

Community Advisory Council
February 12, 2009
Action Items/Notes

Final

These notes are in the following order:

1. Attendance
2. Correspondence and Handouts
3. Administrative Items, SPDES Permit Update
4. Deer Management Update, Tim Green, Environmental Protection Division
5. DOE Nanosafety Notice, Carol Parnell, Assistant Laboratory Director for ES&H
6. Agenda Setting
7. Community Comment
8. DOE Request for Proposals Process, Lou Sadler, Chief Counsel, U.S. DOE, BHSO
9. CAC Draft Research Funding Letter

1. Attendance

Members/Alternates Present:
See Attached Sheets.

Others Present:

D. Bauer, M. Bebon, C. Birben, P. Bond, J. Carter, J. D'Ascoli, N. Detweiler, E. Garber, M. Holland, S. Johnson, R. Lee, M. Marx, C. Parnell, L. Sadler, D. Shea, C. Wirick

2. Correspondence and Handouts

Items one through three were mailed with a cover letter dated February 6, 2009. Items four through eight were included in the folders and items nine and 10 were available as handouts at the meeting.

1. February 12, 2009 draft agenda
2. Draft notes for January 8, 2009
3. Final notes for December 11, 2008
4. Revised Draft Agenda
5. Copy of White-tailed Deer Management presentation
6. Copy of DOE N456.1 – Nanosafety Notice presentation
7. Copy of Contract Competition presentation
8. Copy of letter to Dr. Aronson regarding extending the SPDES permit public comment period
9. Copies of press releases on the NSLS-II contract, a new catalyst for ethanol-powered fuel cells, and a lecture on “The Search for Extraterrestrial Intelligence.”
10. Copies of DOE’s “A Decade of Discovery” book.

3. Administrative Items

The meeting began at 6:35 p.m. Reed Hodgkin reviewed the ground rules and the draft agenda. Those in attendance introduced themselves.

Approval of Minutes

Reed asked for corrections, additions or deletions to the January 8, 2009 draft notes. The notes were approved as written with two abstentions.

Jeanne D'Ascoli offered the potential new members and members of the community that were present an opportunity to learn some of the history of the CAC as well as information about the Laboratory. She said anyone interested, including present CAC members, should put their name on the sign in sheet and she will contact them and come up with a convenient time.

Member Esposito asked about changing the date for the May CAC meeting. She has an event being held on the same night. D'Ascoli said it is not possible because the scheduled speaker, Vicki Colvin, was booked months ago and it would be difficult to now change the date of her visit.

Michael Bebon, Deputy Director for Operations, reported that the conventional construction contract for NSLS II had been awarded. The contract is in excess of \$170 million and it is for the construction of the facility, all the site work, and the building of the ring that will house the magnet. He explained that the contract process began in the fall with a Request for Proposals being issued. There was a good response. High on the list of priorities was the safety track record of the contractors. The contractor that was selected, Torcon, has an excellent safety record and program. They are headquartered in New Jersey. They have estimated that during the next several years, there will be about 1,000 people that will work onsite. At any given time, there will be between 150 and 300 people. They have estimated that 90% of the funds that will be expended will be expended on Long Island. This will be a big boon to the economy of LI. We hope to continue with a very good construction safety record here at BNL.

Member Heil asked when construction is due to start.

Bebon said there is a wrinkle in terms of the amount of money that is available right now due to the continuing resolution. Hopefully there is enough to get started on the prep work and by then, there will be a federal budget and things can get going. This is a phase funded contract so the money will be coming out of the next few years' budgets.

Member Talbot asked when it will be operational.

Bebon said the ring itself is due to be finished in 2012. The actual machine is estimated to be fully completed in 2015. There are other construction projects associated with this. There will be some procurements coming out for some of the associated buildings.

Member Sprintzen said there was an article in Newsday about this.

Member Chaudhry asked where the company is located.

Bebon said New Jersey. They do R & D work, as well as airport work in New York City and Long Island.

D'Ascoli said there will be a lot of job opportunities associated with the construction of the NSLS II project. If anyone is interested or knows anyone interested, she encouraged them to go on the website and look at the scope of jobs available.

Bob Lee, Deputy for Environmental Programs, gave a brief report on the Lab's SPDES permit. He explained that the SPDES permit is for discharges from the sewage treatment plant as well as other facilities on site. The permit was received today and thanks to much input, the Lab has

been able to extend the public comment period by 90 days. Comments will be due the end of May. It is very detailed and he said he would be happy to explain it at next month's CAC meeting.

Member Esposito asked for the actual date.

Lee said May 26th.

Member Garber asked why the SPDES permit is open to negotiation.

Lee said it is too early to say, but what initiated this was that the Lab has not had a comprehensive review by the State since 1995.

Member Esposito asked if the existing permit is expiring.

Lee said it expires in March 2010. They are starting an early renewal process.

Member Heil asked if this is just for the sewage treatment plant.

