

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

**COMMISSION MEETING
FRIDAY, May 13, 2005 - 9:00 A.M.
MINUTES**

I. Call to order (Chairperson), Commissioner roll call

Commissioners Present: Commissioners Paul Baker, Mike Fraker, Robert Hartley, Mary Leavitt, Virgil Robinson, Debbie Runbeck and Jack Peterson

Commissioners Absent: None

Staff Present: Jason Aanderud, Dave Colvin, Vince Craig, Mike Francis, Lisa Gervase, Robert Tolton, Eric Bauer, and Assistant Attorney General M. Elizabeth (Lisa) Burns

II. Call to the public

Doug Seemann expressed concern about delay in approving Continuing Education courses. He recently called to obtain approval for a course and was told that his request was not submitted in time for the May Commission agenda. Ms. Gervase clarified that the C.E. approval packet is on the web site, and informs people of the process and deadline for submission if they want a decision before they present a course. Mr. Seemann called for approval either too late or after he had already presented a course. People are scrambling during this renewal period because they have not yet gotten their 6 hours of CE. She stated, however, that there are many pre-approved courses already available. If someone wants to put on a course prior to approval though, then they run the risk that the course may not receive approval.

Mike Francis stated that the CE course approval process has not changed. The Commissioners approve courses after staff reviews them. He stated that staff tells people like Mr. Seemann that they are taking a risk sometimes, especially if they submit a course close to the cut-off date.

Commissioner Peterson encouraged people to be aware of the process that must be followed to be accurate and fair.

III. Communication with Commissioners

None.

IV. Summary of Current SPCC Events, Activities, Notices

Lisa Gervase welcomed our new public member Commissioner Mary Leavitt, and expressed appreciation to Commissioners Hartley, Fraker and Peterson for serving on the Commission after their terms ended

The 20-question demo licensing exam that Jason Aanderud created is now on the Commission's website. The questions are in all of the various categories.

The recent Tucson and Phoenix courses in late April organized by Jason Aanderud, with Mike Francis as a speaker, were very well attended, with about 200 people at each course.

Drafts of proposed law and rule changes will be available soon on the Commission website, and Ms. Gervase encouraged input from the industry and public.

About half of the industry's 6,600 applicators have renewed so far, and about 60-65% of those renewals have been done online.

Commissioner Peterson encouraged people to use the online renewal process because it saves time. He also complimented staff again about the Commission Book being in good order and being much easier to go through than in the past.

V. Consent Agenda

A. Applications for New Business License

Qualifying Party

1. Fister, Robert M.

Budget Pest Control (Activating Qualifying Party for new business license in "B1" General Pest & Public Health, "B2" Control of Wood-Destroying Insects and "B8" Wood Destroying Insect Inspection)

2. Huber, Andrew Joseph

Agassiz Landscape Group, LLC.
(Activating Qualifying Party for new

business license in "B3" Right of Way & Weed Control, "B5" Turf & Ornamental Horticulture and "B9" Aquatic Pest Control)

3. Kelley, Derold Lee **Are You Bugged, Inc.** (Activating Qualifying Party for new business license in "B1" General Pest & Public Health)

4. Kosatka, Michael Anthony **Delta Exterminating** (Activating Qualifying Party for new business license in "B1" General Pest & Public Health)

5. Miller, Walter Fredrick **Effective Weed Control** (Activating Qualifying Party for new business license in "B3" Right of Way & Weed Control and "B5" Turf & Ornamental Horticulture)

Pulled-Mr. Miller appeared.

Commissioner Fraker asked if Mr. Miller was renting his QP. Mr. Miller stated that he is selling the company and the new person taking over will be using Mr. Miller's QP license until he gets his own.

MOTION: *To approve activating QP for new business license in "B3" and "B5" by Commissioner Baker. Seconded by Commissioner Runbeck.*

VOTE: *7-0 Motion carried.*

6. Moody, Mark McHann **Budget Pest Control** (Activating Qualifying Party for new business license in "B3" Right of Way & Weed Control)

7. Munoz, Deborah J. **Sonoran Oasis Landscaping**
(Activating Qualifying Party for new business license in "B3" Right of Way &

Weed Control and "B5" Turf & Ornamental Horticulture)

8. Watkins, Billy W.

Frontier Pest Control, LLC. (Activating Qualifying Party for new business license in "B1" General Pest & Public Health)

B. Applications to activate Qualifying Party for Existing Business License

1. Bollier, Michael Emerson

Carescape, Inc. (Activating Qualifying Party for existing business license in "B5" Turf & Ornamental Horticulture)

2. Flavell, Donald A.

City of Mesa (Activating Qualifying Party for existing business license in "B3" Right of Way & Weed Control and "B5" Turf & Ornamental Horticulture)

3. Kirkham, Darren John

Frontline Exterminating, LLC. (Activating Qualifying Party for existing business license in "B1" General Pest & Public Health)

4. Liechty, Jason Garrett

Ersland Touch Landscape, LLC. (Activating Qualifying Party for existing business license in "B3" Right of Way & Weed Control and "B5" Turf & Ornamental Horticulture)

5. Michael, Christopher K.

Great Western Pest Control, Inc. (Activating Qualifying Party for existing business license in "B3" Right of Way & Weed Control)

6. Pyon, Jung Won

MC Pest Control (Activating Qualifying Party for existing business license in "B1" General Pest & Public Health)

- 7. **Garduno, Jr.; Michael L.** "B3" (Right of Way & Weed Control)
- 8. **Gibbons, Timothy John** "B1" (General Pest & Public Health)

Pulled-Mr. Gibbons, employee of Truly Nolen, appeared.

MOTION: *To approve QP testing in "B1" by Commissioner Runbeck.
Seconded by Commissioner Baker.*

VOTE: *6-0 Motion carried (Commissioner Hartley recused).*

- 9. **Hughes, Steven Bruce** "B1" (General Pest & Public Health)
- 10. **Lee, Ronald David** "B3" (Right of Way & Weed Control)
- 11. **Lewis, Vincent John** "B1" (General Pest & Public Health),
"B2" (Control of Wood-Destroying
Insects) and
"B8" (Wood Destroying Insect
Inspection)
- 12. **Molina, Victor** "B3" (Right of Way & Weed Control) and
"B5" (Turf & Ornamental Horticulture)
- 13. **Munoz, David Allen** "B1" (General Pest & Public Health)
- 14. **Perez, Gregory Scott** "B3" (Right of Way & Weed Control) and
"B5" (Turf & Ornamental Horticulture)
- 15. **Potkonjak, Nikola** "B2" (Control of Wood-Destroying
Insects) and "B8" (Wood Destroying
Insect Inspection)
- 16. **Rael, Richard Noah** "B1" (General Pest & Public Health)
- 17. **Rojahn, III; John Robert** "B3" (Right of Way & Weed Control) and
"B5" (Turf & Ornamental Horticulture)
- 18. **Saimo, Shigeki** "B5" (Turf & Ornamental Horticulture)

