

COMMISSION MEETING
April 12, 2002
MINUTES

I. Call to order and roll call

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

Commissioners absent: Commissioner Micuda and Silva

Staff present: Executive Director, Jerome Davis, Barry Levitch, Pam Ulbrich, Robert Tolton, Richard Mars, Dirk S. VandenBerg, Sr., Michael Francis, Jason Aanderud, Maggie Vazquez, Hugo Pulido, Carl Martin, Alan Pugh, Dave Colvin, and Assistant Attorney General Blair Driggs.

Introduction by Chairman Hartley of Jack Peterson who will be taking over for Commissioner Frank Silva.

II. Approval of March 2002 minutes TAB 1

MOTION: To approve March 2002 minutes, and seconded.

VOTE: 5 – Motion carried.

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

Chris Fitzgerald of Critters Pest Control – Similarity in names of Lil’s Critters’ on Agenda confusion for consumers.

Arthur Mann of Lil’l Critters purchased the company and it has been in existence since 1986, lose customers.

IV. Correspondence with Commissioners

Jack Latham – concerning procedures for testing/times.

Mike Means – Computerized Base Testing (CBT)

V. Scheduling of future meetings/agenda items

June 14, 2002 Scottsdale, AZ

July 12, 2002 Scottsdale, AZ
August 9, 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. **Barnes, Kenneth** dba **Adams Exterminating Co. (Activating Qualifying Party for existing business license in “C” Wood Destroying Organisms) TAB 2**

2. **Cassiday, Larry W.** dba **Trilogy G.C. at Power Ranch (Activating Qualifying Party for new business license in “P” Golf Course Management).TAB 3**

3. **DeBee, Jonathan D.** dba **Hometown Pest Control & Termite (Activating Qualifying Party for new business license in “B” General Pest and “C” Wood Destroying Organisms)..... TAB 4**

4. **Fuess, Richard H. II** dba **United Servicemen Arbor Tree (Activating Qualifying Party for new business license in “F” Turf & Ornamental) TAB 5**

5. **Greenhalgh, Steven G.** dba **Arizona Pest Prevention, Inc. (Activating Qualifying Party for new business license in “B” General Pest)..... TAB 6**
Pulled

- MOTION:* *To approve by Commissioner Robinson
Seconded by Commissioner Hale*

- VOTE:* *3 – 1 Motion carried. (Chairman Hartley recused himself).*

6. **Hageman, Edward E.** dba **Ecolab Pest Elimination (Activating Qualifying Party for existing business license in “B” General Pest)TAB 7**

7. Heaslip, William J. dba **Saddlebrooke H.O.A. #1 (Activating Qualifying Party for new business license in “E” Weed and “F” Turf & Ornamental)TAB 8**

8. Mann, Arthur II dba **Li'l Critters Pest & Termite Control (Activating Qualifying Party for new business license in “B” General Pest and “C” Wood Destroying Organisms) TAB 9**
Pulled

MOTION: *To approve by Commissioner Tennenbaum
Seconded by Commissioner Hale*

VOTE: *5 – 0 Motion carried.*

9. Orist, Ronald R. dba **Urban Environmental Entp. Inc. (Activating Qualifying for new business license in “E” Weed and “F” Turf & Ornamental) TAB 10**

10. Peterson, Ray dba **Automatic Fly Control Systems Inc. (Activating Qualifying Party for new business license in “B” General Pest) TAB 11**
Pulled

MOTION: *To approve by Commissioner Burrows
Seconded by Commissioner Tennenbaum*

VOTE: *5 – 0 Motion carried.*

11. Root, Jack dba **Southwest Ground’s Control (Activating Qualifying Party for existing business license in “B” General Pest, “B-1” Aquatic Pest Control, “C” Wood Destroying Organisms, “E” Weed, “E-1” Aquatic Weed, and “F” Turf & OrnamentalTAB 12**
Pulled

MOTION: *To approve Jack Root in “C” category only by
Commissioner Burrows
Seconded by Commissioner Hale*

VOTE: *5 – 0 Motion carried.*

12. Shelton, Ed dba **A & E Horticultural Services, LLC (Activating**

**Qualifying Party for new business license in “E”
Weed and “F” Turf & Ornamental)... TAB 13**

- 13. **Skiba, Teresa** dba **B Sure Pest Control (Activating Qualifying Party for new business license in “B” General Pest and “C” Wood Destroying Organisms TAB 14**
- 14. **Tichi, Shiloh** dba **Adams Exterminating Co. (Activating Qualifying Party for existing business license in “B” General Pest) TAB 15**