Lee said it is for all discharges on site.

Reed said this will be put on next month's agenda.

Member Garber told the CAC that Dr. Aronson made complimentary comments about the CAC during an introduction he gave for Jack Marburger at a Science funding policy presentation.

Member Sprintzen said his organization, the Long Island Progressive Coalition, will be celebrating their 30th anniversary March 28th and he invited everyone to attend the celebration.

Member Kaplan said in the draft notes from last month's meeting, someone asked why the interlock was by-passed. He didn't see that question answered.

Bebon said the committee was unable to determine when or why that happened. It was not done during the preventative maintenance that preceded the explosion. The important thing is why it wasn't found during routine maintenance.

Carol Parnell, Assistant Laboratory Directory for Environment, Safety, and Health, said they are trying to figure out the steps that led up to it.

4. Deer Management Update, Tim Green, Environmental Protection Division

Tim Green gave the CAC an update on the deer management employee survey results and path forward. He went over the basis for recommendation and the deer population trend. He explained that the current estimate is ~800 animals with peak population ~1,200 in 2001. The optimal population for a site the size of BNL is 80 – 250 animals. The effects on the ecosystem are loss of rare plants, lack of forest regeneration, browse lines, potential effects on forest nesting birds, and the overall health of the deer herd.

The BNL Policy Council requested involvement of employees and stakeholders so two brown bag presentations were held on management alternatives. Employees recommended that an all hands survey be conducted, so a survey was developed and 2,800 surveys were distributed to all employees and guests in October 2008. There were 828 responses. Most respondents agreed that the Lab should have a program to manage deer population on site. While most indicated enjoyment of deer, they worry about issues associated with them. When asked about

the different alternatives to control deer population, the answers were not clear cut. The survey showed that most of the respondents are non-hunters. When asked to rank the preference for managing deer archery was #1, the combination of archery and culling was #2, and culling was #3.

In order to develop a plan, the Lab will maintain open communications and continue to gather input. There will be information sessions on the alternatives and a website has been developed to make information available. The Laboratory plans on establishing a management planning committee which will include internal and external stakeholders. There will be a National Environmental Policy Act (NEPA) assessment, with a comment period available to the public. The preferred method(s) will be determined and implemented. We plan on implementing the preferred method next fall.

A CAC member asked if the respondents understood what culling was.

Green said it may not have been clear. The definition was described, but may not have been clearly understood. We had 145 individuals indicate they would be willing to serve on a committee to work on wildlife management. The only thing that is clear cut is that the majority of employees agree on the need for a management program.

Member Sprintzen asked how many people attended the brown bag information sessions. He asked how many people are deeply involved in this issue and said it is hard to draw intelligent conclusions from this type of survey. He feels people in general are not very concerned about this issue. He said he would not encourage the Lab to operate based on this information.

Green said 10 to 12 people attended each of the two brown bag sessions. We are seeing that the people that attend have extreme feelings. We are using professional judgment and concerns for the environment to make decisions.

Member Guthy asked if it was made clear that the deer could be used for food and would that make a difference.

Green said it was mentioned. It may make a difference.

Member Talbot said he was frustrated at the bureaucracy.

Green said this is a sensitive issue because you have extreme feelings each way on this issue.

Member Jordan-Sweet asked why the only options given on the survey were for killing.

Green said a decision was made before the survey was sent out because of cost and requirements that the contraception alternative was not feasible.

Member Shea was appalled that it was necessary to kill two does before a hunter can kill one buck. She asked why the deer could not be removed from the site and taken somewhere else.

Green said that is as lethal as shooting them because during trap and transfer, 95 – 98 per cent of the deer die from shock.

Member Graves said he was curious as to why people chose the options that they did. He asked if they were informed which alternative was the most humane.

Green said the survey was concise and just asked the questions.

Member Kaplan asked if the employees had been told that the field mouse and deer were major carriers of Lyme disease. He said other Laboratories have management plans, perhaps you could talk to them.

Green said a lot of information regarding Lyme disease has been made available to employees over the years. We don't know if getting rid of deer will reduce the number of ticks. He said Savannah River and Oak Ridge have had hunting onsite since day one. BNL has allowed hunting in the past, but stopped it years ago.

Member Guthy said removing deer should make a difference in tick population.

Green said it would take about 15 years to reduce the tick population.

Member Chaudhry said one of the impacts is loss of rare species of plants. He asked if there really are rare species on BNL property.

Green said several species of orchids have been identified.

Member Garber said female deer release pheromones which attract the male deer. He asked if this could be used to lure the deer into confined areas of the Lab.

Member Esposito said she felt that people do not understand that archery inflicts the most pain and causes the most time to lapse between the shoot and death.

Green said that according to the survey the preferred option is not clear.

Reed said more clarity is needed on what the site employee population actually feels.