- 19. **Siegfried, Jr.; Thomas J.** "B3" (Right of Way & Weed Control)
- 20. **Snyder, Bryce Leslie** "B3" (Right of Way & Weed Control) and
"B5" (Turf & Ornamental Horticulture)
- 21. **Winters, Bruce Alan** "B3" (Right of Way & Weed Control)

End of Consent Agenda

MOTION: *By Commissioner Fraker to accept Consent Agenda with the exception of those items pulled for discussion (A5, C5, C6, C8). Seconded by Commissioner Robinson.*

VOTE: 7-0 *Motion carried.*

VI. Request for Temporary Qualifying Party License Renewals

- A. Payne, III; Frederick G.** The Pigeon Guy

Mr. Payne appeared.

Mr. Payne stated that he has been granted an extension so he can study the materials for the QP test. He stated that he has passed tests through the Registrar of Contractors, but can vouch that even if you know the material in the QP classes, you still need to study the materials from the Commission. Commissioner Baker noted that Mr. Payne is asking for a 60-day extension and asked what Mr. Payne will do if he is not granted the extension. Mr. Payne stated that his temporary QP license is still good for another week, so he would take the QP exam again next week. Robert Tolton added that Mr. Payne could take the exam twice next week before his temporary QP license expires on May 18. Commissioner Robinson asked why Mr. Payne has not tested again within this current 60-day temporary QP period. Mr. Payne stated that he has not been successful on the exams in the past, and he is asking for an extension so that he can study. He added that he is not familiar with pesticides because he never uses them. Commissioner Fraker added that March 26 was the date that Mr. Payne last tested. He asked Mr. Payne why he has not tested again in the past 45 days. Mr. Payne stated that he thought it would be easy to get a renewal extension. Commissioner Baker asked how quickly exam results could be obtained. Lisa Gervase stated that it is immediate. Commissioner Baker expressed concern that Mr. Payne does not have a plan in place if he does not pass the exam. Mr. Payne stated that he would have to search for someone to act as QP.

Commissioner Baker stated that this is not an easy task. Commissioner Fraker stated that he would vote to give an extension, but he remembers that Mr. Payne's attitude when he was initially before the Commission was that he felt that this process was not necessary and that he was qualified to do the work he was doing. However, Mr. Payne's record on the tests does not substantiate that he has the requisite knowledge to get a license with this Commission, and he needs to study the material if he wants to have the qualifications that go along with a QP license. Commissioner Peterson stated that he did not accept Mr. Payne's reasoning that he thought it would be easy to get a renewal and that it was just a matter of paperwork.

MOTION: *To approve temporary QP renewal by Commissioner Baker.
Seconded by Commissioner Runbeck.*

VOTE: *6-1 Motion carried (Commissioner Peterson opposed).*

VII. Complaints against Licensees

A. High Desert Weed Control (BL)/Foothills Pest Control (BL)/Ralph Fredrick Emmord, Jr. (Owner/QP)/Steven D. Schauer (President/QP) - Case # 2004-101

Mr. Schauer appeared.

Commissioner Runbeck felt that the proposed penalty against Mr. Emmord was a little light given that it appeared that he lied to investigators. She also noted that it appears that Mr. Schauer feels like he does not need to comply. Mr. Schauer did not disagree with Commissioner Runbeck's assessment of Mr. Emmord. He stated that he and Mr. Emmord were introduced by a supplier and that Mr. Emmord wanted to get into the pest control industry to supplement his weed control work. He stated that he agreed to act as Mr. Emmord's branch office QP. He stated that he believes he cooperated with the investigation and that he has complete respect for the Commission's rules and laws. He stated that Mr. Emmord did some advertising and signage that did not comply. Commissioner Baker asked if this matter could be sent back to settlement conference to increase the penalty because Mr. Emmord does not feel it is necessary to come before the Commission and be questioned about his responses. Commissioner Peterson stated that he thinks that the Commission should act today on Mr. Schauer's part of the settlement, and maybe Mr. Emmord's part should go back to staff because the penalty is too light. Lisa Gervase stated that staff tends to view the

penalty Matrix as a set of minimum guidelines to follow, but the Commissioners can increase the penalty if they so choose. She stated that the matter could be brought back to staff with a new proposal or it could go to hearing.

MOTION: To accept proposed resolution for Foothills and Mr. Schauer 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 Hearings; and to return the matter to settlement conference to modify proposed terms for High Desert and Mr. Emmord, by Commissioner Fraker. Seconded by Commissioner Runbeck.

VOTE: 7-0 Motion carried.

B. Litchfield Termite Division, LLC. (BL)/Kenneth G. Rael (Member) - Case # 2004-171 (Mr. Colvin) - PULLED FROM AGENDA

C. Northwest Exterminating Co., Inc. (BL)/Chad Berg (President/CEO/QP)/Gilbert Valdez (App) - Case # 2004-143

Commissioner Peterson wondered why the proposed penalty in this case was \$100 more than the proposed penalty in the next case (SOS Exterminating) given that the facts are similar. He also stated that as a consumer he would want the warranty extended. Vince Craig stated that with regard to this case (Northwest), because training by the QP was established, the responsibility rested solely on the applicator, and the applicator does not have the power to mitigate the penalty by extending the warranty.

MOTION: To accept proposed resolution for the applicator 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 Hearings, and to dismiss the complaint against the business and qualifying party licensees, by Commissioner Runbeck. Seconded by Commissioner Baker.

VOTE: 7-0 Motion carried.

D. SOS Exterminating, Inc. (BL)/Stephen F. Weber (President/CEO/QP)/Stephen N. Scott (App) - Case # 2004-130

Scott Richardson, attorney for the business and QP, appeared.

Commissioner Runbeck noted that it appeared to take six months to produce records for sufficient training. She asked if the company and/or QP was ignoring this task. Scott Richardson stated that it wasn't until they had a chance to come talk to staff that they could bring written policies and procedures about how they do things on a daily basis. Mike Francis said that there appeared to be mis-communication between the QP and the branch office. Commissioner Peterson stated that the QP is supposed to be the one "steering the ship", so the QP should be in communication with the offices under his/her supervision.