B. Applicants for Q.P. Testing.

- 1. **Boers, Brian Keith** “E” (Weed).TAB 16
- 2. **Carpenter, Jimmy D.** “B” (General Pest)TAB 17
- 3. **Creason, Jonathan W.** “B” (General Pest) TAB 18
- 4. **Debois, Raymond L.** “E & F” (Weed , Turf & Ornamental) TAB 19
- 5. **Fabian Randy** “B” (General Pest). TAB 20
Pulled

MOTION: *To approve by Commissioner Tennenbaum
Seconded by Commissioner Robinson*

VOTE: *4 – 0 Motion carried. (Chairman Hartley recused himself).*

- 6. **Glantz, Michael** “E & F” (Weed, Turf & Ornamental)TAB 21
- 7. **Hageman, Edward E.** “C, D, E, & F” (Wood Destroying Organisms, Fumigation, Weed, Turf & OrnamentalTAB 22
- 8. **Hurt, Brian J.** “B & C” (General Pest & Wood Destroying OrganismsTAB 23
Pulled

MOTION: *To approve by Commissioner Tennenbaum
Seconded by Commissioner Robinson*

VOTE: *4 – 0 Motion carried. (Chairman Hartley recused himself).*

- 9. **Johnson, Adam D.** “B” (General Pest) TAB 24

Pulled

MOTION: To approve by Commissioner Burrows
Seconded by Commissioner Tennenbaum

VOTE: 4 – 1 Motion carried.

- 10. **Lintgen, Thomas A.** “E & F” (Weed, Turf & Ornamental)TAB 25
- 11. **Lopez, Luis** “B” (General Pest) TAB 26
- 12. **Rable, Andrew** “F” (Turf & Ornamental) TAB 27
- 13. **Wilson, Richard C.** “B” (General Pest). TAB 28

C. Applicants to Broaden Qualifying Party

- 1. **Herwehe John** “C, E & F” (Wood Destroying Organisms, Weed and Turf & Ornamental) TAB 29
- 2. **Petkoff, Anthony** “C” (Wood Destroying Organisms). TAB 30
- 3. **Roth, Blaine** “C” (Wood Destroying Organisms) TAB 31

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

- 1. **Conlin, Kevin Robert** dba **Sun City Pest Control**TAB 32
 - 2. **Horrocks, Billy** dba **Amera Sun City Pest Control, Inc.** TAB 33
- Pulled*

MOTION: To approve by Commissioner Burrows
Seconded by Commissioner Tennenbaum

VOTE: 5 – 0 Motion carried.

- 3. **Koch, John Michael** dba **Proven Ecological Pest Control** TAB 34
- 4. **Ozment, D. Cord** dba **Village of Oak Creek Assn.** TAB 35
- 5. **Padilla, Sergio** dba **In Celebration of Golf.** TAB 36

E. Continuing Education Committee Minutes of

March 2002 Meeting TAB 37

F. Treatment Proposals.

1. Ark Exterminating TAB 38

G. Settlement Conferences

1. Ark Exterminating – Case # 2001-066 TAB 39
TARF's

Proposed Resolution:

1. *That the Business License # I 2244 BC, Ark Exterminating be issued an ADMINISTRATIVE WARNING for violation of A.A.C. R4-29-417(A).*
2. *That the Business License # I 2244 BC, Ark Exterminating be issued a CIVIL PENALTY in the amount \$900.00 for violation of A.A.C. R4-29-417(A). To be paid within 30 days from the date of the order.*
3. *That the Qualifying Party Jackie Wheeler QP # 772 BC be issued an ADMINISTRATIVE WARNING for violation of A.A.C. R4-29-417(A).*
4. *That the Qualifying Party Jackie Wheeler QP # 772 BC be issued CIVIL PENALTY in the amount \$900.00 for violation A.A.C. R4-29-417(A). To be paid within 30 days from the date of the order.*

2. Amera Sun City Pest Control – Case # 2001-283 TAB 40
Reporting conditions conducive required on Wood Infestation Report
Pulled

