

**COMMISSION MEETING
March 8, 2002
MINUTES**

I. Call to order and roll call

Commissioners present: Commissioner Micuda, Silva, Burrows, Hartley, Robinson, Hale, and Tennenbaum

Staff present: Executive Director, Jerome Davis, Barry Levitch, Richard Mars, Dirk Vandenberg, Michael Francis, Jason Aanderud, Maggie Vazquez, Hugo Pulido, Carl Martin, and Assistant Attorney General Blair Driggs.

II. Approval of February 2002 minutes.....TAB 1

Discussion by Commissioner Hale to Modify Tab 39, Case # 99-103 – Emmett Sweat. It shows that the vote was 5 – 0 and the vote was 4 – 1. Commissioner Hale makes a Motion to correct the record that Case # 99-103 the vote was 4 to 1 instead of 5 to 0.

MOTION: To approve February 2002 minutes, and seconded.

VOTE: 7 - 0 Motion carried.

III. Call to the public (Each speaker limited to five minutes)

Rick Rupkey – Two points he would like to discuss. 1. Commissions policy on testing results, review of tests, tests could previously be reviewed. 2. Support of Computer Program – no support from SPCC staff.

IV. Correspondence with Commissioners

Commissioner Burrows - Letter from Mr. Reed.

Commissioner Hartley - Call from Leo at A-1 Pest Control – expressed concern with possible problems at the Commission.

Commissioner Burrows - Telephone call from George Campbell.

Commissioner Micuda has had a few conversations with people.

V. Scheduling of future meetings/agenda items

April 12, 2002 Scottsdale, AZ
May 10, 2002..... Scottsdale, AZ
June 14, 2002 Scottsdale, AZ

VI. Consent Agenda.

Items will be read and voted on in one group excluding those pulled for discussion.

A. Applications for Business Licenses

- | | | |
|--|-----|---|
| 1. Beck, Recil Jerry
<i>Pulled</i> | dba | Beck Environment Services LLC (Activating Qualifying Party for new business license in the “E & F”)TAB 2 |
| <i>Motion:</i> | | <i>To approve by Commissioner Hale and that the Business Plan be modified.
Seconded by Commissioner Tennenbaum</i> |
| <i>Vote:</i> | | <i>7 – 0 Motion carried.</i> |
| 2. Cartee, Russ | dba | Cartee’s Pest Control (Activating Qualifying Party for existing business license in the “B”)TAB 3 |
| 3. Coronado, Hector I.
<i>Pulled</i> | dba | Investamite Termite Control (Activating Qualifying Party for new business license “C”)TAB 4 |
| <i>Motion:</i> | | <i>To approve by Commissioner Tennenbaum
Seconded by Commissioner Micuda</i> |
| <i>Vote:</i> | | <i>7 – 0 Motion carried.</i> |
| 4. Dunn, Oby Allen | dba | Enviro Pro Pest Management Services (Activating Qualifying Party for new business license “B & C”)TAB 5 |
| 5. Eaton, Jeffrey | dba | Phoenix Exterminating (Activating Qualifying Party for existing business license in the “C”)TAB 6 |
| 6. Elrod, Glen D. | dba | Dorado Pest Control Inc. (Activating Qualifying |

Pulled Party for new business license “B, C, & E”)TAB 7

Motion: To approve by Commissioner Burrows
Seconded by Commissioner Micuda

Vote: 7 – 0 Motion carried.

7. Johnston, Carl dba **Three Parks Fairways Inc. Activating Qualifying Party for existing business license “E & F”)TAB 8**

8. McCreery, Paul R. dba **Insect Eradication Specialists (Activating Qualifying Party for new business license “B & C”)TAB 9**

9. Rogers, Kenneth W. dba **Environmental Management Inc. (Activating Qualifying for existing business license “E”)TAB 10**

10. Shafer, Clint Rulen dba **Atomic Pest Control (Activating Qualifying Party for new business license “B”)TAB 11**

11. Sherrill, Cynthia E. dba **The Bug Lady (Activating Qualifying Party for new business license “B & C”).....TAB 12**

12. Snyder, Robert dba **Mesa Verde Termite (Activating Qualifying Party for existing business license “B”) ..TAB 13**

13. Turula, Dwight R. dba **Dwights Weed Control (Activating Qualifying Party for new business license “E & E-1”)TAB 14**