MOTION: *To accept proposed resolution for the applicator 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 Hearings, and to dismiss the complaint against the business and qualifying party licensees, by Commissioner Robinson.
Seconded by Commissioner Fraker.*

VOTE: *7-0 Motion carried.*

**E. SOS Exterminating, Inc. (BL)/Stephen F. Weber
(President/CEO/QP)/Stephen N. Scott (App) - Case # 2004-160**

Scott Richardson, attorney for the business and QP, appeared.

Commissioner Baker noted that Mr. Scott is no longer employed with SOS Exterminating. Scott Richardson stated that Mr. Scott separately negotiated a proposed resolution with staff. Commissioner Peterson noted that there was an initial complaint and that it wasn't until the second complaint that SOS rode with the applicator to make sure he was doing things right. Scott Richardson stated that the first event occurred in September and the second one occurred six weeks later in October. Instead of an official ride-along, the company and QP were checking chemical quantities, but staff felt this was insufficient. He had asked staff to show him a standard that says that the company/QP has to do a ride-along after a first offense. He stated that they produced records that demonstrated that the applicator knew how to perform a pre-treat due to his work for a previous company, and that the applicator had been part of a ride-along program previously. He stated that he hopes that specific standards will be developed. Commissioner Peterson stated that the Commission can still deal with the issue when an applicator makes

a mistake after having been trained. Scott Richardson stated that the company/QP had daily logs, but they didn't feel like they had to ride along with the applicator. He suggested that this issue may have to go to trial. Commissioner Peterson stated that the facts indicate that the applicator was feeling so rushed that he did not have time to measure. Scott Richardson stated that he feels like they demonstrated that the applicator was not in a rush. He stated that the fundamental issue concerns what the company/QP should have to do in response, and that he thinks this case should be dismissed. Commissioner Runbeck suggested that this issue be hashed out in a hearing and then the Commission can see and evaluate the Administrative Law Judge's decision. Commissioner Fraker stated that it seems like the initial problem involves math, and that an employee should use a calculator if he has a problem with numbers. Scott Richardson stated that they have a long track record that shows that the applicator did know how to do the math and he just failed this one time. Commissioner Fraker stated that checking the chemical before and after is not enough. Scott Richardson stated that he does not think there would be any different result if this matter went back to settlement conference.

MOTION: To accept proposed resolution for the applicator 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 Hearings, and to send the matter against the business and qualifying party licensees to hearing, by Commissioner Runbeck.
Seconded by Commissioner Baker.

VOTE: 7-0 Motion carried.

F. Sun Lakes Pest Control, LTD. (BL)/Marc Eric Graham (President)/Vance M. Guss (QP/App) - Case # 2004-139

Scott Richardson, attorney for the business and QP/App, appeared.
Mr. Graham appeared.
Mr. Guss was present.

Commissioner Baker asked what happened to the homeowner in this case. Mr. Graham stated that he contacted Mrs. Pacheco and offered to make a treatment at her home, the offer still stands, but he has not heard back from her.

MOTION: To accept proposed resolution 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 Hearings, by Commissioner Runbeck.
Seconded by Commissioner Fraker.

VOTE: 7-0 Motion carried.

G. D&S Termite Solutions, LLC. (BL)/Daniel Heinrich (Member/QP)/Salvatore Sardina (Member/App) - Case # 2004-168

MOTION: To accept proposed resolution 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 Hearings, by Commissioner Runbeck.
Seconded by Commissioner Robinson.

VOTE: 7-0 Motion carried.

H. Foothills Pest Control (BL)/Steven Schauer (President/QP)/Jonathan Calligan (App) - Case # 2004-149

Mr. Schauer was present

MOTION: To accept proposed resolution 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 Hearings, by Commissioner Runbeck.
Seconded by Commissioner Hartley.

VOTE: 7-0 Motion carried.

I. JTSB Termite Technology, Inc. dba JTSB Termite Technology (BL)/Joseph McNally, III (President/CEO/QP/App) - Case # 2004-112

Commissioner Runbeck expressed appreciation for staff's notes to understand the thought process regarding the proposed resolution.

MOTION: To accept proposed resolution for the applicator 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 Hearings, and to dismiss the complaint against the business and qualifying party licensees, by Commissioner Fraker.
Seconded by Commissioner Runbeck.*

VOTE: 7-0 Motion carried.

J. Sun Valley Pest Control (BL)/Leroy Scott Gillespie (Sole Proprietor/QP/App) - Case # 2004-104

Vince Craig stated that there is a handout that replaces what is on the PDF, as staff and the respondents did have a successful last-minute settlement conference. Commissioner Peterson asked if the respondents came up with the insurance. Vince Craig stated that they did not, and that is why a civil penalty was cited. Commissioner Baker asked if there were any complaints during the time frame in which they did not have insurance. Vince Craig stated that there were not.

MOTION: *To accept proposed resolution (based on the terms of the settlement conference memo handed out prior to the Commission meeting) 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 Hearings, by Commissioner Fraker.
Seconded by Commissioner Runbeck.*

VOTE: 7-0 Motion carried.

From First Amended agenda:

K. Ark Exterminating (BL)/Jackie C. Wheeler (Owner) - Case # 2004-153

MOTION: *To enter Executive Session to obtain legal advice regarding Item VII.K. (Ark Exterminating, Case No. 2004-153) and Item VII.L. (Armor Termite & Pest Control, Case No. 2004-164) by Commissioner Baker.
Seconded by Commissioner Hartley.*

VOTE: 7-0 Motion carried.

(Executive Session from 10:20 A.M. to 10:35 A.M.)

MOTION: To rescind the Commission's action from last month's meeting regarding this case and to return the matter to settlement conference, by Commissioner Runbeck. Seconded by Commissioner Baker.

VOTE: 7-0 Motion carried.

From First Amended agenda:

L. **Armor Termite & Pest Control (BL)/W. Dale Witter, Sr. (Owner) - Case # 2004-164**

MOTION: To rescind the Commission's action from last month's meeting regarding this case and to return the matter to settlement conference, by Commissioner Runbeck. Seconded by Commissioner Baker.

VOTE: 7-0 Motion carried.

VIII. For review, consideration and action: Requests for Review of Previous Decisions by the Commission

A. **American Termite Pest, Inc./John Lee Chase - Case #'s: 1999-049 and 2001-021** - Suspension of American Termite Pest, Inc., John Lee Chase (Owner), Business License for non-payment of civil penalty in the amount of \$1,000.00.