Proposed Resolution:

1. *That the Business License #C 4393 BC, Amera Sun City Pest Control Inc., be issued an Administrative Warning for violation of A.R.S. § 32-2324 (D) (Wood Infestation Reports).*

NOTE: *Separate Actions to be taken against the Applicator, Benedict M. Tellez. No longer employed by the company.*

MOTION: *To approve by Commissioner Hale
Seconded by Commissioner Burrows*

VOTE: *5 – 0 Motion carried.*

- 3. Dorado Pest Control – Case # 2001-051TAB 41**
TARF's (late fees).
Pulled

NOTE: Attorney General Representative Blair Driggs to present Settlement.

Attorney General Representative Blair Driggs had discussion with Mr. Elrod to repay late TARF's in two years. Mr. Elrod does not want to pay full amount owed on late TARF's. Mr. Elrod only wants to pay 50%. Commissioner Tennenbaum stated if Mr. Elrod does not want to pay, his problem, send back to "OAH" Office of Administrative Hearing.

- 4. Ecolab Pest Elimination Division – Case # 2001-222 TAB 42**
Issuance of a warranty following a partial treatment for a property involved in a sale.

Pulled

Proposed Resolution:

- 1. That the Business License # C 4245 BCD, Ecolab Pest Elimination Division be issued an ADMINISTRATIVE WARNING for violation of A.R.S. § 32-2324 (D)*

MOTION: To approve by Commissioner Hale

Seconded by Commissioner Tennenbaum

VOTE: 5 – 0 Motion carried.

- 5. Northwest Exterminating – Case # 2001-285TAB 43**

Pretreatment – A sufficient quantity of termiticide not applied to meet State and product label requirements.

Pulled

Proposed Resolution:

- 1. That the Business License # C4410 BCE, Northwest Exterminating be issued an ADMINISTRATIVE WARNING for violation of A.A.C. R4-29-402.*
- 2. That the Business License # C4410 BCE, Northwest Exterminating be issued a Civil Penalty in the amount of \$250.00 for violation of A.A.C. R4-29-402.*

3. *That the Business License # C4410 BCE, Northwest Exterminating be required to pre-report termite activities for a period of six months form the date of the order, for violation of A.A.C. R4-29-402.*
4. *That the Qualifying Party Chad Berg, QP # 2047 BCE be issued an ADMINISTRATIVE WARNING for violation of A.A.C. R4-29-402.*
5. *That the Qualifying Party Chad Berg, QP # 2047 BCE be issued a Civil Penalty in the amount of \$250.00 for violation of A.A.C. R4-29-402.*

NOTE: *Separate action to be taken against the Applicator Andrew Asman II (no longer employed by Northwest Exterminating).*

MOTION: *To approve by Commissioner Hale*
Seconded by Commissioner Burrows

VOTE: *5 – 0 Motion carried.*

6. Sun Devil Termite and Pest Control – Case # 2001-230.TAB 44

Termite Action Report Forms (TARFs) Violations.

Pulled

Proposed Resolution:

1. *That the Qualifying Party, James Everly, Q.P. # 2079 BC, be issued an ADMINISTRATIVE WARNING for violation of A.A.C. R4-29-418 (C) (TARF's).*
2. *That the Business License, Sun Devil Termite and Pest Control, License # I 5579 BC, be issued an ADMINISTRATIVE WARNING for violation of A.A.C. R4-29-418 (C) (TARF's).*
3. *That the Business License, Sun Devil Termite and Pest Control, License # I 5579 BC, be issued a Civil Penalty in the amount of \$500.00 for violation of A.A.C. R4-29-418(C)(TARF's).*
4. *That the Business License, Sun Devil Termite and Pest Control, License # I 5579 BC, pay the required fees and late fees for the TARF;s identified. The amount owed is \$11,520.00*

Total Amount Due = \$ 12,020.00

Note: Qualifying Party is requesting payments in the amount of \$2003.00 per month for six (6) months. First payment due within 30 days from the date of the order.

*MOTION: To approve by Commissioner Robinson
Seconded by Commissioner Tennenbaum*

VOTE: 5 – 0 Motion carried.

7. U.S. Pest Control – Case # 2001-132 TAB 45
Violation from vehicle inspections.

Proposed Resolution.

