



ARIZONA

Janice K. Brewer
Governor

Office of Pest Management

9535 E. Doubletree Ranch Road, Scottsdale, Arizona 85258-5514
(602) 255-3664 - (602) 255-1281 fax
<http://www.sb.state.az.us>

Ellis M. Jones
Acting Director

ADVISORY COMMITTEE MEETING WEDNESDAY, MAY 12, 2010 10:00 A.M.

Minutes

I. Call to order 9:58a.m. (Chairman Etheridge) **Committee Member Roll Call**

Committee Members present: *Kevin Etheridge, Ken Fredrick, Nate Tamialis, Doug Seemann and Jack Latham*

Committee Members absent: *Carmella Ruggiero*

Staff present: *Ellis Jones, Vince Craig, Robert Tolton and Jennifer Baker*

II. Approval of Minutes

a) March 10, 2010

MOTION: To approve the minutes by Ken Fredrick
Seconded by Jack Latham

VOTE:5-0 Motion carried

III. OPM Updates and Reports

a) Agency Update (Mr. Jones)

1. Agency Snapshots (Handouts)

Mr. Jones gave an update stating we are still doing relatively well in all areas and believes this trend will continue. In the upcoming fiscal year this document will change greatly and have far more detail.

2. City of Phoenix IPM Training Program

Mr. Jones stated we are moving along and communicating with City of Phoenix and stated Ms. Rosanne Albright is in the Meeting today and invites her to come give some detailed information.

Ms. Albright stated that she is working on the IPM Training Program with OPM, University of Phoenix, and their internal department. City of Phoenix received grant money from EPA for this program and all attendees will receive this training

free of charge. This is their 3rd year conducting this program. The programs main focus is helping individuals get involved in “green” jobs. Will be using curriculum that has already been approved and expects the program to run for a period of 5 days. All attendees will be certified by the end of the program and will also be attending Hazardous Waste Operations and Emergency Response Training. Providing attendees with customer services skills as well. We also, have the ability to provide on the job training for trainees using additional grant money to cover half the hourly wage of the trainee for the required 320 hours of job training. Candidates will be individuals from a wide range of backgrounds, but will be individuals who are interested in this program and plan on staying in the field. Received some feedback from panel stating that the proposed date of start is during the slow season and would prefer the program to begin around January or February.

b) Compliance/Enforcement (Mr. Craig)

1. Adjudicated Complaint Summary (Handout)

Mr. Craig explained how the current OPM website has a link where individuals can view all adjudicated cases and the signed consent agreement which includes the violation(s) and the agreement. April was a pretty slow month where there were only 6 complaints filed. States there can be multiple respondents for an individual case, but not all respondents will result in the same outcome based on facts compiled in the case. Mr. Doug Seemann stated that a detailed spreadsheet is not needed for the meetings any longer, but would like to see a summary instead.

c) Licensing (Mr. Tolton)

1. Business Licenses issued during March 2010

Mr. Tolton stated that it was requested by the committee members to include the business licensee’s for all new business licenses and asked the committee if they would like to continue receiving this information. Mr. Doug Seemann stated he would like to continue receiving this information, because he likes to know who is coming into the business.

Business Name	Business Licensee	Qualifying Party
Bob the Bug Man	The Bug Man, LLC. – Colleen and Robert Evans	Colleen B. Evans
Dad’s Pest Control	Anthony James Leo	James S. Saitman
Gotcha Animal & Pest Services	Van Doarn Powell	Van Doarn Powell, Jr.
No Mercy Pest Control	No Mercy Pest Control, LLC. – Travis and Patrick Sand	Patrick James Sand
Property Management Pest & Weed Control	Preston P. Pearce	Preston P. Pearce & Raymond L. Nilson
Ronning Landscaping, Inc.	Ronning Landscaping, Inc. – Michael and Ellen Ronning	Armando Rebolgar-Pedraz
Stone Canyon Golf, LLC.	Hansen Stone Golf, LLC. -	Terry V. Todd
VIP Pest Control	Justin Lee Abel	Justin Lee Abel