Green said the information sessions are supplying a lot of that information; however, we are not getting many people attending the sessions. He said because of regulations on Long Island, sharp shooters can only use shotguns with slugs; they cannot use high powered rifles.

Member Kaplan asked if the Lab decides to go ahead with culling, would they need a permit. He said other national laboratories allow hunters to cull the deer herds under very restricted conditions and this is an option he feels Brookhaven Lab should look into.

Green said any action would require a permit. He said because a bullet can travel long distances, high powered rifles would not be allowed in an open situation.

5. DOE Nanosafety Notice, Carol Parnell, Assistant Laboratory Director for ES&H

Carol Parnell gave the CAC a presentation on the Department of Energy's (DOE) Nanosafety Notice – N.456.1 – The Safe Handling of Unbound Engineered Nanoparticles. The objective of the Notice is to establish requirements and assign responsibilities involving unbound engineered nanoparticles activities and to ensure that work involving them occurs in a safe and secure manner that protects workers, the public, and the environment.

In 2008, the five nanocenters put together a set of guidelines and rules for how to work safely with nanomaterials. The National Laboratory Directors' Council (NLDC), which Dr. Aronson is currently the head of, agreed to comply with the guidelines of the Nano Science Research Centers (NSRC). DOE then audited the five nanocenters, as well as a few other laboratories. BNL did well in implementation. Brookhaven has an INSAC (Institutional Nanoscience Safety Advisory Committee), a committee of scientists and technicians, environment, health and safety people that make policy decisions for the Lab on nanoscience research issues. BNL recognized

the importance of implementing safe operating procedures at all of their facilities and not limiting those to just the nanocenter. Nanoscale research is conducted in other areas of the Lab and that is treated with the same safe operating procedures as the nanocenter.

DOE issued an Order and wanted it completed by the end of 2008. NLDC convinced DOE to let this be a partnership to develop operating rules. Doon Gibbs agreed to head a team of subject matter experts in nanoscience activities across all of the laboratories to decide how to regulate research in nanomaterials. The final notice was issued on January 5, 2009 and expires one year from date of issue. This is an Interim -Order because legislation needs to be created. We are required to confirm compliance within 60 days.

Our obligations under this Order are to maintain a registry of nanomaterial workers and an electronic inventory of activities involving nanoparticle research. We must provide the Site Office with an Annual Review and include requirements in site Safeguards and Security Plans, Facility Security Plans, and Emergency Management Programs. The specific requirements of DOE Order N 456.1 are training for nanoworkers and their supervisors, controls to ensure personnel are not exposed, medical surveillance (offer a baseline medical exam), labeling and transportation requirements, and waste disposal tracking. BNL has most of these requirements already in place. We anticipate a DOE Office of Health, Safety and Security audit in April/June.

Member Kaplan asked if an employee's medical information will go into a registry.

Parnell said that is not mandated right now.

Member Heil asked what health impact is expected two or three years down the road.

Parnell said they have no idea what they will be looking for and some feel it is an invasion of privacy.

Member Jordan-Sweet asked if this applies to guest users as well as employees.

Parnell said it does not apply to the guest user, but they are informed that it is required of our employees working with nanomaterials.

Member Kaplan said it seems prudent to have a registry, because that is the only way we will know later on whether or not there are impacts later on with any nanoworkers. It is understandable that they don't know what to look for right now, but a registry can still be planned.

Parnell said there is a fear that employees may be denied medical insurance or treatment down the road because they are on the nanoworker registry.

Member Guthy said she feels mandatory testing and a registry would protect both the workers and the Lab.

Parnell said she agrees and feels that ultimately it will be made mandatory everywhere.

Member Shea said to do a study, you need a lot of data. She said she feels that testing and registry should be mandatory at all labs so there will be sufficient data for a meaningful study.

Parnell said this is one of the reasons NIOSH came out with very strong recommendations to establish a baseline registry for workers.

Member Sprintzen said this is another reason for universal healthcare that guarantees coverage.

6. Agenda Setting

Reed said the three things on the agenda right now for March are the update on NSLS II, the update on the HFBR and BGRR cleanup process, and the SPDES permit.

Member Graves asked if something on the stimulus and an update on the budget could be included.

7. Community Comment

There was no community comment.

8. DOE Request for Proposals Process, Lou Sadler, Chief Counsel, U.S. DOE, BHSO

Lou Sadler, Assistant Chief Counsel for the Chicago Office of the Department of Energy (DOE), is Senior Attorney providing support to the Brookhaven Site Office as well as the Princeton Plasma Physics Laboratory.

He briefed Brookhaven Laboratory's Community Advisory Council on the competition process currently underway for managing the Laboratory. The process comes under the Federal Acquisition Regulation rules and statutes and all the other things that govern these competitions.

Sadler stated this presentation, as well as any questions and answers, will be posted on the public webpage. The individuals asking the questions will not be identified. This is to ensure that any offeror has equal access to the information that is being provided for this competition. He stated that since the Request for Proposals (RFP) had not been drafted or released, any comments regarding the RFP are based upon the posted Expression of Interest and prior RFPs.

