

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

**COMMISSION MEETING  
THURSDAY, September 8, 2005, 3:00 P.M.  
FRIDAY, September 9, 2005, 9:00 A.M.  
MINUTES**

**THURSDAY, SEPTEMBER 8, 2005 AGENDA**

**I. 3:00 P.M.: Call to order, Commissioner roll call**

**Commissioners Present:** Commissioners Robert Hartley, Mary Leavitt, Virgil Robinson, Jack Peterson and Debbie Runbeck

**Commissioners Absent:** Commissioners Paul Baker and Mike Fraker

**Staff Present:** Eric Bauer, Mike Francis, Lisa Gervase, Maggie Vazquez and Assistant Attorney General M. Elizabeth (Lisa) Burns

**II. Commission training**

*Lisa Burns provided a refresher training for the Commissioners. Topics of discussion included guidelines for being a good, prepared and fair Commissioner; how to recognize and deal with potential conflicts of interest and ex parte communications; and understanding the open meeting and public records laws.*

**Adjournment - 4:15 p.m.**

**FRIDAY, SEPTEMBER 9, 2005 AGENDA**

**I. 9:00 A.M.: Call to order, 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, Eric Bauer, Dave Colvin, Vince Craig, Mike Francis, Lisa Gervase, Mike Kruse, Robert Tolton, and Assistant Attorney General M. Elizabeth (Lisa) Burns

**II. Call to the public**

*None.*

**III. Communication with Commissioners**

*Commissioner Robinson stated that he had email communication from Dr. Mike Pfeiffer regarding QP exams.*

**IV. Summary of Current Commission Events, Activities, Notices**

☞ Watch Web site for future postings about Law and Rule Proposed Changes

➔ ASPCRO Meeting briefing

*Lisa Gervase stated that she recently attended the Association of Structural Pest Control Regulatory Officials (“ASPCRO”) meeting in Indianapolis, where the theme was “improving professionalism in the industry”. There were numerous presentations, and the consensus was that the number one way to improve professionalism is through education and reaching out to consumers and industry members. She stated that over half of the states are members of ASPCRO, and she was impressed by some of the industry members and regulatory agencies in some states who created schools for pest control, some for licensure and some for remedial education. She also stated that she was elected to serve a two-year term on the eight-member ASPCRO board.*

☞ EPA Federal credentials status and training

*Lisa Gervase stated that the training consists of about a week’s worth of solid work. Four staff members have completed all of the classes and two more will be completing the training soon.*

✓ Inspector training update

*Lisa Gervase stated that staff had an all-day training on August 18 to make sure everyone that everyone was on the same page regarding investigative*

*and enforcement procedures.*

*Lisa Gervase also stated that on August 29, an industry notice was sent out to all business licensees updating them as to what is currently going on with the Commission and its laws and rules, policies and procedures. It also prompted them to be aware of future changes. The notice is also on the Commission's website. Also, Arizona's state regulators have been approached to help with Hurricane Katrina relief efforts. She stated that she has offered to work with regulators in the affected states to help license in Arizona those people who worked in the pest control industry there. She stated that the Commission may help with the cost of study materials and/or tests and would also be able to put on initial license training classes for them.*

## **V. Consent Agenda**

### **A. Applications for New Business License**

#### **Qualifying Party**

- 1. Sanchez, Mario J. Superior Environmental Solutions, LLC.**  
(Activating Qualifying Party for new business license in "B3" Right of Way & Weed Control and "B5" Turf & Ornamental Horticulture)
  
- 2. Cervantes, Melanie D. Landworks Southwest** (Activating Qualifying Party for new business license in "B3" Right of Way & Weed Control and "B5" Turf & Ornamental Horticulture)

*Pulled-Ms. Cervantes appeared.*

*Commissioner Baker asked if the company's main office is in Oregon. Ms. Cervantes stated that the corporate office is in Oregon. Commissioner Baker asked how the management scheme would work. Ms. Cervantes stated that she will manage in Arizona and live in Arizona.*

