

Structural Pest Control Commission
9535 E. Doubletree Ranch Road
Scottsdale, Arizona 85258

COMMISSION MEETING
FRIDAY, February 14, 2003
MINUTES

I. Call to order and roll call (Chairperson Micuda, Mr. Craig)

Commissioners Present: Commissioner Fraker, Hale, Hartley, Micuda, and Peterson

Commissioner Absent: Commissioner Burrows and Robinson

Staff Present: Jason Aanderud, David Colvin, Vince Craig, Mike Francis, Lisa Gervase, Fernanda Preciado, Alan Pugh, Richard Mars, Carl Martin, Robert Tolton, Pamela Ulbrich, Dirk S. Vandenberg, Sr., Maggie Vazquez, and Assistant Attorney General Blair Driggs

II. Approval of January 10, 2003 (regular session), January 16, 2003 (telephonic) and January 28, 2003 (telephonic) Minutes .

MOTION: To approve January 10, 2003 (regular session), January 16, 2003 (telephonic) and January 28, 2003 (telephonic) Minutes by Commissioner Hartley, and seconded by Commissioner Hale.

VOTE: 5 - 0 Motion carried.

III. Call to the public

None

IV. Correspondence with Commissioners

None

V. Scheduling of future meetings/agenda items (Mr. Mars)

Dates and locations

March 14, 2003 Tucson, AZ (Pima County Board of Supervisors Auditorium)

April 11, 2003 Scottsdale, AZ

May 9 , 2003 Scottsdale, AZ

June 13, 2003.....Scottsdale, AZ
July 11, 2003.....Scottsdale, AZ

VI. Consent Agenda.

A. Applications for New Business License (Mr. Tolton)

1. Ervine, Robert Allen dba West Side Weed Control
2. Hoffman, Dallas dba Desert Horizon
3. West, Charles Dean dba Accutech
Pulled

MOTION: *To approve by Commissioner Hartley.
Seconded by Commission Peterson.*

VOTE: *5 - 0 Motion carried.*

Discussion that Mr. West does not have current certification, but he had it when obtaining his QP license.

B. Applications for Existing Business License (Mr. Tolton)

1. Black, Judith dba Steritech Environmental Services Group
2. Blackwell, Craig Alan dba Essential Termite & Pest Control, Inc.
3. Martin, Todd Michael dba Bulwark Exterminating
4. Matiello, Sam J. dba Artezan Pest Services
5. Preece, Thomas J. dba Access Pest Control

C. Applicants for QP Testing (Mr. Tolton)

MOTION: *To go into Executive Session to receive legal advice on QP testing by Commission Fraker.
Seconded by Commissioner Robinson.*

VOTE: *5 - 0 Motion carried.*

Meeting reconvened at 9:50 A.M.

1. Caputo, Thomas M. “B & C”
- Mr. Caputo appeared and answered the Commissions’ questions.*
- MOTION:** *To approve by Commissioner Hartley.
Seconded by Commissioner Hale.*
- VOTE:** *4 - 1 Motion carried.*
- Commissioner Peterson - Nay*
- Discussion concerning Mr. Caputo’s convictions and background.*
2. Colmenero, Jr., Roger “E & F”
- Mr. Colmenero appeared and answered the Commissions’ questions.*
- MOTION:** *To approve by Commissioner Hartley.
Seconded by Commissioner Peterson.*
- VOTE:** *5 - 0 Motion carried.*
3. Diaz, Esther “E & F”
- Ms. Diaz appeared and answered the Commissions’ questions.*
- MOTION:** *To approve (F) category only by Commissioner Hartley.
Seconded by Commissioner Peterson.*
- VOTE:** *5 - 0 Motion carried.*
- Ms. Diaz is not certified in the “E” category, so she withdrew her application for the “E” portion only.*
4. Espaillat, Jose Ramon “E & F”
- Mr. Espaillat was not present and the Commissioners has questions, so this matter was tabled by the Commissioners.*

- 5. Espinoza, Henry “C”
- 6. Kaplan, Kevin “B”
- 7. Kilian, Gloria L. “B & C”

Ms. Kilian was not present. Chairman Micuda directed staff to inform Ms. Kilian she will need to be present at the March 2003 meeting in Tucson, Arizona. This was tabled because Commissioners had questions.

- 8. Ledezma, Alberto “B, E, F & G”

Tabled because Mr. Ledezma was not present at the meeting to answer Commissioners questions.