He explained that BNL is a DOE Office of Science multi-program laboratory, as well as a DOE-sponsored Federally Funded Research and Development Center (FFRDC) solving a long-term research and development requirement that the government can provide through a government-owned, government-operated laboratory or through private industry. From 1947 – 1997, BNL was operated by Associated Universities, Inc. and in 1997 there was a competition for a new Management & Operation (M&O) contract. At that time the competition was limited to non-profit organizations. In 1998, BNL's M & O contract was awarded to Brookhaven Science Associates (BSA). BSA is a 50/50 partnership between Battelle Memorial Institute and the Research Foundation of the State University of New York on behalf of the State University of New York at Stony Brook. The contract was for ten years with a five-year base period and a five-year option. The five-year option was exercised. In 2008, the contract was extended for an additional two years in order to accommodate this contract competition process. The current BSA contract will expire on January 4, 2010. Contract competition is now standard for Office of Science (SC) M & O and is not a reflection on the performance of BSA. DOE has been told by Congress to compete their contracts.

The term for the new contract is tentatively scheduled for January 5, 2010 through January 4, 2015. These dates are tentative because there can be delays. Currently, there is a great deal of activity in DOE Headquarters and in Washington with the new Administration, as well as the new stimulus package. If the dates change, the information will be on the webpage. The tentative award date is late October/early November 2009 to allow for a 60-day transition period.

If the contract is awarded to someone other than the incumbent, the 60 days are needed to assume laboratory operations.

DOE is seeking a performance-based, cost-reimbursement contract. A measured evaluation is conducted annually to determine how much fee the contractor earns. The current estimated annual Lab funding for this contract is \$540 million.

The new contract will include one-year award term incentives. The contract has a five year base term with the potential for the contractor to earn up to an additional fifteen years of award term. On an annual basis, beginning with the first award period, the contractor will be evaluated to see how well they perform. They will be evaluated for fee, as well as to earn an additional year of contract time through the award term incentive. There will be a performance measurement section in the contract and the Request for Proposals (RFP) that will explain how that is evaluated. This award term is an added incentive to ensure excellent performance. If the contractor fails to earn an award term in three of those years, they can't be awarded any more. This is an incentive not currently in our contract, but that will be in the RFP.

Member Kaplan asked for clarification of the penalty for not attaining the one-year award term incentive.

Sadler explained that, using the recently-awarded Princeton contract as an example, if the contractor does not attain three one-year extensions within the first five years of the contract, their contract will end after the five years plus any earned incentives. Performance will be measured for fee and award term. As an added incentive, there will be higher requirements for the award term so it will be harder to obtain. The contract competition is primarily governed by the Federal Acquisition Regulation (FAR) Part 15, contracting by negotiation and supplemented by DOE Acquisition Regulations (DEAR). Supplementing the regulations is the Request for Proposals (RFP). Section L of the RFP includes Instructions, Conditions and Notices to Offerors or Respondents. This section will tell interested parties what DOE is looking for in response to the RFP. It will clearly lay out what information DOE wants submitted, what DOE is going to evaluate, as well as the ground rules, including when proposals are due, what happens if it's late, etc. Section M of the RFP will explain the evaluation factors for the award. Additionally, there is case law/decisional guidance from the Government Accountability Office and the U. S. Court of Federal Claims, both with protest jurisdiction.

Member Esposito asked about the timeline for the selection process since the RFP has not yet been produced.

Sadler said release of the RFP is tentatively scheduled for the second quarter of 2009. This process has evolved since 1997. When the Brookhaven contract was competed in 1997, it was unprecedented. There were some contracts that had been in place for 50 or 60 years and had never been competed. Many people involved in the 1997 process have been involved in subsequent competitions. BNL is the sixth DOE Lab in the last five years that is having its contract competed. The Princeton contract was awarded last month. Ames, Fermi, Argonne, and Berkeley were prior to Princeton.

Member Sprintzen asked if anything changed in the five Labs that went through the competition process.

Sadler said Fermi and Argonne changed because they put in a new LLC.

Member Esposito asked what an LLC is.

Sadler replied it stands for Limited Liability Corporation.

There was some discussion on not-for-profit versus for-profit contractors.

Member Garber asked what the financial incentives are for someone to bid on this contract.

Sadler said the financial incentive would be the fee.

Member Garber asked what the fee will be.

Sadler said it hasn't been determined yet. There will be a maximum fee listed in the RFP when it is put out. Right now the current fee is \$7.4 million per year.

Member Chaudhry asked if this is a fixed fee or performance fee.