**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.*

3. **Maglanoc, Lee T.**      **Apocalypse Termite and 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)
4. **Potkonjak, Nikola**      **District Pest Control** (Activating Qualifying Party for new business license in "B1" General Pest & Public Health and "B2" Control of Wood-Destroying Insects)
5. **Hughes, Steven Bruce** **Rid-A-Pest Pest Control Co.** (Activating Qualifying Party for new business license in "B1" General Pest & Public Health)
6. **Golightly, William Hal** **Gopher Guys** (Activating Qualifying Party for new business license in "B4" Fumigation)
7. **Aloe, Cynthia A.**      **Desert Pest Control, LLC.** (Activating Qualifying Party for new business license in "B1" General Pest & Public Health)
8. **Estabrook, Trent R.**      **Desert Pest Control, LLC.** (Activating Qualifying Party for new business license in "B2" Control of Wood-Destroying Insects and "B8" Wood Destroying Insect Inspection)
9. **Hughes, Abe R.**      **Desert Pest Control, LLC.** (Activating Qualifying Party for new business license in "B3" Right of Way & Weed Control)
10. **Derbes, Mark**      **Tropicare Landscape Services** (Activating Qualifying Party for new business license in "B3" Right of Way & Weed Control and "B5" Turf & Ornamental Horticulture)
11. **Nabozny, Joseph D.**      **Prime 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. **Allen, Joseph Sharp**     **Schendel Pest Control of Arizona, Inc.**  
(Activating Qualifying Party for existing business license in "B4" Fumigation)
  
2. **Lewis, Vincent John**     **Alliance Pest Management** (Activating Qualifying Party for existing business license in "B1" General Pest & Public Health, "B2" Control of Wood-Destroying Insects and "B8" Wood Destroying Insect Inspection)
  
3. **Harris, Richard K.**     **Praying Mantis Termite & Pest Control**  
(Activating Qualifying Party for existing business license in "B1" General Pest & Public Health, "B3" Right of Way & Weed Control and "B5" Turf & Ornamental Horticulture)
  
4. **Hutchinson, Peter J.**     **Praying Mantis Termite & Pest Control**  
(Activating Qualifying Party for existing business license in "B2" Control of Wood-Destroying Insects)
  
5. **Myers, Douglas M.**     **Dorado Pest Control, Inc.** (Activating Qualifying Party for existing business license in "B1" General Pest & Public Health, "B2" Control of Wood-Destroying Insects, "B3" Right of Way & Weed Control and "B8" Wood Destroying Insect Inspection)

**C. Applications for Qualifying Party License**

1. **Burns, Danny**     "B3" (Right of Way & Weed Control)
  
2. **Camfield, Meredith W.** "B5" (Turf & Ornamental Horticulture) & "B9" (Aquatic Pest Control)
  
3. **Pacheco, Mark A.**     "B3" (Right of Way & Weed Control) & "B5" (Turf & Ornamental Horticulture)
  
4. **Plattis, Jeffrey M.**     "B3" (Right of Way & Weed Control) & "B5" (Turf & Ornamental Horticulture)
  
5. **Van Poucke, Rory**     "B3" (Right of Way & Weed Control) &

- "B5" (Turf & Ornamental Horticulture)
6. **Wdowiak, Mark L.** "B3" (Right of Way & Weed Control)
  7. **Johnson, Jr.; Jess A.** "B1" (General Pest & Public Health),  
"B2" (Control of Wood-Destroying Insects) &  
"B8" (Wood Destroying Insect Inspection)
  8. **Foster, Darrell E.** "B3" (Right of Way & Weed Control)
  9. **Kosinski, Thomas M.** "B1" (General Pest & Public Health) &  
"B3" (Right of Way & Weed Control)