- 9. McGhee, Lee “B & C”

- 10. O’Brien, Christopher J. “B”

MOTION: To approve by Commissioner Hartley. Seconded by Commissioner Hale.

VOTE: 5 - 0 Motion carried.

Discussion on Mr. O’Brien’s two years of practical experience. Mr. O’Brien stated he has two years of practical experience as of January 2001 and became certified in March 2001.

- 11. Ramos, Jerry Lee “E”

- 12. Rojahn, III, John R. “E & F”
Tabled

This was tabled because Mr. Rojahn was not present at the meeting to answer Commissioners questions.

- 13. Salazar, Gus C. “E & F”

14. Smith, Paul E. "B"

Mr. Smith appeared and answered the Commissioners' questions.

MOTION: *To approve by Commissioner Peterson.
Seconded by Commissioner Hale.*

VOTE: *4 - 0 Motion carried.*

Commissioner Hartley recused himself. Commissioner Fraker stated Mr. Smith falsified his application because he did not check off the box of being convicted of a felony. Mr. Smith stated this occurred 25 years ago and he thought it was a misdemeanor. Mr. Smith was charged for possession of stolen merchandise.

15. Sours, John Gregory "B"

16. Stromnes, Jill Marie "B"

17. Ward, Thomas Bret "B"

18. Wolfe, Aaron Thomas "E & F"

Mr. Wolfe appeared and answered the Commissioners' questions.

MOTION: *To approve by Commissioner Hartley.
Seconded by Commissioner Fraker.*

VOTE: *5 - 0 Motion carried.*

D. Applicants to Broaden QP (Mr. Tolton)

1. McCormick, II, Thomas "C"

2. Seymore, Richard Scott "B & E"

E. Request for Temporary Qualifying Party Certificate and/or Extension (Mr. Tolton)

1. Aesch, Harold dba Pestube Systems, Inc.

2. Goings, III, John W. dba Pride Industries, Inc.

- 3. Herndon, Robert J. dba Buggy Exterminating
- 4. Kilian, Gloria dba Kilian's Termite & Pest Control, Inc.
Pulled

MOTION: To approve QP Extension by Commission Peterson. Seconded by Commissioner Hartley.

VOTE: 5 - 0 Motion carried.

Chairman Micuda stated to staff to notify Ms. Kilian to be present at the March 2003 meeting.

- 5. Powell, Tim D. dba Schendel Pest Control of AZ, Inc.
- 6. Stromnes, Jill Marie dba Mesa Verde Termite Center, LLC

F. Request for Company Name Change (Mr. Tolton)

- 1. A. Bedder Pest Control Co., Inc. to A. Bedder
Pulled/Tabled
- 2. DLC Resources, Inc. to DLC
Pulled/Tabled
- 3. Duke's Sales & Service, Inc. to Duke's Root Control, Inc.
- 4. Fumi-Mex Extermination to Fumi-Mex
Pulled/Tabled
- 5. Litchfield Pest Control to Litchfield Termite Division
- 6. New World Pest & Termite Control to New World Pest Control
- 7. Paul's Pest & Termite Control to Paul's
Pulled/Tabled
- 8. SST Exterminators to SST
Pulled/Tabled
- 9. Steritech Environmental Services Group to Steritech
Pulled/Tabled

Chairman Micuda would like all the name changes that were pulled be tabled until Ms. Lisa Gervase and staff decides how to apply the 2" lettering rule.

**G. Continuing Education Committee Minutes
January 2003 (Mr. Martin)**

Mr. Martin mentioned there was nothing to report.

End of Consent Agenda

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

VOTE: *5 - 0 Motion carried.*

VII. Felony Applicants (Mr. Tolton)

1. Casillas, Daniel Ochoa

Mr. Casillas appeared and answered Commissioners' questions.

MOTION: *To approve by Commissioner Hartley.
Seconded by Commissioner Peterson.*

VOTE: *5 - 0 Motion carried.*

2. Dillon, Kevin Wayne

Mr. Dillon appeared and answered Commissioners' questions.

MOTION: *To approve by Commissioner Peterson.
Seconded by Commissioner Hale.*

VOTE: *5 - 0 Motion carried.*

3. Ginn, Elliot Claude

Mr. Ginn appeared and answered Commissioners' questions.