2. Business Licenses issued during April 2010

Business Name	Business Licensee	Qualifying Party
Amarryllis Contractor's, Inc.	Amaryllis Contractors, Inc. – Pat Lopez, III. and Nestor Chavez	Nestor Chavez
Cimex K9	Natural Instincts, LLC. – Keith and Koty Coddington	Grant C. Fernow
Executive Pest Control, PLLC.	Executive Pest Control, PLLC. – Raymond Campsen, Jr. and Dale Buser	Raymond F. Campsen, Jr.
Foleyge Landscaping	Foleyge Landscape, LLC. – Thomas and Dawn Foley	Thomas D. Foley
Hammond Agronomy, LLC.	Hammond Agronomy, LLC. – Brian Hammond	Brian T. Hammond
Image Lawn & Landscaping Services, LLC.	Image Lawn & Landscaping Services, LLC. – Kendrick and Stephanie Croteau	Kendrick J. Croteau
KPZ Pest Control	Kimberly Ellis	Patrick L. Ellis
Victor's Landscaping, Inc.	Victor's Landscaping, Inc. – Michael Pope	Yvette M. Pope
Zone Pest Management	Paul D. Scott	Paul D. Scott

3. 2011 Applicator License Renewal Information and Statistics

April 2010 – 2989 renewals were received (2225 online/ 764 paper) of which 2744 were complete and processed. The remaining 245 were incomplete for various reasons including lack of Statement of Citizenship and Verifiable Proof, lack of 6 Continuing Education Hours, etc. All applicators that are identified as incomplete are notified in a timely manner. All employers' can visit the website and identify whether or not their employees have been renewed. The standard renewal period is coming to a close at the end of this month and late fees will become effective as of June 1, 2010. All online renewals are processed real time. All individuals who are notified as incomplete and submit the required information are processed and that information then can be viewed on the website indicating they are complete. Mr. Doug Seemann requested to know what percentage of renewals are outstanding and how do we compare to last year. Mr. Tolton stated roughly more than half have renewed and that we are doing slightly better this year. Also, the online renewals go a lot smoother, because it doesn't allow an individual to make any mistakes whereas paper renewals mistakes can be made, which could result in late fees being assessed. Mr. Alan Pugh stated that even though an individual has till the end of June to renew if they do not do so by May 31 they are not allowed to work until renewed. Mr. Doug Seemann asked if applicators are aware of this rule. Mr. Tolton stated that this information is provided on the reverse side of the renewal form that was mailed out to each individual. Mr. Jones proposes that a link be set up on the website to inform individuals that the renewal period is coming to a close.

Mr. Tolton presents to the committee that an Applicator Review Committee (ARC) exists to review any new business license applications, applications with criminal convictions, qualifying party applications, temporary qualifying parties, and any business name changes. The ARC consists of 2 staff members from Administration, Compliance Enforcement and Licensing. Each department offers a different variety of knowledge to the committee. In 2009 65 interviews were conducted with individuals who had criminal convictions and only 2 denials

resulted. So far in 2010 we have had 81 interviews and only 4 denials. Each denial has the opportunity to reapply and/or file an appeal or request a hearing at the Office of Administrative Hearings. Mr. Latham asks if these interviews are conducted prior to an individual taking the certification (license) exam. Mr. Tolton states all interviews are conducted prior to an individual taking an exam. Mr. Tolton states that there is an increase in individuals who are applying for their Qualifying Party License as well.

License Application Statistics:

Applications Received	FY2009	FY2010 (Through April 22)
Applicator	8349	1262 (This # will increase as more renewals are received)
Qualifying Party	1690	1626
Business	1143	1176

The Office of Pest Management had 493 Continuing Education attendees in FY2009 as of FY2010 there have been 193. The 2009 Saguaro Continuing Education Conference & Expo (SCECE) had 205 attendees and we are projecting for this year's Conference there will be even more. In 2009 there were 132 Initial License Training Classes and as of this year there have been 212, which is a definite increase. We are currently reviewing Statute and Rules to get rid of all out-dated material. We are also considering if there should be an anniversary date renewal and if there should be a change in regards to continuing education requirements for Qualifying Party and Applicator License Holders. Many of the statute changes being considered did show up in HB 2449, which everyone was pleased about. This year's SCECE theme is IPM in a "Green" World. The keynote speaker will be Mike Masterson host of the Discovery Channel show the Verminator. We are also going to be accepting donations for the Phoenix Children's Hospital.