B. Applicants for Q.P. Testing.

1. Andreaccio, Frank A. “B”TAB 15

2. Burchfield, Mark E. “E & F”TAB 16

3. Gniffke, Chad James “E & F”TAB 17

4. Mac Ban, Barry A., II “E & F”TAB 18

- 5. Nickasch, James R. “B, C, & E” TAB 19
Pulled

- Motion:* *To approve by Commissioner Hale*
 Seconded by Commissioner Burrows

- Vote:* *7 – 0 Motion Carried.*

- 6. Page, Jack “E”TAB 20

- 7. Saline, Donald “B”TAB 21

- 8. Walker, Michael D. “C”TAB 22

- 9. Winter, Burghard G. “B & C” TAB 23

C. Applicants to Broaden Qualifying Party

- 1. Loehr, Jeffrey “C” TAB 24

D. Request for Temporary Qualifying Party Certificate and/or Extension.

- 1. Gielow, Ryan R. dba **Gielow Exterminating**TAB 25

- 2. Hargis, Ed dba **K. Management Services** TAB 26

- 3. Kilian, Gloria dba **Kilian Termite & Pest Control** TAB 27
 Pulled

Motion: *To approve by Commissioner Robinson*
 Seconded by Commissioner Hale

Vote: *7 – 0 Motion carried.*

- 4. Rable, Andrew dba **Bartlett Tree Experts** TAB 28
 Pulled

Motion: *To approve by Commissioner Robinson*
 Seconded by Commissioner Hale

Vote: *7 – 0 Motion carried.*

- 5. Weber, Ryan dba **S.O.S. Exterminating Inc.** TAB 29

- E. Request for Company Name Change.**
 - 1. Cottonfields Golf Club to Bouqainvillea Golf Club TAB 30**
 - 2. Rawhide Pest Management to All West Pest Management TAB 31**

- F. Continuing Education Committee Minutes of February 2002 Meeting TAB 32**

- G. Treatment Proposals.**
 - 1. Insect Eradication Specialists TAB 33**
 - 2. PERMAGUARD INC. TAB 34**
 - 3. PROMAX TERMITE & PEST CONTROLTAB 35**

- H. Settlement Conferences**
 - 1. Bio-Chem Services – Case 2001-047 TAB 36**
TARF’s
Pulled

NOTE: Attorney General Representative Blair Driggs to present Settlement

Motion: To Dismiss by Commissioner Tennenbaum
Seconded by Commissioner Micuda

Vote: 7 – 0 Motion carried.

 - 2. Dorado Pest Control – Case # 2001-051. TAB 37**
TARF’s (late fees)
Pulled

NOTE: Attorney General Representative Blair Driggs to present Settlement

Motion: To table, take it back to staff for a payment plan by
Commissioner Tennenbaum
Seconded by Commissioner Micuda

Vote: 7 – 0 Motion carried.

 - 3. Kino Termite & Pest Control – Case # 2001-265TAB 38**
Termite Action Report Forms (TARF’s) Violations.

Pulled

Proposed Resolution:

1. *That the Business License #I 2354 BC, Kino Termite and Pest Control, be issued an ADMINISTRATIVE WARNING for violation of A.A.C. R4-29-418A.*
2. *That the Business License # I 2354 BC, Kino Termite and Pest Control be required to submit TARFs and associated fees Total of \$ 1,344.00.*
3. *That the Business License #I 2354 BC, Kino Termite and Pest Control, be issued a Civil Penalty in the amount of \$ 600.00 for violation of A.A.C. R4-29-418A*
4. *That the Qualifying Party, John Escobedo QP#1060 BC be issued an ADMINISTRATIVE WARNING for violation of A.A.C. R4-29-418A.*

Total Amount due = \$ 1944.00

NOTE: *Qualifying Party is requesting Commission Consideration of the attached letter.*

Motion: Motion that we adopt the proposed resolution in addition to that we adopt a 12-month payment plan with the term that payments be part of the probationary term of the Consent Agreement by Commissioner Micuda.

Seconded by Commissioner Tennenbaum

Vote: 7 – 0 Motion carried.