MOTION: *To approve by Commissioner Hale.
Seconded by Commissioner Hartley.*

VOTE: *5 - 0 Motion carried.*

4. White, Jeffrey Lee

Tabled because Mr. White was not present at the meeting to answer Commissioners' questions.

VIII. Request for Final Grade Waivers (Mr. Francis)

1. Bug Wiser Exterminating

2. Contractors Termite and Pest Control

3. Dorado Pest Control

4. Eliminator Pest Control

5. Havasu Pest Control

6. JP Pest Control

***MOTION:** To deny by Commissioner Peterson.
Seconded by Commissioner Hartley.*

***VOTE:** 5 - 0 Motion carried.*

Denied because company did not provide sufficient cause for not having completed the final grade.

7. Li'l Critters Pest Control

Tabled because company said it was unable to contact contractor, but that does not involve the inability to do the final grade.

8. Patriot Pest and Termite Control

***MOTION:** To accept the 12 under construction and deny the two where money is owed by Commissioner Peterson.
Seconded by Commissioner Hartley.*

***VOTE:** 4 - 0 Motion carried.*

Commissioner Fraker recused himself.

9. Pestube Systems, Inc.

- 10. Polo Exterminating
- 11. SOS Exterminating
- 12. Territorial Pest
- 13. Tonto Rim Pest Control
- 14. Tony's Pest Control
- 15. Tucson Exterminating

MOTION: To approve Final Grade Waivers for No.'s 1, 2, 3, 4, 5, 9, 10, 11, 12, 13, 14 and 15 by Commissioner Hartley.
Seconded by Commissioner Hale.

VOTE: 5 - 0 Motion carried.

IX. Complaints and/or Settlement Conferences (Mr. Craig)

1. Bio-Chem Services - Case # 2002-129

MOTION: To approve Dismissal for Case # 2002-129 by Commissioner Hartley.
Seconded by Commissioner Hale.

VOTE: 5 - 0 Motion carried.

2. Bio-Chem Services - Case # 2002-142

MOTION: To approve Dismissal for Case # 2002-142 by Commissioner Hartley.
Seconded by Commissioner Hale.

VOTE: 5 - 0 Motion carried.

3. Cheshire Cat Pest & Termite - Case # 2002-120

MOTION: To approve Case # 2002-120 consent terms, and if the Consent Agreement is not executed by the deadline stated in the Consent Agreement transmittal letter, to send the case to the Office of Administrative Hearing by Commissioner Hartley.
Seconded by Commissioner Commissioner Hale.

VOTE: 5 - 0 Motion carried.

4. City Wide Pest Control - Case # 2002-123

MOTION: *To approve Case # 2002-123 for Dismissal by Commissioner Hartley.
Seconded by Commissioner Peterson.*

VOTE: *5 - 0 Motion carried.*

5. Contractors Termite & Pest Control - Case # 2002-133

MOTION: *To approve Case # 2002-133 for Dismissal by Commissioner Peterson.
Seconded by Commissioner Hale.*

VOTE: *5 - 0 Motion carried.*

6. Gro Industries - Case # 2002-139

MOTION: *To accept Case # 2002-139 consent terms, and if the Consent Agreement is not executed by the deadline stated in the Consent Agreement transmittal letter, to send the case to the Office of Administrative Hearing for the civil penalty portion by Commissioner Peterson.
Seconded by Commissioner Hartley.*

VOTE: *5 - 0 Motion carried.*

7. Industrial Termite Specialties - Case # 2002-127

MOTION: *To approve Case # 2002-127 consent terms, and if the Consent Agreement is not executed by the deadline stated in the Consent Agreement transmittal letter, to send the case to the Office of Administrative Hearing by Commissioner Peterson.
Seconded by Commissioner Hartley.*

VOTE: *5 - 0 Motion carried.*

8. No Bugs Allowed - Case # 2002-050

Tabled for staff and legal counsel to review issue of imposing disciplinary action against two qualifying parties.

9. Paul's Pest Control - Case # 2002-143

MOTION: *To approve Case # 2002-143 for Dismissal by Commissioner Hartley.
Seconded by Commissioner Fraker.*

VOTE: *5 - 0 Motion carried.*

10. Phoenix Pest & Termite Control - Case # 2002-132

Tabled for staff and legal counsel to review issue of imposing disciplinary action against two qualifying parties.