d) Accounting (Ms. Skow)

Ms. Skow states that we will be ending the fiscal year on a positive note with approximately \$145,000 in our fund. We have contributed \$239,000 into the general fund and that is not only the 90/10 portion, but also includes all civil penalties. Civil penalties are 100% general fund. Mr. Etheridge inquires about the rent. Ms. Skow states that rent is not being paid in one lump sum as of now, but is being paid on a quarterly basis in the amount of \$46,000. This arrangement was agreed upon, because of certain cash flow problems. Mr. Latham asks where on the Cash Flow analysis rent is allocated. Ms. Skow states rent is identified under Operating Expenditures. Mr. Harvey Logan states that during the House Bill Hearing a testimony was given indicating that the OPM has been operating in the "red". Mr. Jones states that despite where that individual received their facts that the governor's office does not allow any agency to operate in the "red". Mr. Etheridge asks what the projected operating cost will be for the next year. Ms. Skow states it should be approximately the same, which is about 2.1 million. Also, that the 2.75% performance pay is being cut as well as there will be 6 furlough days. Mr. Etheridge inquired as to what the previous year's cash balance was. Ms. Skow states the previous year's cash balance was \$576,596.22, which was inaccurate, because the Central Services Bureau and General Accounting Office had some double entries in the general

ledger, which is being cleaned up that is why there is large discrepancy. Mr. Seemann asks that there should be a representation of the furlough days. Ms. Skow says it will be shown as a transfer out or a sweep when the furlough days actually become effective. Mr. Fredrick asks if there was any negative feedback in regards to the fee increase. Mr. Tolton states that he had not seen much of any feedback in regards to the fee increases. Mr. Latham stated we should look hard at raising the Business License Renewal fees again because of state license and all individual counties they do business in can become a lot for a company to handle.

e) Information Technology (Mr. Pulido)

Mr. Pulido states we are doing routine technical support for e-TARF and are encouraging individuals to read the online manual. We are currently receiving calls in regards to the online renewals. We do our own repair work and keep old or broken computers so we can use them for parts later on down the road if need be. Currently doing software updates to better track finances. Also, we are working with the Arizona Medical Board in sharing some of our current bandwidth with them temporarily in return they are paying a portion of the bill. The March monthly TARF report is now available online. Currently a beta website is being developed for the SCECE 2010, where it would allow individuals to access information in regards to the Conference and to pay for attendance as well. The payment portion of the site should be available by July 1st. Mr. Tamialis states that at the last meeting it was decided that something would be put on the website to identify misconceptions. Mr. Jones states the idea of putting that information on the website was politically not approved.

IV. Review, Discussion, and Possible Action on:

a) OPM Operations – Strategic, Tactical, Operational (Mr. Jones)

Mr. Jones states that OPM revenue is generated from license fees, TARF fees, EPA, and then other smaller sources. All civil penalties are given to the general fund in order to maintain integrity of the process. As of February 1 TARF fees accounted for 80% of the revenue and licensing accounted for 15%. We would like to see that percentage switched where licensing accounts for 80% and TARF's 10%. Most of the feedback in regards to fee increases has come from TARF fee increases not license fee increases. We are hoping that renewals would be able to carry through till the next renewal occurring in September. When final numbers arrive we will be able to determine if we are on track for this idea. Staff reduction in the eyes of Mr. Jones is less enforcement, which is not beneficial because it can put the public at risk. The legislature has stated they will not be sweeping the 90/10 agencies. In regards to rent reduction we can either move to a smaller space or if combined with the Department of Agriculture renovations must be done and the question is where the money comes from for that to occur. In the past 4-5 months other agencies have been visiting our facility to determine if this would be an ideal location for them. When the legislature went "Sine Die" those agencies were relieved, because they were not in favor of having to move either.

i. Role of PMAC

Mr. Harvey Logan stated he would like to see the PMAC have more of a voice in what decisions are made. Mr. Jones stated that what Mr. Logan proposes would

be similar to re-establishing a commission, which the legislature is not in favor of. Mr. Doug Seemann stated that the PMAC is an advisory committee only, but would like to see the PMAC have more purpose. Mr. Jones stated that the committee can meet as often as necessary to address any issues or concerns.

ii. Committee Concerns

b) What's Next (Mr. Jones)

i. House Bill 2449 & Senate Bill 1224 (Handouts)

Mr. Jones states that House Bill 2449 would have put us in the Department of Agriculture under the Environmental Services department where we would still remain a 90/10 reporting to the Environmental Services Assistant Director. There were quite a few proposals in House Bill 2449 besides moving that OPM was in favor of despite what has happened to the bill we would still like to see those changes occur.