Sadler said it is a performance fee that the contractor can earn based on criteria that is stated in the contract itself. It is not a guaranteed fixed fee. He said DOE is in the pre-proposal stage. There is an informational website established: <http://frpbnl.sc.energy.gov>. He recommended looking at the recent contract RFP websites for other Laboratories: <http://rfpppl.sc.energy.gov>, <http://rfpames.sc.energy.gov>, <http://rfpanl.sc.energy.gov>, and <http://rfpfinal.sc.energy.gov>. Sadler said Expressions of Interest were posted to convey intent and identify interested parties. Five of them have been made public and posted on the website. The new contract RFP is currently being drafted. The tentative release date is the second quarter of 2009. Proposals will be due 60 days after the release of the RFP, instead of the usual 45 days, to allow for questions, suggestions, and comments. There is a point of contact on the webpage, so it is possible to send in questions and comments now.

Member Sprintzen asked what the cost is to put together a response to the RFP, where the money comes from, and the number of man-hours involved, and whether or not it drains resources.

Sadler said the cost is hard to estimate. The money comes from the Corporations competing, not from the Lab. It is not a reimbursable expense under the contract. In the end, the contractors always seem to say that even though it was painful and costly, the process was worth it. It forces a review of what is being done and the way it's done. In the past, some issues that were raised included: employee retention, wages and benefits, retiree benefits, bargaining units, environmental concerns, and community relations. The 1997 contract competition at BNL created great concern for the community and community relations has become a part of the competed contract Statements of Work since then.

Member Esposito asked if maintaining and sustaining the CAC is part of the contract.

Sadler said it is not part of the contract; it is up to whoever wins the contract to decide how to handle that.

Member Esposito asked why it can't be part of the requirement of the RFP.

Sadler said because then it gets close to being part of the Federal requirement. The CAC supports the contractor and the Lab director, not DOE. However, he said he thought that any new contractor would want to continue the CAC, although it can't be made a mandatory requirement. To do so would raise a Federal Advisory Committee Act (FACA) concern, an issue that does not affect the CAC as it currently operates. Sadler said he will make sure this CAC issue was discussed within DOE.

Member Chaudhry asked if there are any pre-qualifications to the RFP.

Sadler said it is an open competition. The criteria will be on the website explaining how competitors will be evaluated. Past performance and experience in specified areas will be part of it. For any organization to compete that is not qualified would be a waste of their money.

Member Kaplan asked if there is a requirement that suggestions be responded to promptly by DOE or the Office of Science.

Sadler said they will be responded to and if important, they will be looked into right away. The goal is to put out the best product possible.

Member Graves asked if there have been any criticisms of the fact that there could be more turn-over than necessary due to the need for contract competition.

Sadler said no. Competition gives all contractors the opportunity to bid on something to be bigger, better, faster. They usually find this to be a beneficial process.

Member Campbell said he is concerned about the disruption to the operation of the Laboratory that is caused by this whole process. In 1997, there were layoffs and problems with people's retirement benefits. What lessons have been learned to avoid those disruptions this time?

Sadler said one of the things being asked of offerors is a detailed transition plan. For an incumbent to win there would likely be very little change. Part of the RFP process is an evaluation of the transition plan. Within the RFP, the incumbent employees have been given essentially a right to first refusal for whoever wins the contract, except for senior management which will be specified in the RFP.

Member Campbell said he is concerned about lay-offs.

Sadler said that he is not aware that there have been any for the last couple of contract competitions. He said that a Source Evaluation Board (SEB) is formed bringing in scientific and technical experts from the Office of Science, including lawyers, finance, procurement, and human resource people. They are assigned to the Board, some as voting members, others not voting members. They are involved in putting together the RFP and are in charge of getting the RFP out. They also review the proposals. Once the proposals come in, the SEB reviews each one and evaluates each one against the evaluation criteria that is in the RFP. They do not evaluate by comparing them to each other. The SEB reports to the Source Selection Official. The Source Selection Official is typically a senior Office of Science employee who is the decision-maker. The Source Selection Official looks at the proposals received, the evaluations of the proposals and sees who has the best proposal.

Member Esposito asked if the SEB makes a recommendation based on the individual evaluations or if they just make their evaluations and send them on to the Source Selection Official. She asked if the Source Selection Official is one person. What if there is a tie?

Sadler said the Source Selection Official is one person. He said the SEB evaluates each individual proposal and sends a report to the Source Selection Official that includes all the evaluations. In his recent experiences, there hasn't been a request for recommendation from the SEB to the Source Selection Official. It is up to the Source Selection Official to make a decision. He has never seen a tie. There is always a way to distinguish between proposals and award.

Member Esposito asked if there is an anticipated minimum number of responses hoped for.

Sadler said there is no magic number. One or more.

Member Sprintzen asked if there is any appeal process.

Sadler said unsuccessful offerors get a de-briefing after the award to show the strengths and weaknesses of their proposal. They have the right to appeal to the Agency and can file a protest. They either can go to the Government Accountability Office and file a protest or they can go to U.S. Court of Federal Claims and file a protest. Then it becomes like a trial and that can delay the process for a long time.