Lisa Gervase stated that this item is on the agenda because Mr. Chase filed a request for review. In March, 2005, the Commission suspended American Termite Pest's business license for nonpayment of civil penalties in Case No. 1999-049. Case No. 2001-021 was filed by the Commission, alleging that American Termite Pest performed work on a suspended license in January, 2001. Because of the 1999 case, not only was a civil penalty imposed, but the business license was suspended for six months. Mr. Chase had filed an appeal of the suspension, the Commission denied the appeal, and then he appealed to superior court. The superior court dismissed the appeal, but Mr. Chase never got a stay. (A stay of an order at the superior court level is necessary to prevent the order from going into effect). The order went into effect in November or December of 2000, and then Mr. Chase was found doing pest control work in January, 2001 on a suspended license. Not only was the license suspended, but it had also expired because he had not renewed it in December, 2000. This was why the 2001 case was filed. That

case was set for hearing but was vacated because of scheduling conflicts. Before it was rescheduled, the Commission realized that since Mr. Chase had not renewed his business license, the Commission could suspend it for nonpayment of renewal fees. So, the case was dismissed without prejudice and the business license was suspended for nonpayment of renewal fees. There are two orders dated from March, 2005. The one related to the 1999 case ordered a suspension for nonpayment of civil penalties, and, the other was an order of suspension for nonpayment of renewal fees. Mr. Chase has appealed both suspensions, and the Commission now needs to consider whether he has set forth any of the grounds enumerated in A.A.C. R4-29-502(C) in order to receive a review of these two suspension orders.

Commissioner Baker asked if Mr. Chase has attempted to pay the civil penalties. Lisa Gervase stated that he has not. The Commission considered the written materials submitted by Mr. Chase.

MOTION: To deny rehearing or review of Commission Orders because no facts or reasons were presented to justify a review, by Commissioner Baker.
Seconded by Commissioner Runbeck.

VOTE: 7-0 Motion carried.

B. Gloria Kilian - Denial of Temporary Qualifying Party Renewal

Ms. Kilian appeared.

Lisa Gervase reminded the Commissioners that today they approved Cynthia Romero to act as QP for Kilian's Termite & Pest Control Co. in the "B1" category only. Ms. Kilian stated that she disagreed with the Commission's reasons for the denial. She stated that she has had lots of problems and difficulty with testing such as waiting 45 minutes to test even having an appointment, being given the wrong test, having computer crashes. She stated that she is working on securing a regular QP and has one now in the "B1" category, but it is not easy to find QPs, and she has made tons of calls. The Commission explained that the grounds to grant a review are found in its rule, A.A.C. R4-29-502. Commissioner Runbeck stated Ms. Kilian had the opportunity to obtain the rule and has the burden of knowing what she is going to present to the Commission that would justify a review of the denial. Ms. Killian asked the Commission to ask her any questions it had. The Commissioners did not have any questions, as all of the facts were presented in writing today and at the April meeting. Ms. Kilian stated that she has passed some tests including the "core" test, some test papers and scores have been lost, and there were some tests that she could not take. Ms.

Killian became agitated and asked to be able to speak again later in the meeting. Commissioner Peterson stated that the Commission will give Ms. Killian the opportunity to speak again if she has new information. Later in the meeting, the Commission provided Ms. Killian the opportunity to present any new information, but she did not present anything new for the Commissioners to consider. Ms. Killian emphasized her problems with the testing process. She stated that she needs to take care of her customers and that she needs her temporary QP license to last at least another 30 days because it is difficult to find a QP for her business. Ms. Killian stated that some people who don't have licenses give pest control advice. She also stated that she would take this matter to superior court. In an extremely agitated state, Ms. Killian made various comments as she left the meeting room.

MOTION: *To deny rehearing or review of Commission Decision based on the fact that none of the A.A.C. R4-29-502(C) criteria have been met, by Commissioner Hartley. Seconded by Commissioner Robinson.*

VOTE: 7-0 *Motion carried.*

Mike Francis explained to Ms. Killian for clarification that with the request for rehearing denied and with the activation of a QP in the "B1" category for Ms. Killian's business, she can only legally operate in the "B1" category, though she does have the ability to hire another QP in another category.

C. Troy Price - Denial of Temporary Qualifying Party Renewal

Mr. Price appeared.

Joseph Allen, branch manager for Schendel Pest Service, appeared.

Commissioner Peterson asked Mr. Price when he originally applied for a temporary QP license. Mr. Price stated that he applied in February. Mr. Allen stated that he was approved by the Commission today to take the QP test and that Mr. Price is the temporary QP until Mr. Allen passes the test. The reason that Mr. Price became temporary QP is because Mr. Allen did not have a license in fumigation at the time, and their original QP, Tim Powell, moved into sales and did not want to be QP anymore. So, Mr. Allen was designated to be the company's QP. Lisa Gervase added that Mr. Price obtained a temporary QP license because Mr. Allen did not have the requisite applicator license to get a QP license. Today, Mr. Allen was approved to test for his QP license in the "B1" and "B4" categories, and they are trying to buy some time so he can test. Mr. Allen stated that his paperwork is on file now, though there were some mail discrepancies between the office address and the P.O. address.

MOTION: To grant review of Commission Decision based on A.A.C. R4-29-502(C)(4), by Commissioner Hartley. Seconded by Commissioner Runbeck.

VOTE: 7-0 Motion carried.

Lisa Gervase stated that the Commission will conduct the review of its denial at the next Commission meeting. The temporary QP license will not expire until the next meeting because the expiration is stayed pending the Commission's decision on the review. Commissioner Runbeck stated that Mr. Price could then operate until the Commission's next meeting, and this would give Mr. Allen time to test and hopefully pass the test. Lisa Gervase stated that they still run the risk that if the Commission does not reverse the denial next month and if Mr. Allen is not on the next agenda to activate his QP license, then the company would be without a QP. So, there is a burden on Mr. Allen to pass the tests in the next couple of weeks so that he can meet the cutoff date to activate his QP license for the June 10 agenda.

IX. For review, consideration and action

A. Commission's Limited Review of Business and Qualifying Party License Suspensions due to Nonpayment of Civil Penalties to Consider Respondent's Legal Argument: Don's Termite Service, Inc. - Case No. 93-070/Don's Termite Service, Inc./Don Methven - Case Nos: 94-006, 94-014 and 94-109/Don Methven - Case No. 96-035.

Mr. Methven appeared.

Lisa Gervase stated that today will be the Commission's review of this matter after last month's vote to review, and the Commissioners have been presented with a handout regarding Mr. Methven's argument asking the Commission to reconsider and lift the suspensions on the basis of laches.

MOTION: To enter Executive Session by Commissioner Runbeck. Seconded by Commissioner Baker.

VOTE: 7-0 Motion carried.

(Executive Session from 11:00 A.M. to 11:20 A.M.)