4. Litchfield Pest Control – Case # 2001-334.TAB 39
Termite Action Report Forms (TARFs) Violations.

Pulled

Proposed Resolution.

1. *That the Business License #I 2483 BC, Litchfield Pest Control be issued an ADMINISTRATIVE WARNING for violation of A.A.C. R4-29-417.*
2. *That the Business License # I 2483 BC, Litchfield Pest Control be issued a CIVIL PENALTY in the amount \$ 600.00 for violation of A.A.C. R4-29-417. To be paid within 30 days from the date of the order.*
3. *That the Qualifying Party Kenneth Rael QP # 1284 BC be issued an ADMINISTRATIVE WARNING for violation of A.A.C. R4-29-417.*

Motion: Motion that we adopt the proposed resolution with the amended clarification that the violations here are violations A.A.C. R4-29-417 (A) by Commissioner Micuda.

Seconded by Commissioner Tennenbaum

Vote: 7 – 0 Motion carried.

5. Northwest Exterminating Co., Inc. – Case # 2001-058 TAB 40

QSD and falsified the site tag during a pretreatment.

Proposed Resolution.

- 1. That the Business License #C4410 BCE, Northwest Exterminating be issued an AMINISTRATIVE WARNING for violation of A.A.C. R4-29-402.*
- 2. That the Business License #C4410 BCE, Northwest Exterminating be required to pre-report termite activities for a period of six months from the date of the order, for violation of A.A.C. R4-29-402.*
- 3. That the Qualifying Party Chad Berg, QP#2047 BCE be issued an ADMINISTRATIVE WARNING for violation of A.A.C. R4-29-402.*

NOTE: Separate action to be taken against the Applicator Josh Stevens (no longer employed by Northwest Exterminating).

End of Consent Agenda.

*Motion: By Commissioner Tennenbaum to accept Consent Agenda as read with the exception for those items pulled for discussion.
Seconded by Commissioner Burrows*

Vote: 7 – 0 Motion carried.

VII. Complaints

1. A-1 Pest Control - Case # 2001-329 TAB 41

*Motion: To Dismiss by Commissioner Tennenbaum
Seconded by Commissioner Robinson*

Vote: 7 – 0 Motion carried.

2. Burr, BD Corp. DBA Burr Exterminating – Case # 2001-355. TAB 42

Motion: To send to Administrative Hearing by Commissioner Hale
Seconded by Commissioner Burrows

Vote: 7 – 0 Motion carried.

3. Carter Weed Control – Case # 2001-339 TAB 43

Motion: To send to Administrative Hearing by
Commissioner Tennenbaum
Seconded by Commissioner Micuda

Vote: 7 – 0 Motion carried.

4. Gardenscapes – Case # 2001-293 TAB 44

Motion: To send to Administrative Hearing by Commissioner
Burrows
Seconded by Commissioner Micuda

Vote: 7 – 0 Motion carried.

5. Matrix Pest and Termite Elimination Inc. – Case # 2001-319 TAB 45

Motion: To send to Administrative Hearing by Commissioner Hale
Seconded by Commissioner Micuda

Vote: 7 – 0 Motion carried.

6. Northwest Exterminating Co., Inc. – Case # 2001-338 TAB 46

Motion: To send to Administrative Hearing by
Commissioner Tennenbaum
Seconded by Commissioner Micuda

Vote: 7 – 0 Motion carried.

7. Phoenix Pest & Termite Control, Inc. - Case # 2001-295 TAB 47

Motion: To Dismiss by Commissioner Tennenbaum

Seconded by Commissioner Micuda

Vote: 7 – 0 Motion carried.

8. Tucson Exterminating – Case # 2001-354 TAB 48

*Motion: To send to Administrative Hearing by
Commissioner Tennenbaum
Seconded by Commissioner Micuda*

Vote: 7 – 0 Motion carried.

9. Unified Services Pest Control – Case # 2001- 333 TAB 49

*Motion: To send to Administrative Hearing by
Commissioner Tennenbaum
Seconded by Commissioner Micuda*

Vote: 7 – 0 Motion carried.

VIII. Felony Applicants.

1. Bainter, Tracey TAB 50
(Person not present)

2. Brambila, Miguel M. TAB 51

*Motion: To Approve by Commissioner Burrows
Seconded by Commissioner Micuda*

Vote: 7 – 0 Motion carried.