- 1. That the Business License # I 5498 B, U.S. Pest Control Inc. be issued an Administrative Warning for violation of A.A.C. R4-29-314(C) (Pesticide storage.)*
- 2. That the Business License # I 5498 B, U.S. Pest Control Inc. be issued an Administrative Warning for violation of A.A.C. R4-29-313(A)(4) (Pesticide storage facility, medical info.)*
- 3. That the Business License # I 5498 B, U.S. Pest Control Inc. be issued an Administrative Warning for violation of A.A.C. R4-29-315 (Required on service vehicles.)*
- 4. That the Business License # I 5498 B, U.S. Pest Control Inc. be issued an Administrative Warning for violation of A.R.S. § 32-2315(A) (registered employees).*
- 5. That the Qualifying Party license # 733 B for Kelly Denny be issued a Civil Penalty in the amount of \$250.00 for violation of A.A.C. R4-29-314(C) (pesticide storage).*
- 6. That the Business License # I 5498 B, U.S. Pest Control Inc. be issued a Civil Penalty in the amount of \$350.00 for violation of A.A.C. R4-29-315 (Required on services vehicles.)*
- 7. That the business license utilize the policy developed for a minimum of one year from the date of the order to identify and correct the violations listed above.*
- 8. Based on information obtained that the remaining violations contained in the report be dismissed.*

End of Consent Agenda

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

VOTE: 5 – 0 Motion carried.

VII. Decision and Recommended Order by Administrative Law Judge

1. Finocchio Pest Control – Case # 2001-197 TAB 46
Pulled

*MOTION: To approve Finding of Fact Conclusion of Law by Commissioner Burrows
Seconded by Commissioner Tennenbaum*

VOTE: 5 – 0 Motion carried.

*MOTION: To accept Recommended Order by Commissioner Tennenbaum
Seconded by Commissioner Hale*

VOTE: 5 – 0 Motion carried.

2. Full House Construction – Case # 99-151 TAB 47

*MOTION: To approve Finding of Fact Conclusion of Law by Commissioner Tennenbaum
Seconded by Commissioner Hale*

VOTE: 5 – 0 Motion carried.

*MOTION: To accept Recommended Order to modify with addition of a \$500.00 fine by Commissioner Tennenbaum
Seconded by Commissioner Burrows*

VOTE: 5 – 0 Motion carried.

VIII. Complaints

1. Paul’s Pest and Termite Control – Case # 2001-304 TAB 48

*MOTION: To send to Administrative Hearing by Commissioner Burrows
Seconded by Commissioner Hale*

VOTE: 5 – 0 Motion carried.

2. X-Terminator Termite Control - Case # 2001-250..... TAB 49

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

VOTE: 5 – 0 Motion carried.

IX. Felony Applicants.

- 1. Bainter, Tracey TAB 50**

Not Present

- 2. Bushman, Jamie TAB 51**

*MOTION: To approve by Commissioner Burrows
Seconded by Commissioner Robinson*

VOTE: 5 – 0 Motion carried.

- 3. Crist, Daniel Erich TAB 52**

*MOTION: To approve by Commissioner Burrows
Seconded by Commissioner Hale*

VOTE: 5 – 0 Motion carried.

- 4. Davis, Kevin Lamar TAB 53**

Not Present

- 5. Dettman, Jeffrey C. TAB 54**

Not Present

- 6. Johnson, Adam Douglas TAB 55**

*MOTION: To approve by Commissioner Burrows
Seconded by Commissioner Tennenbaum*

VOTE: 5 – 0 Motion carried.

7. Koehler, Michael G.TAB 56

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

VOTE: 5 – 0 Motion carried.

8. Martin, Karen Sue TAB 57

*MOTION: To approve by Commissioner Burrows
Seconded by Commissioner Hale*

VOTE: 5 – 0 Motion carried.

9. Rivera, Mike TAB 58

*MOTION: To approve by Commissioner Burrows
Seconded by Commissioner Robinson*

VOTE: 5 – 0 Motion carried.

10. Shearer, Mark R. TAB 59

*MOTION: To approve by Commissioner Burrows
Seconded by Commissioner Hale*

VOTE: 5 – 0 Motion carried.

X. Case Status Report

Discussion by Dirk S. VandenBerg, Sr.