Commissioner Runbeck stated that she is not convinced that the laches argument applies to this case. However, in looking at the facts of this case

and the amount of time that has passed, she is inclined to reconsider. Commissioner Fraker stated that he does not think, based on the submission received from Mr. Methven's attorney, that Mr. Methven has met his obligation and that the Commission's previous decision should not be reversed. Commissioner Hartley stated that he has a problem with the time element because these cases date back nine or more years. He stated that these cases should have been handled a long time ago. Commissioner Fraker argued that the Commission did the right thing by imposing the fines and the fact that Mr. Methven did not pay the fines is why we are here today. Commissioner Hartley replied that either Mr. Methven thinks he paid the fines or they were in fact paid. Commissioner Hartley would not want Mr. Methven to think that he is getting the best of the Commission, but Commissioner Hartley does not think that is the case here and gives the benefit of the doubt to the license holder. Mr. Methven stated that he felt the fine had been paid due to the fact that he had maintained his license over all of this period of time, even though it was inactive. He was paying his license renewal fees every year, and the Commission knew his address and could have gotten a hold of him a long time ago. He stated that he could have paid the fine if he had known or felt he owed the fine. The person he sold the business to (his son-in-law) was supposed to pay the fine. His son-in-law is not in the business, is in St. Louis, and Mr. Methven does not know how to get a hold of him. Commissioner Robinson stated that he does not accept the time frame argument. He stated that in comparison, someone who has a felony conviction has that on his record forever with the Commission. Commissioner Runbeck stated that the reason that the time element plays a factual role is because she thinks it would be difficult to produce the records that would determine either way whether he paid the fines. Commissioner Hartley stated that, assuming that the fine was not paid by someone else, then a bill should have been sent to Mr. Methven. He stated that he does not find unreasonable Mr. Methven's assumption that the fines had been paid. Commissioner Fraker asked if you would volunteer to pay the Internal Revenue Service if you owe them money and they don't send you a bill. He stated that just because you don't receive a bill, it does not make the bill non-payable. Commissioner Runbeck stated that she had a hospital visit for her daughter, it was submitted to the insurance company, and three years later she heard from a collection agency. She had thought the bill was paid and was upset that the process took so long. Mr. Methven stated that when he sold his business, one of the agreements he had was that his son-in-law would pay for everything owed by the business. His son-in-law paid a chemical supplier approximately \$30,000 that he owed to that company. Mr. Methven assumed that the extra \$3,000 in civil penalties owed to the Commission was paid.

MOTION: *To rescind the license suspensions and not pursue payment of the fines by Commissioner Runbeck. Seconded by Commissioner Hartley.*

VOTE: 4-3 *Motion carried.*
Commissioner Hartley-Yes,
Commissioner Robinson-No,
Commissioner Fraker-No,
Commissioner Runbeck-Yes,
Commissioner Baker-Yes,
Commissioner Leavitt-No,
Commissioner Peterson-Yes

The Commission made it clear that its decision was NOT based on the laches legal argument, but was based solely on the specific facts of these cases. Specifically, Mr. Methven's reasonable reliance on payment by the buyer, the other circumstances that prevented him from being able to produce evidence of payment, that he maintained his license for many years, etc. The Commission will decide on a case-by-case basis how to handle these types of matters.

B. Commission's Review of Business, Qualifying Party and Applicator License Revocations due to Nonpayment of Renewal Fees: Tucson Pest Max/Troit Stowe - Case No. 1998-182.

Mr. Stowe appeared.

Mr. Stowe stated that his licenses had expired and should have been left in that status. Commissioner Runbeck asked what the practical effects are of expiration, suspension, revocation. Lisa Gervase stated that if a license is revoked, the former license holder can't reapply for a license with the Commission for five years. If a license is expired, a license holder can just pay late renewal fees and get their license back, but, if the license has been expired for more than 60 days, then the license holder would need to retest. She stated that in this case, there is no evidence that the case had been adjudicated. It went to hearing but then settled, but there is no record that the respondents signed the proposed consent agreement. She stated that the Commission would have had to vote on this matter to send it to hearing. In the meantime, the Commission dismissed the case without prejudice and suspended Mr. Stowe's license for nonpayment of renewal fees. Staff has been communicating with Mr. Stowe for a year to resolve the old case, and it wasn't until shortly before the revocation order was to be issued, Mr. Stowe said that the old case was resolved. She stated that it is her understanding that Mr. Stowe now wants to get back in the business and does not want to

have to wait five years. Mr. Stowe stated that his wife wants to start a pest control business and he does not want her to be hindered. He also wants to be able to help her if necessary. Lisa Gervase stated that the Commission has various options. It can leave the revocations as they are or it can rescind the revocations. Commissioner Peterson asked why this matter was not addressed a year ago. Mr. Stowe stated that he thought he was off the radar. Commissioner Robinson asked if Mr. Stowe's wife has a QP license. Mr. Stowe stated that she does not and will be working with DSR in Tucson. Lisa Gervase outlined the Commission's options. It can reopen Case No. 98-182, accept the proposed consent agreement, and rescind the revocations and suspensions. Then, Mr. Stowe could apply for a license. She also stated that she would want Mr. Stowe to sign the consent agreement that was proposed by the former Assistant Attorney General before leaving the Commission meeting, if the Commission is going to consider accepting the consent.

MOTION: To reopen and accept the proposed consent agreement for Case No. 98-182, to rescind the license revocations and to rescind the license suspensions by Commissioner Baker.
Seconded by Commissioner Hartley.

VOTE: 7-0 Motion carried.

C. Proposed resolution to obtain license: Felony Applicator License Applicant - Robert James Iovinelli, Case 2005-030 - PULLED FROM AGENDA

X. For review, consideration and action: Recommended Decision and Order of Administrative Law Judge

A. Industrial Termite Specialities, Inc. (BL)/Stephen Tad Matheson (QP/App) and Christopher P. Fanelli (App) - OAH Docket # 2004A-002-SPC/SPCC Case # 2004-002

Lisa Burns, Assistant Attorney General for the State of Arizona, representing the Structural Pest Control Commission, appeared.

Lisa Gervase stated that the Administrative Law Judge's Findings of Fact, Conclusions of Law and Order are laid out for the Commissioners, and they can make amendments if they so choose. For the record, she asked each Commissioner if they had listened to a recording of the hearing and had read the transcripts. The Commissioners all answered in the affirmative. Lisa

Burns stated that this was a relatively easy case that became complicated after the receipt of the Order, and she requested that it be partially modified. She stated that she has no problem with the recommendations regarding Mr. Matheson, but does have some modifications that address Mr. Fanelli that she would like the Commission to incorporate. She stated that they did enter settlement in this case. The Administrative Law Judge references this but does not outline it. As stated on page 2 of the memo, she asked that the Commission modify Finding of Fact #2 indicating that they reached agreement. She also recommended adding additional Findings of Fact (numbered 20, 21, 22) and Conclusions of Law regarding Mr. Fanelli's conduct. For the Order, she recommended adding an Administrative Warning and \$200 Civil Penalty against Mr. Fanelli. She also noted that in footnote #2 on page 5 there is an incorrect legal citation for the notice of hearing that would apply to this particular agency.