3. Chisolm, Lamar A. TAB 52

*Motion: To Approve by Commissioner Burrows
Seconded by Commissioner Micuda*

Vote: 7 – 0 Motion carried.

4. Fowler, William Brett TAB 53

*Motion: To Approve by Commissioner Burrows
Seconded by Commissioner Micuda*

Vote: 7 – 0 Motion carried.

5. Llamas, Ramon TAB 54

*Motion: To Deny Renewal by Commissioner Burrows
Seconded by Commissioner Robinson*

Vote: 6 – 0 Motion carried.

6. Stadler, BrianTAB 55

*Motion: To Approve by Commissioner Burrows
Seconded by Commissioner Micuda*

Vote: 7 – 0 Motion carried.

7. Tippetts, Gordon E. TAB 56

*Motion: To Approve by Commissioner Burrows
Seconded by Commissioner Micuda*

Vote: 7 – 0 Motion carried.

IX. Rules: Application Issues TAB 57

Discussion by Carl Martin and Commissioner Robinson.

Carl Martin – This is a returning issue from last months meeting concerning the process of applications coming into the Commission as each of you are aware The first step in licensure certification is the receipt of application by the Commission and from an individual who wants their credentials. The question arises in writing the Rules. How does the Commission want to view the licensing of an application to process. Commissioner Robinson is well versed in this matter and I will turn it over to him and I am available to answer any questions.

Commissioner Robinson – Basically, there are some other issues surrounding this situation in particular the CBT situation.

Carl Martin – It is true, currently, the Commission is contemplating Computer Based Testing for certification. However, the rule that we are specifically addressing today is the Qualifying Party

rule. There are two different licenses, two different rules on how we handle them. The current practice of the Commission is to have a person seeking a Qualifying Party credential to put in an application. That application is reviewed by you as you know, and you vote, and then they can take the test. If they don't pass the test or don't pass some section of the test, typically now there is an additional application that needs to be made current to get to take the test over. Do we just charge them a fee and send them back to take the test again? Correct, Rule though requires that there be an application for retesting and so the issue before the Commission with regard to this specific rule notwithstanding additional discussion, what will have to happen when we discuss Computer Based Testing. Does the Commission see a multi-part application process if a person fails a test. Do they need to put in another application? Currently, Rule says they do. Current practice is at odds with that just a bit as we don't require them to put in another piece of paper. I think a second application can be very small, something with their name when they failed their tests or a control number, so they can be identified. The \$30.00 fee that we get for retesting could be tracked back to the original application, so that will be a possibility but, the issue before the Commission as stated here for the Rules writers is how do you want to handle the process for people who come in and put in an application get to take a test and don't pass the tests when it comes to Qualifying Parties. Do you want another application from them? They pay another fee? Does each application come with a fee then or does the first application count for all the subsequent activities they might do or subsequent fee that is sort of the issue before us.

Commission Robinson – The discussion involved possibly being able to use one application, but by putting on the bottom a note on the application that in event they didn't pass the first time through that they would have to pay an additional fee, etc. Is that correct?

Carl Martin – I think that is right. It could be sort of anything you'd like as long as it is a separate piece of paper with their name when they took the test originally, or something, or a control number, or it could be at the bottom of the original application, or they can sign something that I want to take the test again and pay a fee. It can be several different forms, but the issue for admission is that we are trying to write a Rule to describe this process so that everybody knows what they have to do is how do you want that done and we will do whatever you tell us.

Commission Hartley – It seems to me it could be an extreme bureaucracy and that once we approve somebody to take a test, I guess the goal is that they go take the test and pass the test and not stop at every minute and we may not want somebody taking the test unless we want to earn money. We do not want them taking the same test ten or eight times. This may be a flag that they may not be suited to work in this industry. Normally when somebody takes a test and fails it and retakes it to create a bureaucracy around that application it seems to be a little much.

