and RI due dates. C. McGowan reported incorrect dates in DataMiner. People may think the due date is 2017 rather than 2014. Urged group not to rely upon DataMiner.

Meeting adjourned at 12:45.