Member Chaudhry asked if cost is a factor for the Source Evaluation Board.

Sadler said cost is a factor, but the technical aspect is more important. Cost comes into play when you look at the cost of key personnel for the first year of the contract and the fee they are asking for. Cost is a factor, but has not been as big a factor as the technical and management aspects.

Member Kaplan asked if there are any non-DOE people on the SEB.

Sadler said no. It is all Agency personnel.

A CAC member asked who can give input to the RFP.

Sadler said anyone. If someone sends in a comment, it is responded to.

Member Esposito asked how many people are on the SEB.

Sadler said about a dozen - not necessarily all voting members. Some are advisors and specialists.

Reed asked if the SEB reaches consensus on the scores.

Sadler said yes. They will score the proposals individually first and then will get together to discuss and reach consensus ratings for each individual offer.

Member Graves asked if the Source Selection Official has ever selected a contractor that was not the top recommendation from the SEB, and asked the most recent Source Selection Officials' background.

Sadler said the identification of the Source Selection Official is not made public, but they have been senior level personnel within the Office of Science. The SEB does or does not make an actual recommendation to the Source Selection Official on contract competitions -- depends. On other competitions he participated in outside of DOE, he stated he has seen the Source Selection Official make a selection other than the recommended one. The Source Selection Office has the ability to disregard what the SEB recommends. However, the Source Selection Official has to be able to justify the selection based on the evaluation criteria in the RFP.

Member Jordan-Sweet asked if the Source Selection Official has ever decided that no one meets the criteria and if so, what happens. What if no one can live up to the criteria?

Sadler said they can do that if there is no one meeting the criteria. The right to cancel is included in the RFP. They can then re-solicit. The RFP would have to be re-written to get better offers. We might need to re-examine our expectations. It is possible to spec yourself out of a contract. That's when you go back to the drawing board. I don't think we've been in that

situation here in the Office of Science yet. When we get proposals in to evaluate, if there are issues that we need to go out and discuss with the contractor, we can do that. This is process driven. BNL is now in a competitive process by law and regulation so source selection information is protected until the message is released publicly. The webpage is the best place to find information. When things come out they will be posted there. If you look at the various web pages that have been given to you, you will find information regarding wages, benefits and collective bargaining agreements. If you look at the Princeton webpage, clause H22 (wages and benefits packages) and H35 (transition period) you will see the most recent departmental views on those topics.

Member Campbell asked what the mechanism is for providing comments on the process.

Sadler said on the RFP webpage there is a name, e-mail address and phone number of an individual to send comments to. If one can't get through, they can call Sadler and he will get the message to the contact. There are also other government regulations listed on the website. Stay tuned to the webpage for up-to-date information.

Member Heil asked why all the people who have expressed interest are not listed on the webpage. He asked if the RFP includes a draft contract or is the contract negotiated after a selection has been made.

Sadler said DOE has to have permission before they can list people. He said typically the RFP will turn into the contract. DOE can countersign the proposal because it is technically the offeror's proposal. They can include any separate proposal sections and let others drop off because it is now a contract. Depending on what comes in, there may be provisions that make counter-signing the proposal awkward. What was done at Princeton, for example, was DOE had contractor contributions that came in as a special clause; an appendix to the contract was attached. There was another clause regarding an advance to understanding and certain costs that was proposed as part of the RFP. DOE did what was called a conformed contract, because they are hoping to live with it for ten years. The contract is only for a maximum of ten years. It is not negotiated. It will be done and it will be accepted as is proposed. It can be countersigned, depending on what's there, or we'll just get a conformed contract ready for when it is announced and we'll just come in and sign that as the final contract. Either way it can be done. Because it is going to be a long-term document, it is best if it is put together, tabbed, and signed by all.

Member Chaudhry asked if this process has been successful in the past. (recording inaudible)

Sadler said the last five contract competitions have been successful. There haven't been any protests. The performance fee for the first five years is set and is laid out in the contract. The contractors are told what they will be graded on and how they have to perform. This is a cost reimbursement, performance fee type of contract. The only real difference is the award term incentive.

Member Esposito said many of us were around when AUI managed the Lab, as well as for BSA taking the contract over. One of the things that helped change the culture of the Lab and change the priorities to include protection of the environment and having a comprehensive expedited clean-up process was the change in management. She stated she hoped that those priorities of comprehensive clean-up, diligent monitoring and continuing to protect the environment as a priority are reflected in the RFP. She was compelled to say that she totally disagrees that the continuing and maintaining the CAC can't be put in the contract. Just because things have been done a certain way in the past, doesn't mean they need to continue that way in the future. The whole purpose of looking at these contracts every so many years is to make changes when necessary.

Member Esposito said she would take on the responsibility to write a letter on behalf of the CAC so the CAC could be included in the RFP. It was agreed that once the letter was vetted and approved by all of the members, it would be forwarded to DOE.