Carl Martin – I agree with you Chairman Hartley. There are a couple of issues that might be described or might be addressed by a second application. Lets say if Carl Martin comes into and applies and is approved to take the tests. He's approved by the Commission to take the test. Some time passes, I take the tests, I fail a section between the time of my failure of a section of that test and I choose to retest and I commit a felony. There is no way to recapture that information for you if the application required them to put that information down, again. What if I change my

address or my circumstances materially change. What if I don't know there may be several things that might be a reason to have an application process and I believe the Rule as it sits now contemplates a second application for retests and another application for another retests, but as you say it is this huge thing it becomes burdensome. It is ridiculous and it is not unnecessary we just need to decide. We just need to know where we need to go on that.

Vice Chairman Micuda – Mr. Chairman, I agree. I hate to see people filling out another application. On the one-hand, I don't have a problem in charging the fee, but taking the tests, you are not going to pass it the first time, you should have to pay every time you take it. Certainly, some legitimate reasons why you may want to have some information to enable everybody on how many times someone has taken the tests and how much they paid in fees and that is the information.

X. Commissioner's Compensation/Attorney General's Advice TAB 58

Discussion by Attorney General Representative Blair Driggs.

Assistant Attorney Blair Driggs - Stated that the Commissioners had been provided information. They had the choice of discussing the data in a public session or in executive session.

After comments the discussion was held in public session.

Chairman Hartley - Asked that Mr. Driggs interpret the information provided.

Assistant Attorney Blair Driggs - Summarized the information that was provided to the Commissioners. He stated that the information is a guideline. A discussion on what constitutes a days service and whether a Commissioner "charges" for the activities or chooses to "donate" time.

Commissioner Robinson - Stated that due to the economic situation with the State of Arizona at this time it would be the wrong time to submit for increases.

It was also stated that at this time there have not been any improper submittals of time for Commission business.

XI. Case Status Report

Discussion by Dirk S. VandenBerg, Sr.

XII. Legislative Update

Discussion by Carl Martin and Scott Richardson.

Carl Martin - Stated that at this time due to other matters in the legislature that the action on bills affecting the SPCC are at a stand still.

Scott Richardson - Then stated that on behalf of the Arizona Pest Management Association he wanted to comment on the TARF issue and what is a TARFable. A clarification is needed as to what information is actually needed and who should have access to that information. As he understands it there are two bills. One, introduced by Senator May that would cause a significant increase in the reporting and another that would eliminate it. He believes that the one that requires homeowners involvement probably will not go anywhere, however the one that relates to the industry probably will.

Carl Martin - Stated that there were actually three bills. 1. A Real estate bill that would require homeowners selling property to report three (3) years of pest control treatments to the property. 2. SPCC's bill that would allow the SPCC to require Electronic TARF submittal and the ability to place that information on the Web. 3. Senator May's bill – not endorsed by the Commission or staff - we want to gather all the information and charge a fee. Due to this we poured our bill # 2176 (ref #2) into Mr. May's bill "2189". Whether it goes through is a different question. It has gone through the House, but feel the Senate will be tougher.

Bill 2188 is a bill that cleans up the language in our statutes. Currently on hold. Both Democrats and Republicans have agreed that this should not be a problem.

Scott Richardson - Stated that the Industry is not in support of the additional TARF reporting requirements. He also commented that there was (under different legislation) clarification of the mold issue. The possible changing of the Wood Destroying Organisms to Wood Destroying Insects.

Commissioner Robinson - Asked Mr. Richardson if the industry wanted to have mold as an item to identify or not.

Scott Richardson - Commented that as he understands it the industry does not want to have to identify molds as a target of the inspection. There are also questions on who should inspect for molds and should they be licensed and if a problem exists who would mediate it. Mr. Richardson believes that this is an issue that the Commission needs to keep up on due to potential impacts.

Vice Chairman Micuda - Commented that he is pleased that the Industry is willing to compromise on the issue and that the Commission should take the initiative over the next year to determine if the information that would be gathered by the additional reporting of termite actions would be a benefit or a wanted piece of information to the public. And what the public would actually want to see. Does this have a value?

XIV. Computer Based Testing

Discussion by Carl Martin, Blair Driggs, Commissioner Hartley, Commission Robinson, Commission Micuda, Richards Mars, Barry Levitch, and Mike Means.

Vice Chairman Micuda - Commented that after speaking to Jim Scarsburro(sp) of the AZPRO office that we have a contract that has been awarded. The only issue is the formality of the implementation of the contract. There are three ways around the implementation or the Commission accepts the liability. He explained the ways, none of which would apply in this case.