11. Ray's Exterminating - Case # 2002-090

MOTION: *To approve Case # 2002-090 consent terms, and if the Consent Agreement is not executed by the deadline stated in the Consent Agreement transmittal letter, to send the case to the Office of Administrative Hearing by Commissioner Peterson.*

Seconded by Commissioner Fraker.

VOTE: *5 - 0 Motion carried.*

12. SST Exterminators - Case # 2002-085

MOTION: *To approve Case # 2002-085 consent terms, and if the Consent Agreement is not executed by the deadline stated in the Consent Agreement transmittal letter, to send the case to the Office of Administrative Hearing by Commissioner Peterson.*

Seconded by Commissioner Hartley.

VOTE: *5 - 0 Motion carried.*

Mr. Richardson appeared on behalf of all Respondents and accepted the proposed Consent Agreement.

13. U.S. Pest Control Inc. - Case # 2002-110

MOTION: *To approve Case # 2002-110 for Dismissal by Commissioner Fraker.*
Seconded by Commissioner Peterson.

VOTE: *4 - 1 Motion carried.*

Commissioner Hale - Nay

Discussion by Commissioner Hale on Joint Responsibility whether the QP should receive discipline. Mr. VandenBerg, stated a few months ago the Commission accepted a more liberal interpretation of the Joint Responsibility. Ms. Gervase stated the rule has not changed, but the new interpretation was accepted at the Tucson meeting last year. Blair Driggs advised the Commissioners that joint responsibility is not strict liability.

- X. For discussion, consideration and decision: Petition for Rehearing or Review of Commission's Denial of Application of Barbara McKenzie to test for Qualifying Party (Ms. McKenzie's attorney: Mr. Richardson) (Commission's legal advisor: Mr. Driggs)

Discussion by Scott Richardson. Mr. Richardson spoke on behalf of Ms. McKenzie's Petition. Mr. Richardson stated his reasons and let his Petition and the attachments speak for themselves.

MOTION: *To accept Petition granting review and allow Barbara McKenzie to test for Qualifying Party by Commissioner Hale.
Seconded by Commissioner Hartley.*

VOTE: *5 - 0 Motion carried.*

- XI. For discussion, consideration and decision: Status of rule promulgation process (Ms. Gervase)

Discussion by Ms. Lisa Gervase. Ms. Gervase stated the proposed changes are in conflict with HB 2341, thus we should halt this process, finalize statutes, then work on the rules or continue with legislative changes.

MOTION: *To stop the Rule process by Commissioner Peterson.
Seconded by Commissioner Fraker*

VOTE: *4 - 0 Motion carried.*

Commissioner Hale left the room at 11:50 A.M. and returned at 11:58 A.M.

- XII. For discussion, consideration and possible decision: Legislative Update: HB 2341, HB 2273/SB1171, HB 2026, SB 1155 (Ms. Gervase, Mr. Martin)

Discussion by Ms. Lisa Gervase. Ms. Gervase stated HB 2341 passed the House and is moving through the Senate. Bills 2273 and 1171 are also moving smoothly through the House and Senate. 1171 is a sister bill to 2273. Mr. Barry Aarons, Executive Director of APMA commented as well on 2273 and 1171. HB 2026 passed in the House and is moving through the Senate. Ms. Gervase spoke on SB 1155 ground water reports, a bill that we will not be getting involved with. Ms. Gervase commended Carl Martin on being on top of the bills. Ms. Gervase thanked Barry Aarons and APMA on HB 2341 for compromising with SPCC. Ms. Gervase stated there are five key issues and they are:

1. Keep Fungi, change organism to insect and come up with a fungi form like the W.I.R. Ms. Gervase came up with draft language to Mr. Aarons and APMA which mirrors WIR, but uses Fungi. Grandfather all "C" licenses until next license renewal (See language on hand-out sheet).

2. *Not to change the 30 days to 90 days, by which an applicator must have an additional certification before working in that category.*

3. *Prior violations - Joint Responsibility issue is off the table, industry concern can be addressed in the next legislative session.*

4. *ID cards - Industry wants to get rid of the ID cards. There was a SPCC meeting and a vote of 4 - 0 to keep cards. But, ID cards are an expense to the SPCC agency to issue and they are leaning to not keep issuing them.*

5. *De Minimis Violations - not to delete at this time. Also, leave advisory notices and revisit issue at next legislative session.*

After brief discussion, the Commissioners had no objection to the Bill proceeding as described by Ms. Gervase.