MOTION: *To adopt the ALJ's Findings of Fact as modified to add additional Findings of Fact numbered 20, 21, 22, by Commissioner Runbeck.
Seconded by Commissioner Baker.*

VOTE: *7-0 Motion carried.*

MOTION: *To adopt the ALJ's Conclusions of Law as modified to correct footnote #2 on page 5 to read A.R.S. §41-1092.04, to correct Conclusion of Law #2 to read that the Commission reached settlement with Mr. Bernard prior to hearing and reached agreement with Mr. Fanelli on the record of this hearing where Mr. Fanelli admitted statutory and regulatory violations and agreed to be issued an Administrative Warning and a \$200 Civil Penalty, and to add that, as agreed to by Mr. Fanelli, the conduct and circumstances described in the above paragraphs constitute grounds for disciplinary action against Mr. Fanelli according to A.R.S. §32-2321(B)(1) (Violating Commission statutes and rules) via A.A.C. R4-29-107(A) (Licensee must respond in writing within 20 days of notification by the Commission of a complaint), by Commissioner Runbeck.
Seconded by Commissioner Hartley.*

VOTE: *7-0 Motion carried.*

Lisa Burns stated that it is the State's position that the Commissioners don't dismiss the complaint against Mr. Bernard's application, and that, in addition

to adding an Administrative Warning and Civil Penalty to Mr. Fanelli, the specific recommendation against Mr. Bernard be rejected because they have already dealt with Mr. Bernard.

MOTION: To accept the ALJ's Recommended Order with the change that the complaint will not be dismissed and also that there be an addition to the Order that Mr. Fanelli be issued an Administrative Warning and \$200 Civil Penalty to be paid within 30 days of the effective date of the Commission Order, by Commissioner Runbeck. Seconded by Commissioner Hartley.

VOTE: 7-0 Motion carried.

XI. Felony Applicants

A. Nishke, Johnny

Mr. Nishke appeared.

Carl Welch, QP for Select Pest Control, appeared.

Commissioner Peterson noted that Mr. Nishke has a long criminal history, that he does not do what he is supposed to do when he is in trouble, and that there have been discrepancies in what he tells people. He stated that it is up to Mr. Nishke to convince the Commissioners that he would be a good candidate. Mr. Nishke stated that everything on paper before the Commissioners is true, and that some of it occurred 20-25 years ago. He stated that he can't recall all of his previous statements and that he has been in trouble all of his life. He stated that he has been poor but acknowledged his fault behind his behavior. He stated that with his history it is difficult for him to get a job anywhere, and he uses his past incidents as excuses still today. He stated, however, that he has now been given an opportunity for employment in the pest control industry. Commissioner Peterson noted that Mr. Nishke had a DUI in 2004 and was drinking and smoking marijuana before then. He asked if Mr. Nishke was still doing these things. Mr. Nishke stated that he has never used any drugs or smoked marijuana in his life. He stated that he previously made statements to the contrary because he felt that the judge would then go easy on him. He stated that he is 36 years old now, and earlier in his life he did not make the right statements. Commissioner Runbeck asked if the 2004 case was dismissed. Mr. Nishke stated that it was. Commissioner Runbeck asked if the 2004 arrest violated his probation. Mr. Nishke stated that it did not. Commissioner Runbeck asked Mr. Nishke if he has been doing pest control. Mr. Nishke stated that this is his first time. Commissioner Runbeck asked Mr. Nishke if he is being tested as part of probation and if he has had any dirty results. Mr. Nishke stated that he is being tested and that his results have been clean. Mr. Welch stated that he met Mr. Nishke through

working at an agency with Mr. Nishke's sister. Mr. Welch stated that he has known Mr. Nishke's sister to be of exceptional character, and she said that Mr. Nishke has made mistakes in his life but has turned his life around and wants an opportunity. Mr. Welch stated that he has shown Mr. Nishke how he does things and he has been impressed with Mr. Nishke, as Mr. Nishke has been up front with Mr. Welch about his past mistakes. Commissioner Runbeck stated that she is in favor of giving people an opportunity, but she does not think that doing pest control is the right place for Mr. Nishke under these circumstances and given Mr. Nishke's crimes of opportunity in the past. She stated that doing pest control gives people the opportunity to go into people's houses. She also stated that she believes that Mr. Nishke was involved in drugs and that he lied about it.

MOTION: *To deny application based on having a long criminal history, lack of good moral character, noncompliance with past probation terms, still on probation, having committed crimes of opportunity by Commissioner Runbeck.
Seconded by Commissioner Robinson.*

VOTE: 7-0 *Motion carried.*

B. Kittle, Ryan Matthew

Mr. Kittle appeared.

Pablo Rios, branch manager for S.O.S. Exterminating, Inc., appeared.

Commissioner Peterson noted that Mr. Kittle was released from prison in January, 2005. Mr. Kittle stated that he will get off of parole on August 7, 2005 or maybe even earlier. He is 25 years old now and the felony occurred in 2002. Mr. Rios stated that he met Mr. Kittle through another employee who had recommended him. Mr. Rios stated that Mr. Kittle had said to him that he knew he had made a mistake in the past. Commissioner Peterson asked if Mr. Kittle had any problems up to the point of the felony. Mr. Kittle stated that he had not had problems and that it was a one-time mistake of trying to take the easy way out. Commissioner Peterson asked if he was being paid to do something illegal. Mr. Kittle stated that he became involved with a friend from high school, and he thought it would be easy money. Commissioner Runbeck noted that a March 11 letter from Mr. Kittle's parole officer says that he tested clean. She asked if that is still the case. Mr. Kittle stated that it is. Commissioner Peterson asked if Mr. Kittle has had any problems since the felony, such as drinking or doing drugs. Mr. Kittle stated that he seldom drinks and does not do drugs at all. Commissioner Peterson asked what Mr. Kittle would do if another opportunity like the one that led to the felony came along. Mr. Kittle stated that he lost two years with his daughter and it won't happen again. Commissioner Fraker stated that, according to the substantive policy statement regarding felony applicants adopted by the Commission, the Commission will likely deny licenses to

applicants who have been involved with trafficking in illegal drugs. He stated that Mr. Kittle's circumstances fit this category. He also mentioned that Mr. Kittle is still on parole.