Senate Bill 1224 would have moved OPM with an oversight by the Department of Agriculture. Many promises were made in regards to Bill 1224 that were not kept which resulted in the bill being held. The state of California currently has a Department of Pesticide Regulation (DPR) instead of an OPM. Mr. Jones would like to see us model their example rather than joining the Department of Agriculture. The Department of Agriculture currently has 4 individuals under the pesticide department, the idea was posed they should be combined with us into the DPR. The move would also generate general fund saving, because the 4 Department of Agriculture employees would move under our umbrella. Mr. Jones states that we do not currently meet the requirements to become a standalone agency. Mr. Jones proposed that instead of moving make us our own department within Agriculture.

ii. Perceived Benefits

Mr. Jones states staff reduction is not feasible at this time, however if at any point this idea needs to be revisited he will do so. Every organization should be running under the ideas of strategic, tactical, and operational. Strategic reflects the Statutes, Tactical Rules and Procedures, and Operational the day to day running.

Mr. Jones wants us to address the situation at hand to determine what should happen to us. The auditor general has scaled way back as of late. However, we will be asking the auditor general to conduct their briefing at the next PMAC Meeting. It was conveyed to us that we are light years ahead of other states, but there were some ideas that they would like to see implemented. Mr. Jones stated that there is a possibility to reduce rent within the current building by either bringing in another smaller agency to help supplement the rent fees or by renegotiating the current rent fees. Mr. Jones also would like to see reciprocity with other states, which shows that California, Texas, and New Mexico would be favorable of the idea. The general concept of DPR will be drafted within the next 25-30 days. Mr. Seemann questioned whether or not there will be a change in the amount of EPA money given if there is a conversion to DPR. Mr. Jones stated that EPA money is not a guarantee, but would maintain with the idea of the DPR. Ms. Skow stated that the average EPA grant is roughly \$109,000. Mr. Etheridge asked if there would be political confusion with the Department of Agriculture and DPR. Mr. McClure stated that he felt that cattle and cotton would

be in support of the DPR idea. Mr. Jones said he would be asking agricultural lobbyists to come and meet to discuss any concerns they may have. Mr. Jones stated that recently the Goldwater institute was invited to OPM and were surprised by what they found. They were pleased to see the difference in the OPM versus the SPCC. Mr. Fredrick recommended inviting the presidents of associations opposed to the lobbyists. Mr. Etheridge is tired of this going on and would like us to move forward and use PMAC to put a plan in place and to go forward.

Mr. Jones stated that his current public relations consultant helps inform him of any and all other bills that would affect the OPM.

c) Continuing Education Application Fee Proposal (Mr. Tolton)

Mr. Tolton proposed a fee for Continuing Education Applications, because currently all services are at some cost except CE, we received 392 applications for review last year, which could help decrease TARF fees. Mr. Seemann stated that those individuals who provide CE at no cost suffer from fees being assessed and in turn could alter the amount of classes they offer. Currently this is a service that only benefits the provider. Mr. Tolton would like to see us review at least two CE classes a month. Ms. Christie Davie stated that the CE providers already help absorb some of the work related to providing courses by doing all the data entry. Mr. Seemann commented that CE courses help provide information to the industry members to make sure applicators are conducting treatments properly, which currently benefits OPM. Mr. Jack McClure stated that he did a class for free and that his operating costs are higher than OPM's when providing CE's. He would also like to see Biology courses only be renewed every 5 or 10 years. Mr. Jones asked PMAC come back with a recommendation on renewal period and fees and would like to have it added to the next PMAC meeting agenda. Mr. Tolton stated he has no opposition with elongating renewal periods, but it is mandated through statutes and rules and those would need to be altered to accommodate different renewal periods. Mr. Latham would like us to check with other agencies to see how they conduct there CEU's.

d) Inspections (Mr. Craig)