XIII. For discussion, consideration and decision: Authorization to hire independent contractor to provide budget training to SPCC staff (Ms. Gervase)

Discussion by Ms. Lisa Gervase. Ms. Gervase stated the Deputy Director position will not be filled. Ms. Gervase asked the Commission to allow her to hire an independent contractor on a contract basis to train Ms. Ulbrich, Mr. Mars and Ms. Gervase in Budget and Personnel matters, and the cost should not exceed \$2500.00. Commissioner Peterson asked Ms. Gervase if she has talked to the people at DOA, since they have budget training where they give a big book to the participants every year who attend. Ms. Gervase will look into that. The Commissioners had no objection to Ms. Gervase hiring an independent contractor.

XIV. For information and discussion, not action: Complaint Status Report (Mr. Craig)

Discussion by Mr. Vince Craig about the complaint status material that was in the Commission book. Commissioner Fraker commended Mr. Craig on the update.

XV. For information and discussion, not action: Status of Commission appointments, SPCC budget, 90/10 agency consolidation, bark beetle issue (Ms. Gervase)

The status of Commission appointment was not discussed.

Discussion by Ms. Lisa Gervase. Ms. Gervase stated the SPCC budget is \$1.851 million, 43.1% has been used as of the end of November 2002, and there is a proposed surplus of roughly \$78,000.00 and the Deputy Director position will give us extra money for technology, etc. Chairman Micuda thanked Ms. Gervase for the budget information and he would like to see the budget information at every Commission meeting. Ms. Gervase stated at another meeting she will go through the budget line-by-line. Ms. Gervase is targeting the April meeting to do training for the Commissioners. Ms. Gervase prepared

an information sheet on Bark Beetles for Northern Arizona constituents and the industry and recommended contacting the extension services for more information. These are on the SPCC Web site.

Ms. Gervase commented on the alleged agency consolidation issue.

- XVI. For information and discussion, not action: Questions/Answers between Commissioners and staff about SPCC systems, processes, finances, and technology (Ms. Gervase, Mr. Mars, Mr. Martin, Mr. Pulido, Ms. Ulbrich, Mr. VandenBerg)**

No Discussion.

- XVII. For information and discussion, not action: Enforcement spreadsheet reflecting 2002 inspections (Mr. Colvin)**

No Discussion.

- XVIII. For information and discussion, not action: Status of implementing Computer Based Testing “CBT” (Mr. Mars)**

Discussion by Richard Mars who received a letter from James Scarboro, Procurement Specialist who stated:

“Per your request, this letter is issued to confirm the current status of State solicitation AD030042 for Computer-Based Testing - SPCC.

As you know, the Evaluation Committee has not yet completed its evaluation of proposals submitted in response to AD030042. In accordance with A.A.C. 41-2534(F), Evaluation Committee members are prohibited from discussing their evaluation, with anyone, other than the Committee Chairperson and the other members of the Committee.

Unfortunately this same requirement extends to me, the Procurement Specialist. Accordingly, I am unable to speculate as to when they may complete their evaluation and I can make a Contract award, without revealing potentially sensitive information to the public and subsequently to offerors involved.

If you have any questions, feel free to contact me. I appreciate your support and understanding in this regard.”

Chairman Micuda asked who is on the committee and Mr. Mars responded Mr. Pulido and himself. Chairman Micuda asked how did the committee change, since he was the chair of the committee. Mr. Mars responded, Mr. Levitch stated that we needed someone from IT and a SPCC staff person. Chairman Micuda stated there was a committee of four or five individuals. How did the committee go from four or five individuals to three? Chairman Micuda directed Ms. Gervase to call Mr. Scarboro and he would like for two

Commissioners to be on the Committee, as well.

XIX. For information and discussion, not action: Amending questions for Applicator and Qualifying Party Examinations (Mr. Martin)

Discussion by Mr. Martin who stated the review is ongoing, and he drafted the confidentiality agreement to review tests with industry members. Many questions were irrelevant and we are moving forward, maybe having some new questions.

XX. For information and discussion, not action: Case Status Report (Ms. Gervase)

No Discussion.

XXI. Adjournment - 12:00 P.M.

**MOTION: To adjourn by Commissioner Peterson
Seconded by Commissioner Fraker**

VOTE: 5 - 0 Motion carried.