MOTION: To approve applicant testing by Commissioner Runbeck.
Seconded by Commissioner Hartley.

VOTE: 2-5 Motion failed.
Commissioner Hartley-Yes,
Commissioner Robinson-No,
Commissioner Fraker-No,
Commissioner Runbeck-Yes,
Commissioner Baker-No,
Commissioner Leavitt-No,
Commissioner Peterson-No

MOTION: To deny application based on the severity of the crime, having a felony, and the fact that the applicant is still on parole, by Commissioner Baker.
Seconded by Commissioner Robinson.

VOTE: 6-1 Motion carried (Commissioner Runbeck opposed).

C. Ruiz, Jorge

Mr. Ruiz appeared.

Kevin Conlin, QP of Sun City Pest Control, appeared.

Commissioner Peterson asked if Mr. Ruiz had a recent incident involving disturbing the peace and resisting arrest. Commissioner Runbeck asked if any domestic violence was involved. Mr. Ruiz stated that there was a big commotion at a family party and he was scratched by his wife. He stated that he pleaded guilty for disorderly conduct because he did not want to spend any more time in jail. He stated that he had probation, but he doesn't report or call in and he just has to stay out of trouble. He stated that he previously had an incident in 1998, was sentenced in 1999 and got out of jail in 2000. He stated that he is now going through a divorce and is a single father. He stated that he has never had a dirty drug test. He stated that he now does construction and coaches baseball, soccer and football. Mr. Conlin stated that Mr. Ruiz is a great guy, is responsible with the customers and he feels comfortable sending Mr. Ruiz into homes. Commissioner Leavitt asked how long Mr. Ruiz has been with Sun City Pest Control. Mr. Conlin stated that Mr. Ruiz has been employed with them for eight months. Commissioner Fraker asked Mr. Conlin if he realized that Mr. Ruiz is not supposed to work longer than 90 days

without a license. Mr. Conlin stated that he did realize this, but the paperwork took a while. He also did not want to throw Mr. Ruiz on the street with five kids. Commissioner Baker asked what Mr. Ruiz's duties were while working. Mr. Conlin stated that he was doing termite work, trenching, drilling, and applying under supervision within the three months allowed by law. Commissioner Runbeck asked Mr. Ruiz if he knowingly displayed fictitious plates. Mr. Ruiz stated that he needed money because he is supporting five kids and himself. He stated that he is 31 years old now and has changed his ways.

MOTION: To approve applicant testing by Commissioner Hartley.
Seconded by Commissioner Runbeck.

VOTE: 3-4 Motion failed (Commissioners Robinson, Fraker, Baker, Leavitt opposed).

MOTION: To deny application based on having a felony conviction and lack of good moral character, by Commissioner Baker.
Seconded by Commissioner Leavitt.

VOTE: 4-3 Motion carried.
Commissioner Hartley-No,
Commissioner Robinson-Yes,
Commissioner Fraker-Yes,
Commissioner Runbeck-No,
Commissioner Baker-Yes,
Commissioner Leavitt-Yes,
Commissioner Peterson-No

(Break from 1:05 P.M. to 1:15 P.M.)

XII. For information and discussion, possible action

A. HB 2516

Lisa Gervase stated that this House Bill was transmitted to the Governor on May 11, and, if she signs, it will become effective in early August, 2005.

B. Possible Future Law Changes

Lisa Gervase stated that she is working on a draft of possible future law changes. Commissioner Baker recommended a posting to the website, as the Commissioners have had ample opportunity to look at the proposals and to make changes. Commissioner Peterson stated that he would like to discuss Item #28. Lisa Gervase

stated that the issue here is whether pre-notifications for treatments at schools (pre-kindergarten through grade 12) should be expanded to include child care facilities and adult care facilities (nursing homes, assisted living, etc.). Commissioners Runbeck and Baker stated that it should be expanded, although Commissioner Runbeck mentioned that there could be problems with where notification would take place other than posting it on the properties. She stated that with child care it is easy because parents would see the notices when they pick up their kids, but with adult care it might be more difficult. Commissioner Peterson asked how "child care" and "adult care" would be defined. Lisa Gervase stated that the Department of Health Services defines those terms because they are the ones who license and regulate this area. Commissioner Peterson asked if it would be much of a headache for the industry to expand their pre-notifications. Commissioner Fraker stated that he would like to see a list of what it is going to entail and what the criteria are before the Commission goes forward with any kind of endorsement. Commissioner Peterson encouraged the Commissioners to submit their comments to Lisa Gervase so that she can post them to the website. Lisa Gervase stated that people can then review these comments and respond to them.

C. Possible Future Rule Changes - *same status as above*

D. Complaint Status Log

Lisa Gervase stated that the log is in the Commission Book materials.

E. Continuing Education Minutes

MOTION: *To approve the Continuing Education Minutes by Commissioner Hartley.
Seconded by Commissioner Robinson.*

VOTE: *7-0 Motion carried.*

F. Computer Based Testing "CBT" Status and Statistics

Mike Means, from Metro Institute, appeared.

Mike Francis stated that the statistics they have are for April. Commissioner Peterson stated that, looking at pass rates and various exams, etc., it seems that people have started to learn the exam questions. He stated that he wants to make sure that they are comparing pass rates in different geographical locations and categories. Mr. Means stated that he looks at the statistics every month. In some of the smaller testing sites, there are only 2-12 people testing every month, so the

statistics can be skewed. He stated that regarding memorizing exam questions, it is difficult to do because the questions and answers are randomly ordered.

G. Expenditure Report

Lisa Gervase stated that on April 29 she emailed an expenditure report through March, 2005. She stated that through April, 2005, the Commission has used 80% of its appropriated funds, which is about 3% below schedule. She stated that the Commission may purchase extra supplies in the last couple of months of the fiscal year before June 30. When asked about the computer purchase situation, she stated that the Governor ordered agencies to go through the State Procurement Office even though she found it to be more expensive and complied with the order under written objection.