*Pulled-Mr. Kosinski appeared.*

*Commissioner Peterson knows Mr. Kosinski professionally because he worked for the Colorado Department of Agriculture, but had no bias or prejudice. Commissioner Hartley noted that Mr. Kosinski's experience verification seems to fall a little short of the requisite number of hours, although the remainder of the application materials are impressive. He stated that although this application is a little irregular, he is satisfied with Mr. Kosinski's qualifications.*

**MOTION:** *To approve QP testing in "B1" and "B3" by Commissioner Hartley.  
Seconded by Commissioner Robinson.*

**VOTE:** *7-0 Motion carried.*

10. **Babcock, William R.** "B3" (Right of Way & Weed Control)
11. **Cunningham, Thomas** "B3" (Right of Way & Weed Control) &  
"B5" (Turf & Ornamental Horticulture)
12. **Wolfe, William W.** "B3" (Right of Way & Weed Control)
13. **Strong, Stephen M.** "B1" (General Pest & Public Health), &  
"B2" (Control of Wood-Destroying Insects)
14. **Ferguson, Lyle John** "B1" (General Pest & Public Health), &  
"B2" (Control of Wood-Destroying Insects)

**15. Molinar, Jr.; Luis R. "B1" (General Pest & Public Health)**

*Pulled-Mr. Molinar appeared.*

*Commissioner Hartley noted that Mr. Molinar has been working for a long time without an applicator license. Mr. Molinar stated that he worked for the Department of Corrections for about a year, his license expired and then he got another license. Lisa Gervase stated that Mr. Molinar was re-licensed in February, 2005. Commissioner Hartley stated that Mr. Molinar should pay attention to the 90-day rule.*

**MOTION:** *To approve QP testing in "B1" by Commissioner Hartley.  
Seconded by Commissioner Fraker.*

**VOTE:** *7-0 Motion carried.*

**16. Michel, Ryan Troy "B1" (General Pest & Public Health)**

*Pulled-Mr. Michel appeared.*

*Commissioner Hartley noted that Mr. Michel is only asking to test for the "B1" category, but stated that he must have been very busy because his verification says that he has 6,800 hours of experience in "B1" and "B2". Mr. Michel stated that his experience was obtained in South Carolina. He passed the general pest and termite tests. The practical hours were not in the termite category.*

**MOTION:** *To approve QP testing in "B1" by Commissioner Robinson.  
Seconded by Commissioner Fraker.*

**VOTE:** *7-0 Motion carried.*

**17. Bradney, Gerald K. "B1" (General Pest & Public Health)**

**D. Business License Name Change Requests**

*None.*

**End of Consent Agenda**

**MOTION:** *By Commissioner Fraker to accept Consent Agenda with the exception of those items pulled for discussion (A2, C9, C15, C16).  
Seconded by Commissioner Runbeck.*

**VOTE:** 7-0 *Motion carried.*

**VI. Applications not on Consent Agenda**

**A. Request for Temporary Qualifying Party License Renewals**

*None.*

**B. Applications to activate Qualifying Party for New or Existing Business License**

*None.*

**C. Applications for Qualifying Party License**

**1. Winter, Alexander L. "B3" (Right of Way & Weed Control)**

*Mike Francis stated that staff is not sure that Mr. Winter's paperwork actually was fraudulent. Staff does believe that he meets the 3,000-hour experience requirement and that the notary signature on the verification of practical experience form was valid.*

**MOTION:** *To approve QP testing in "B3" by Commissioner Baker.  
Seconded by Commissioner Runbeck.*

**VOTE:** 7-0 *Motion carried.*

**2. Denny, Sean Daniel "B1" (General Pest & Public Health)**

*Tabled.*

*Commissioner Runbeck stated that it appears that staff has questions about the sufficiency of Mr. Denny's practical experience, and, since he is not here to address the Commission, the application should be tabled. Mike Francis stated that it appears that most of Mr. Denny's experience was in strictly sales, not in oversight or application of pesticides, etc..*



## VII. Complaints

*Lisa Gervase introduced Mike Kruse, the Commission's newest inspector. Mr. Kruse comes from the private industry and most of his experience is in the aquatics category.*