Vice Chairman Micuda - Further commented that in looking at the proposal it is not worth the paper that it is written on. It does not comply with the RFP, it lacks foundation and there are a lot of vague conclusion statements. He continued to say that he would really like to know what the emphasis was for staff to come out a year and a half after proposing outsourcing testing and then suddenly come up with a proposal to do it in-house. If that is the way were are going to go why didn't the Commissioners hear about it a year and a half ago. Therefore he has concerns about the motives in place to make this proposal.

Chairman Hartley - Commented that he has some real problems with the Computer Based Testing. There are too many unanswered questions. He does not believe that the industry has been privy to the costs involved with it. He also believes there are some potential problems with the rules. He does not understand how we can put this out and start doing it when rule requires us to give the test for \$30.00, it is pretty clear in rule. He then asked Blair Driggs if this was the correct understanding.

Assistant Attorney Blair Driggs - Stated that according to rule the commission cannot charge more than \$30.00 for the test.

Vice Chairman Micuda - Commented that he finds this amazing. Why have we spent a year and a half on testing and asking people about costs (in a survey) and why do we have a proposal & going through the whole process when it requires a rule change. He further commented that that tells him that basically there is an in competency issue among the leadership of staff. He wonders why this issue wasn't raised a year and a half ago and why are we talking about outsourcing computer based testing (CBT) when our hands are tied to a \$30.00 per test fee. Why wasn't the proposal forwarded with a rule change proposal. This whole thing has been Jerry Davis' number one issue since he has been on this Commission.

Chairman Hartley - Commented that he has been asking for information for the last year and one half on the CBT issue and has not received any information. He stated that he was told in previous meetings that this process was just to see what could be done and that is where it was left. He further stated that he is in favor of CBT, but not without information. He has not received any information and does not appreciate that.

Vice Chairman Micuda - Discussed the process of RFPs and mentioned that obviously was not checked into. He believes that the leadership of staff should be put to task. There have been reports done but not supplied to the Commission. That is one of the problems that he has with the leadership. The Commissioners are charged with virtually all that goes on at the agency and there has been a continuous block by the leadership regarding issues and information presented to the Commission and one way or the other this has to end.

Commissioner Tennenbaum - Asked Vice Chairman Micuda if that was an emotional threat. He stated that he has been on the Commission for six years and that he takes this offense pretty seriously.

Vice Chairman Micuda - Responded that he was not accusing Commissioner Tennenbaum of anything and that there were other Commissioners that felt the same way. He stated that in a meeting with staff that they were told that if they had any issues that you should present that information to us. The way it is supposed to be. All I hear from staff when a question is asked is that there is a reluctance to say anything because they have been oppressed and told do not tell Commissioners things and there has been suggestions that there jobs could be in jeopardy.

Deputy Director Levitch - Stated that communication is a two way street. He then stated that there is not any attempt to hide things. He then stated that any Commissioner that wants to know things can call or come by at any time and that he took it personal the allegations against him. He further stated that there was never an attempt to hide anything regarding the CBT. He then discussed the proceedings of the CBT contracts.

Mike Means - Then made comments regarding his opinions regarding the contracting of the testing and the associated fees.

After discussion between Mr. Means and Chairman Hartley, Blair Driggs stated that to his understanding that the dollar amount is set. He is willing to discuss with his superiors if the Commission wishes him to do so.

Vice Chairman Micuda - Agreed that the interpretation is complete.

Further discussion continued.

Vice Chairman Micuda - Recapped information from GITA stating that the way of state government is to head in this direction and that he is concerned about the SPCC developing it's own computer programs. There could be a real problem if the person that developed the programs left our employment.

Chairman Hartley - Commented that he does not have enough information to make a decision on the concept and particulars of CBT. He further stated that he agrees that changes need to be made.

Mike Means - Commented on his ideas and perception of the workings and benefits of the CBT program.

Commissioner Robinson - Commented that he also believes that someone should have picked up the conflict that exists between Rule and Statute.

Carl Martin - Stated that he was aware of the conflict and that he was of the understanding that the Statute allowed for this function.

Deputy Director Levitch - Stated that this issue was an oversight.