Mr. Craig added this topic to the agenda in order to clear up some misconceptions. There are 13 individuals that make up the Compliance/Enforcement department. The compliance division deals with inspections in regards to pesticide label use, vehicles, office (records and training), and chemical storage. The enforcement division deals with investigation and adjudication of cases. There are 5 inspectors assigned to different zones in Arizona. Inspections are conducted in order to follow state and federal laws and to protect public interests. Our neutral inspection program is when a business licensee is given advance notice an inspection is going to be conducted and commonly each licensee has one vehicle one office inspection and one use inspection every 2 years. Outside of the neutral inspection program is pretreatments, childcare facilities, investigations, schools, etc. The EPA has asked us to conduct outreach programs for underserved communities during FY2011. Investigation inspections are conducted outside the once every 2 year program and follow up inspections are also outside of this program, because an inspection is conducted after a non-compliant inspection has occurred. Mr. Craig stated that OPM has a database that alerts inspectors when certain companies

are due for an inspection. If a corrective work order is given compliance must be established within 45 days and another inspection will determine if this action has been taken. Mr. Pugh added that companies with multiple branches will experience more inspections as well. Mr. Etheridge stated sometimes they do not realize the time frame and Mr. Latham added that some companies may experience inspections by other entities such as the Navajo EPA as well so sometimes it can appear as there are more inspections being conducted.

e) Faulty Grade – (Mr. Craig/ Mr. Pugh)

Mr. Pugh stated Mr. Fredrick asked for clarification on this topic, because he had been receiving questions as to why some types of Faulty Grade cannot be documented as inaccessible. Mr. Pugh stated that the rules indicate faulty grade is a condition conducive. Also, he would like to see the rule change to at or below. An example is when stucco is at or below grade, which can be separated into earth or wood contact and/or inaccessible area. Mr. Fredrick stated he advises individuals that it is a common construction practice. Mr. Pugh explained this topic is all “Lender” driven and they seem to understand the term “common construction practice”. Also, some faulty grade situations cannot be corrected.

f) Over the Counter vs. Restricted Use Pesticides (Mr. Craig)

Mr. Craig stated there is a correction with this topic and it should read “General Use vs. Restricted Use Pesticides”. This was added to the agenda, because there appears to be a misunderstanding. Mr. Craig stated he has heard that some individuals think general use pesticides do not need to be regulated and this thought needs to be corrected. EPA requested us to focus on underserved communities and in the past 2 years 146 inspections have been conducted on these underserved communities and all were using general use pesticides. When the terms caution, warning, danger, hazardous are on a general use pesticide then these still need to be inspected, because they can cause unnecessary harm to the public. The Federal Insecticide Fungicide Rodenticide Act (FIFRA) states that general use pesticides do offer some sort of threat to the public. FIFRA states on all general use pesticides that it is a violation of FIFRA to use this chemical contrary to label directions. Mr. Seemann asked when inspecting underserved communities is there a focus on the individuals that work at these facilities and not just licensed applicators. Mr. Craig explained that yes these regulations and inspections are not just focused on licensed applicators. Mr. Craig explained current statutes require only licensed applicators apply pesticides in schools and childcare centers. Municipalities are the only entity exempt from Qualifying Party and Business Licenses. However, they must hold an Applicator License.

V. Call to the Public (Chairperson) – No Response

VI. Communication with Advisory Committee Members (Chairperson) – Mr. Seemann explained real estate agents are looking for mold inspections and for example in Tucson there are currently no certified inspectors, but inspections are being conducted. Also he has ran into a company that is advertising for wildlife removal indicating “bees, birds, and packrats and they do not hold an OPM license and asks is there a loophole that is allowing these actions. Mr. Craig stated if an individual is not using pesticides then this would be under fish and game jurisdiction. Mr. Seemann asks that if companies move away from pesticide use where does the jurisdiction lie. Mr. Etheridge would like to

agendize this item for the following meeting. Mr. Tamialis stated that public concern is not with how OPM is doing their job, but how the budget is inflated.

VII. Scheduling of Future Meetings (Mr. Jones)

- a) July 14, 2010
- b) September 8, 2010
- c) November 10, 2010

VIII. Adjournment- Meeting Adjourned at 1:08 P.M.