H. Case Status Report

Lisa Gervase stated that there are about 100 active cases in various stages and 22 non-active cases which are being monitored for revocation. It takes anywhere from one to four months to finalize case documents after Commission meetings. There are about 140 other cases: 17-24 at the Attorney General's Office for collections and also 115 old cases in various time frames with thousands of dollars in outstanding civil penalties. Commissioner Robinson asked if they could agendize for next month that any case older than a certain amount of time will be dismissed. Lisa Gervase stated that the Commission has been doing pretty well over the past couple of years in dealing with these old cases, but now they are at a point of diminishing returns. She stated that the Commission can make a policy decision now or later. Commissioner Runbeck expressed concern about doing a blanket dismissal considering that they have found and enforced some of the old cases. She suggested that they need to judge each case on an individual basis. Commissioner Fraker asked who makes that determination. Commissioner Runbeck stated that if a respondent does not pay a civil penalty, then the matter is presented to the Commissioners. Commissioner Peterson stated that over 20 of these cases involve license-holders, so these cases should be high priorities. Commissioner Baker agreed. Lisa Gervase stated that they will start with the 20+ that involve license-holders and then go through the rest, handling them on a case-by-case basis, determining whether and how to seek compliance. She also stated that there are about 58 files where they weren't completed, that are too old to justify even continuing investigations, so she is closing them.

1. Substantive Policy Statement #2005-001 - Re: Temporary Qualifying Party Licenses

Bert Putterman, from Arizona Exterminating Co., appeared.

Lisa Gervase stated that this agenda item pertains to the Commission's interpretation of the statute and under what circumstances the Commission might renew temporary QP licenses. Commissioner Peterson asked for clarification on Item #C1 of the policy statement. Lisa Gervase stated that the business licensee and temporary QP both need to know what is going on, explain the reason for the renewal request and have a contingency plan in case the Commission denies the renewal in order for the Commission to likely grant a temporary QP license renewal. Commissioner Peterson stated that he thinks that Item #B2 (the Commission will likely grant a temporary QP license if the temporary QP applicant holds a valid, active applicator license in all categories in which the disassociated QP qualified the business licensee) of the policy statement should be taken out. Lisa Gervase stated that this is Commissioner Peterson's interpretation but it is not a law or rule. Commissioner Fraker stated that he interprets a "disassociation" to mean that the QP died. He stated that they just had a situation in which the QP became just an employee and no longer was the QP. If someone is still an employee, then they are not disassociated. Mike Francis stated that the question is whether the disassociation was sudden. Usually it is not, and it is a pre-planned act, such as someone moving into a different job. Commissioner Runbeck stated that if the Commission wants to allow for this type of situation, then the policy statement could be read this way. Commissioner Peterson stated that he thinks that "disassociation" should mean that the QP resigned from the company. Commissioner Fraker expressed concern that companies can fall into a temporary QP loophole, and someone with a fumigation QP license can fill in even if they don't have any intention of doing this full-time in the future. He stated that the person who applies for this needs to be qualified in the fumigation category. Commissioner Peterson asked how there would be a loophole if the Commission said that "disassociation" means resignation. Commissioner Baker stated that there is always a way around it because someone can resign and then be rehired the next day. Commissioner Peterson stated that the Commissioners will see be able to see through this tactic. Lisa Gervase reminded the Commissioners policy statements are fluid and changeable and that this policy statement can be amended. She stated that if the Commission wants to treat this area in more of a "black and white" manner, then maybe governing laws or rules should be created. She also stated that the Commission needs to consider the circumstances under which they would renew temporary QP licenses. Mr. Putterman wondered under what circumstances is the Commission going to tell someone they can't operate. He noted that three people today had three different stories. One guy said his former QP is still working for the company, so Mr. Putterman believes he is not disassociated. Another guy who was granted a temporary QP license said he had no intention of getting a permanent QP license, and still another guy said that the reason he didn't take the test is because he didn't have an applicator license. He stated that there are companies much like his own and others which have obligations to large national accounts, and they are monkeying around trying to keep things alive. He asked at what point does the Commission say that they have rules, regulations and statutes that require people

to be licensed operators. He stated that it is offensive to people like himself who have to maintain licenses and backup licenses, especially when people are coming in multiple times requesting temporary QP renewals. He stated that a temporary QP license should be granted only once and for a fixed amount of time only, and if you don't get a permanent license after that then you should stop working. Lisa Gervase stated that it is because of these issues that the Commission wanted to take the substantive policy statement route to define "disassociation" and to get clarification about how long a person can have a temporary QP license and how many times it can be renewed. Right now the law just says that a temporary QP license is "renewable". Commissioner Peterson stated that parameters should be codified. Mr. Putterman stated that there are other ways of getting a QP, but these companies don't want to go through those gymnastics, and this gives them a competitive advantage. Commissioner Runbeck suggested maybe just allowing one renewal and making it last longer. Commissioner Leavitt asked if there is any limit on temporary QPs. Lisa Gervase stated that there is not and that even if the Commission grants a renewal, it can be for any number of days. There is no guidance. Lisa Burns suggested that this issue can be addressed in rule. Commissioner Peterson stated that they have a substantive policy statement before them now and that they should start with this and perhaps add to it or amend it later.

MOTION: To adopt Substantive Policy Statement #2005-001 by Commissioner Runbeck.
Seconded by Commissioner Hartley.

VOTE: 7-0 Motion carried.

XIII. Approval of Minutes

A. February 11, 2005 (regular session) Minutes

MOTION: To approve the February 11, 2005 Minutes by Commissioner Runbeck.
Seconded by Commissioner Hartley.

VOTE: 5-0 Motion carried (Commissioners Robinson and Leavitt abstained).

B. March 11, 2005 (regular session) Minutes

MOTION: To approve the March 11, 2005 Minutes by Commissioner Runbeck.
Seconded by Commissioner Robinson.

VOTE: 5-0 Motion carried (Commissioners Hartley and Leavitt abstained).

C. March 11, 2005 (executive session) Minutes

MOTION: To approve the March 11, 2005 executive session Minutes by Commissioner Runbeck.
Seconded by Commissioner Baker.

VOTE: 5-0 Motion carried (Commissioners Hartley and Leavitt abstained).

D. April 8, 2005 (regular session) Minutes

MOTION: To approve the April 8, 2005 Minutes by Commissioner Hartley.
Seconded by Commissioner Baker.

VOTE: 5-0 Motion carried (Commissioners Runbeck and Leavitt abstained).

E. April 8, 2005 (executive session) Minutes

MOTION: To approve the April 8, 2005 executive session Minutes by Commissioner Hartley.
Seconded by Commissioner Robinson.

VOTE: 5-0 Motion carried (Commissioners Runbeck and Leavitt abstained).

XIV. Scheduling of future meetings/agenda items

Current Proposed dates

June 10, 2005

July 8, 2005

August 12, 2005

September 9, 2005

October 14, 2005

November 10, 2005 *Note: this is a THURSDAY*****

December 9, 2005

XV. Adjournment - 2:10 p.m.

MOTION: *To adjourn by Commissioner Hartley.
Seconded by Commissioner Runbeck.*

VOTE: *6-0 Motion carried (Commissioner Baker out of the room).*