XI. Legislative Update

Discussion by Carl Martin – two bills before the legislature and the issue of mold.

XII. Executive Director’s Report

Executive Director Jerome Davis stated there is one item to discuss and Dirk S. VandenBerg, Sr.

will discuss this item.

Dirk S. VandenBerg, Sr. – Discussion on EPA visit by Alan Demorest and Carlton Lane and the six areas of focus for SPCC Compliance. All six areas will be completed by October 2002 and will be in compliance with EPA.

XIII. Review/Discuss Computer Based Testing/State Contract-Metro InstituteTAB 60

Commissioners went into Executive Session.

*MOTION: To move into Executive Session by Commissioner Tennenbaum
Seconded by Commissioner Burrows*

VOTE: 5 – 0 Motion carried.

Commission meeting resumed and discussion on CBT by Chairman Hartley, Carl Martin, Mike Means, Commissioner Hale, Commissioner Tennenbaum, Commissioner Burrows, Commissioner Robinson, Executive Director Jerome Davis, Scott Richardson, Richard Mars, Barry Levitch and Blair Driggs, Attorney General’s Representative.

Mike Means – Presented a Cost Analysis.

Chairman Hartley – Discussion on Computer Based Testing Cost Benefit Analysis; and Test Validation Analysis report by staff. Report was very informative.

Commissioner Tennenbaum – Stated we cannot charge more than \$30.00 until we change Law and Rule.

Chairman Hartley – The \$30.00 fee is being addressed.

Carl Martin – Discussion on HB 2189 in Senate, language amended. A.R.S. §32-2317 fee statutes – law effective in August if approved.

Discussion by Carl Martin, Blair Driggs, Scott Richardson and Commission Burrows of how long is the process before it if finalized. Can the process be expedited? Can it be expedited through GRRC? Mr. Driggs has experience from other agencies with GRRC in the past and they would not consider this an emergency. Mr. Martin explained timelines through Senate. Mr. Richardson said he is not an expert on GRRC, but spoke to Barry Aaron and said it may not have to go through GRRC. Mr. Martin stated there could be opposition from the industry and it could be rejected by GRRC and sent back.

Chairman Hartley – Discussed the contract extension and said the Commission could not accept it.

Blair Driggs – Discussed the time to extend and to be in Agreement with contracted party, ability to

renew or clause for termination.

Mike Means – Stated he would extend the contract one year.

Chairman Hartley – Informed Mr. Mean’s one last shot on this matter concerning the CBT contract.

Mike Means – Discussed the testing sites and how some of them purchased extra computers. Mr. Means stated there were stiff bond fees for the Bid Bond and Performance Bond each for \$100,000. Mr. Means contacted various bond companies and put up a \$20,000.00 cashier’s check for the Bid Bond and \$50,000.00 cash for the Performance Bond and is paying interest on \$70,000.00.

Commissioner Tennenbaum – Does not see the Statute or Rules changes getting done in six months.

Richard Mars – Read an e-mail he received from James Scarboro, Senior Contract Officer, Arizona State Procurement Office regarding Temporary Suspension of AD020033-001. “To give the SPCC additional time to implement necessary statutory and regulatory changes, their contract AD020033-001 with Metro Institute, Inc. for Computer-Based Testing may be temporarily suspended for a definite period of time. This suspension would in no way reflect negatively on the Contractor and is pursuant to their mutual acceptance of such. Through a bi-lateral amendment, the SPCC may suspend contractual performance on the part of Metro Institute, Inc. for this period. It is the understanding of State Procurement that this period may be upwards of 6-months or more. The amendment will clearly establish why the suspension is necessary as well.”

Should however, the SPCC require additional time beyond this anticipated 6-month period, it is the recommendation of State Procurement that this contract be canceled and re-solicited at a later date.

State Procurement stands ready to support the SPCC in whichever path it intends to take.”

Chairman Hartley – Stated to kill it and re-bid in 6-months to one year.

Commissioner Burrows – Stated for the record he and Kip were involved in the process.

*MOTION: To terminate Contract and re-solicit under Clause 90 by Commissioner Hale
Seconded by Commissioner Burrows*

VOTE: 5 – 0 Motion carried.

Adjournment

*MOTION: To adjourn, by Commissioner Burrows
Seconded by Commissioner Hale*

VOTE:

5 – 0 Motion carried