Reed said this discussion will be summarized and placed on the website for everyone to see, including the potential offerors.

Sadler said some duplicate questions will be screened.

9. CAC Draft Research Funding Letter

Michael Bebon said that the Lab has considered the topic raised at the last CAC meeting regarding writing a letter endorsing the science that Steve Dewey and the members of the imaging group do and their contributions to the Lab and the community. He suggested that the CAC consider endorsing the science and stressing the special interest that the CAC has in this topic. He said the people making the decisions about funding have no view of the importance of this research to the community so that would be very important input to the scientific decision-makers. He also suggested that they express their interest in nanomaterial toxicology in relation to the field of nano-safety at large and in particular its application at BNL.

Member Graves said he would like the letter to say the CAC is requesting a more solid source of long term funding and would also like to stress the importance of keeping the research here at BNL under DOE. He said he would draft the letter and circulate it electronically to everyone with the hope that by the next meeting there would be a final version that can be sent.

Reed said Member Graves will take the lead and circulate a draft letter to the CAC members, get comments back, and then bring a final draft to the next meeting for discussion. The CAC agreed.

Member Sprintzen asked what the eggshell presentation was that was supposed to be given tonight and why it wasn't given.

D'Ascoli said she tries to bring in topics of interest that are done by the scientific staff. Elaine DiMasi's presentation that was scheduled for tonight was postponed due to lack of time. It will be on a future agenda.

Member Kaplan asked that additional information be sent to CAC members prior to the presentation on the SPDES permit.

D'Ascoli said that is possible, but since this is a complicated issue it is important to hear the specifics and implications to the Lab. She said she will send out an e-mail and if anyone is interested, she will send more information, however, it is important to hear from the technical experts regarding this topic. She said she will let the CAC know when it is being published and if it's going to be in Newsday.

Reed said it appears as though this will be information/discussion for next month and discussions among the CAC to come to a possible recommendation the following month.

D'Ascoli said in May, Vicki Colvin will be here so that will shorten this process to two months.

Member Esposito said she will not be here in May so she would like to see this come to closure before then so her comments will be included.

Member Esposito stated that after 10 years the CAC has become an invaluable asset to the Laboratory and finds it unacceptable that now the CAC might go away depending on the new contractor. She thinks that the CAC should consider writing a letter stating that it should be included in the RFP that it is mandatory that the CAC continue. She said this could be put on next month's agenda. She does not want to hesitate on this issue.

Member Kaplan said this might sound self-serving of us, but it seems that there should be some sort of community representation on the board.

Member Esposito offered to draft a letter.

Reed said we will put it on the agenda for next month.

Member Sprintzen said he will not be at the next meeting.

Member Esposito offered to e-mail the letter to Member Sprintzen.

Member Guthy said since the CAC works under the Director, does this mean that Dr. Aronson is going to change when the contractor changes because as long as he is director isn't he the one to decide if the CAC stays or not.

Reed said since this is a competitive process for management of the Laboratory, it is possible there will be changes in upper management if a new contractor comes in.

The meeting adjourned at 9:08 p.m.

Agenda Topics

Votes

Global Warming, Stony Brook, Pine Barrens (1-10-08)	15
CAC as a conduit/resource to the community (11-08-07)	13
Emergency Operations Center tour and drill (6-12-08)	12
Nano technology	11
CERN—problems and implications (4-10-08)	11
Site Environment Report—good and bad (11-8-07)(10-2-08)	11
Nano safety (3-13-08)	10
Regulator presentations on areas they oversee	10
Energy	9
Overview of programs	9
Deer Management (4-10-08)	8
Anti-terrorism update	7
NLS-II briefing	7
Nuclear power plant safety	6
Education Programs (10-2-08)	6
Energy efficiencies (9-13-07)	6
Sustainable transportation	4
Natural Resources management	4
Nano ES & H (10-11-07)	3
Safety and Security	3
Experimental Review Process	3
Latest RHIC findings	2
How the Lab supports nuclear facilities in the N/E region	2
Status of P-2 road show	2
Heating plant and efficiency research	2
Lyme Disease	2
CAC process	2
Alternative fuels	2
Update on phyto/bacterial contamination remediation research	1
Deforestation	0
Work planning process	0

New Topics Added After September 2007 Vote

~~Global warming—BNL research (5-8-08)~~
Nano toxicology
~~Nano ES&H issues at BNL and beyond (5-8-08)~~
Nanotechnology/science at BNL
Nano management policy issues
Nano panel discussion with the DOE, EPA, and FDA
Renewable energy research at the Lab
BNL/CSHarbor/Stony Brook collaboration