There was a discussion between Chairman Hartley and Vice Chairman Micuda about the requesting of data, not supplied, and information that was supplied but did not have associated costs. There was not an indication that the fees would exceed the \$30.00.

Chairman Hartley - Again stated that he has been asking for information for the past year and a half and is still waiting for the information. He further stated that he has already learned more about the subject at this meeting than in the year prior.

Vice Chairman Micuda - Stated that staff needs to look at the Statue and Rules and determine what changes need to be made and propose those changes.

Chairman Hartley - Stated that approximately a year ago that he proposed a re-testing fee. It was looked at and determined that this was not possible under our Rules. He further stated that with the lack of information that this issue should be tabled.

Vice Chairman Micuda - Stated that he felt more data is needed and if that involved surveys, etc. then lets task staff and get it done.

Commissioner Robinson – Commented that he also does not believe that this process was not well thought out and not thoroughly researched. He also stated that the tests currently being administered are out of date. The tests need to be looked at otherwise there could still be a problem. He also questioned the potential conflict of interest with Mr. Means if he administers the test and also provides training with the guarantee of passing the test.

Mike Means - Stated that he agrees with the quality of the tests and the need to upgrade those tests. He also stated that this is not an uncommon practice. He does not feel that this is an issue.

Vice Chairman Micuda - Stated that he does not feel there is a conflict of interest; however, does feel there is a problem with the tests SPCC administers. He also stated that our tests should be validated. Our tests need to be validated and should be performed quickly. We are receiving funds from EPA for this purpose.

Deputy Director Levitch - Commented that test validation has been an issue. That is why Carl Martin was originally brought in. His schedule has not permitted this function as of yet. He also

mentioned that the validation of a test is a very expensive process. And estimated that the costs would be approximately \$20,000 - \$30,000 dollars per test. This can be prioritized.

Vice Chairman Micuda - Commented that he has reviewed the end of year summaries and the problems have been noted. He further stated that he has been involved in the process with another Agency and it does not cost that amount of money and even if it did , it needs to be done. He stated that if this got out to the press he would hate to have to justify our position. It is his belief that staff needs to be charged to investigate the validity of the tests. In the process he just went through it can be done easily and the costs was significantly less.

Carl Martin and Deputy Director Levitch - Made comments by regarding the priority and costs of the validation.

After continued discussion it was determined that test validation must be done. How can we continue with CBT with invalid tests.

Chairman Hartley- Asked what direction and information do we want from staff ?

Need to have a proposal on rules, (possible ceiling on fees), foundation information for the proposal including impact to the Commission, how it impacts the industry, what the cost and benefit ratio are, (see the RFP).

Vice Chairman Micuda - Expressed his concerns that the Director and Deputy Director have taken authority that they do not have. He has a frustration that information is not being provided to the Commission.

Richard Mars - Asked for information regarding the award or delay of the contract so that he can convey it.

Chairman Hartley and Vice Chairman Micuda - Stated that that they cannot answer the needed questions at this time.

Blair Driggs - Commented that he cannot provide any legal advice in regards to the Commission's exposure due to the fact that he has not seen the RFP. He further stated that there is an area in the AG's office that can review these items. However, since he has not seen the RFP and has not had an opportunity to review, he cannot advise on any potential liability.

If staff is unclear as to what information is needed to be supplied to the Commission then the staff needs to be in contact with the Chairman and or Vice Chairman Micuda.

It was decided to table until the April Meeting.

XIII. Status of Certification Tests

Discussion by Jerome Davis

Executive Director Davis - Stated that David Broadstreet has re-done all of the certification tests, all categories and can be reviewed by the Commissioners.

Commissioner Burrows - Asked if the tests can be put through the validation process.

Executive Director Davis - Stated that he did not know. He then asked Vice Chairman Micuda about the validation process he went through with the other agency.

XIV. Executive Director's Report

Discussion by Jerome Davis

Executive Director Davis - Stated most has already been covered.

AMENDED AGENDA

Personnel – Public and/or Executive Session

Commissioners went into Executive Session.

Adjournment at 7:26 PM

*Motion: To adjourn, by Commissioner Burrows
Seconded by Commissioner Micuda*

Vote: 5 – 0 Motion carried.