P = Present	2009	Affiliation		First Name	Last Name	Jan	Feb	Mar	Apr	May	June	July	Aug	Sep	Oct	Nov	Dec
ABCO	(Garber added on 4/10/02)	Member		Don	Garber	P	P										
ABCO		Alternate															
Brookhaven Retired Employees Association		Member		Graham	Campbell	P	P										
Brookhaven Retired Employees Association (L. Jacobson new alternate as of 4/99)(A. Peskin 5/04)		Alternate		Arnie	Peskin	P											
CHEC (Community Health & Environment Coalition (added 10/04)		Member		Sarah	Anker												
(added 12/08)				Robert	Andrejkovics	P											
Citizens Campaign for the Environment		Member		Adrienne	Esposito	P	P										
Citizens Campaign for the Environment (Ottney added 4/02-takenoff 1/05 Mahoney put on)(7/06 add Kasey Jacobs)(K. Jacobs off 1/08)		Alternate															
E. Yaphank Civic Association		Member		Michael	Giacomaro												
E. Yaphank Civic Association (J. Minasi new alternate as of 3/99) (M. Triber 11/05) (Munson 6/06) (Feinman 2/09)		Alternate		Bob	Feinman		P										
Educator (changed 7/2006)		Member		Adam	Martin												
Educator (B. Martin - 9/01)		Alternate		Bruce	Martin												
Educator (A. Martin new alternate 2/00) (Adam to college 8/01)(add. alternate 9/02) (changed 7/2006)		Alternate		Audrey	Capozzi												
Environmental Economic Roundtable (Berger resigned, Proios became member 1/01)		Member		George	Proios												
Environmental Economic Roundtable (3/99, L. Snead changed to be alternate for EDF)		Alternate		None	None												
Fire Rescue and Emergency Services		Member		Joe	Williams												
Fire Rescue and Emergency Services		Alternate		Don	Lynch	P	P										
Fire Rescue and Emergency Services		Alternate		James	McLoughlin												
Friends of Brookhaven (E.Kaplan changed to become member 7/1/01)		Member		Ed	Kaplan		P										
Friends of Brookhaven (E.Kaplan changed to become member 7/1/01)(Schwartz added 11/18/02)		Alternate		Steve	Schwartz	P											
Health Care		Member		Jane	Corrarino												
Health Care		Alternate															
Huntington Breast Cancer Coalition		Member		Mary Joan	Shea	P	P										
Huntington Breast Cancer Coalition		Alternate		Scott	Carlin												

P = Present	2009	Affiliation		First Name	Last Name	Jan	Feb	Mar	Apr	May	June	July	Aug	Sep	Oct	Nov	Dec
		Intl. Brotherhood of Electrical Workers/Local 2230 (S.Krsnak replaced M. Walker 1/11/07)	Member	Scott	Krsnak	P											
		IBEW/Local 2230	Alternate	Philip	Pizzo												
		L.I. Pine Barrens Society	Member	Richard	Amper	P											
		L.I. Pine Barrens Society (added P. Loris 6/05)(Alayeva off 6/08) (Itriyeva 02/09)	Alternate	Irina	Itriyeva		P										
		L.I. Pine Barrens Society	Alternate	Susie	Husted												
		L.I. Progressive Coalition	Member	David	Sprintzen	P	P										
		L.I. Progressive Coalition	Alternate	None	None												
		Lake Panamoka Civic Association (Biss as of 4/02)	Member	Rita	Biss	P											
		Lake Panamoka Civic Association (Rita Biss new alternate as of 3/99)	Alternate	Joe	Gibbons												
		Long Island Association (Groneman replace 10/05)	Member														
		Long Island Association	Alternate	William	Evanzia												
		Longwood Alliance	Member	Tom	Talbot	P	P										
		Longwood Alliance	Alternate	Kevin	Crowley												
		Longwood Central School Dist. (switched 11/02)	Member	Barbara	Henigin												
		Longwood Central School Dist.	Alternate	Allan	Gerstenlauer												
		NEAR	Member	Jean	Mannhaupt	P											
		NEAR (prospect taken off ¾) (Blumer added 10/04)	Alternate	Karen	Blumer												
		NSLS User	Member	Jean	Jordan-Sweet	P	P										
		NSLS User	Alternate	Peter	Stephens												
		Peconic River Sportsman's Club (added 4/8/04)	Member	John	Hall	P											
		Peconic River Sportsman's Club	Alternate	Jeff	Schneider												
		Ridge Civic Association	Member	Pat	Henagan												
		Science & Technology (added 1/13/05)	Member	Iqbal	Chaudhry		P										
		Town of Brookhaven (Graves made member 6/06)	Member	Anthony	Graves	P	P										
		Town of Brookhaven	Alternate	None	None												
		Town of Brookhaven, Senior Citizens	Member	James	Heil	P	P										
		Town of Brookhaven, Senior Citizens (open slot as of 4/99)	Alternate	None	None												
		Town of Riverhead	Member	Robert	Conklin												
		Town of Riverhead (K. Skinner alternate as of 4/99)	Alternate	Kim	Skinner												
		Wading River Civic Association	Member	Helga	Guthy		P										
		Wading River Civic Association	Alternate	Sid	Bail												