### A. 5 Star Termite & Pest Control, Inc. (BL)/Shelby M. Hawkins (President/CEO/QP)/Frederick M. Cox (APP) - Case # 2004-121

*Scott Richardson, attorney, was present.  
Ms. Hawkins appeared.*

*Ms. Hawkins, on behalf of the business licensee, withdrew her agreement with the proposed resolution. Commissioner Runbeck asked if the applicator agreed to a proposed resolution. Jason Aanderud stated that he did. Commissioner Peterson asked why Ms. Hawkins changed her mind. Ms. Hawkins stated that she must have had a lapse in common sense when she consented to the terms, and after she gave it more thought she decided it was insane.*

**MOTION:** *To accept proposed resolution regarding 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 regarding the business licensee to hearing by Commissioner Runbeck.  
Seconded by Commissioner Baker.*

**VOTE:** *7-0 Motion carried.*

### B. AI-Tech, Inc. dba Zeb-Tec Services (BL)/James J. Chaudoin, Sr. (President/CEO/QP)/Michael Bramlet (APP) - Case # 2005-008

**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.

**C. Landtamers, LLC. (Unlicensed)/Christopher Potter (Member)/Robert Potter (Member) - Case # 2005-010**

*Robert Potter appeared.*

*Mr. Potter stated that he is part owner of Landtamers, LLC and the other part owner is his son, Christopher Potter. He stated that Commission Inspector Brian Kennedy was helpful in providing direction for Mr. Potter after the unlicensed application violation. He stated that this is their company's first complaint and they won't have another one, as they stopped all spraying immediately, had a meeting with their team, sent two workers to classes, and one of them now has an applicator license and is working on getting a QP license and will be testing this month. He stated that they have a contract with a QP for both their big spraying jobs and their spot spraying jobs, and it is costing them a fortune to spot spray. He asked about reducing the penalty.. Jason Aanderud added that one of the aggravating factors was that the respondents knew about the Commission because they had licensed applicators. He stated that he has not seen test results to use as possible mitigators. Commissioner Peterson noted that another aggravator was that proper personal protective equipment was not used during the application. Commissioner Fraker asked if Mr. Potter knew that obtaining QP and business licenses was the proper procedure to follow, given that he had licensed applicators working for him. Mr. Potter stated that one of his licensed applicator employees said that they could spray, and he trusted that information.*

**MOTION:** *To accept proposed resolution and if the Consent Agreement is not executed by the deadline stated in the Consent Agreement transmittal letter to impose the terms in an Order, by Commissioner Baker.  
Seconded by Commissioner Fraker.*

**VOTE:** 7-0 Motion carried.

**D. Hometeam Pest Defense, LLC. (BL)/Robert Wanzer (President/CEO)/Arthur Leroy Killenbeck (QP) - Case # 2004-172**

*Mr. Killenbeck was present.*

*Marla McCarroll, from Hometeam Pest Defense, LLC, was present.*

*Bruce Goodman, from Hometeam Pest Defense, LLC, was present.*

Jayson Spear, from Hometeam Pest Defense, LLC, 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 Robinson.  
Seconded by Commissioner Hartley.

**VOTE:** 7-0 Motion carried.

**E. Professional Exterminators, LLC. dba Professional Exterminators (BL)/Randolph C.E. Johnson (Member/QP) - Case # 2005-024**

Mr. Johnson was present.

Commissioner Robinson stated that he does not believe that the Commission has assessed fines in cases like this against a QP who does not have an applicator license. Commissioner Robinson stated that he is one of those such people who has a QP license but no applicator license because he does not make applications. He felt it would be unfair to keep the extra \$100 part of the fine for this. Commissioner Fraker agreed that, to his knowledge, this was the first such case, and he stated that he does not think it was ever made blatantly clear to people in this position how to handle it. He thinks a QP license is a higher level license than an applicator license anyway, and asked why a QP who is not applying pesticides should pay for two licenses when one is sufficient, even though this is not now their legal interpretation of the appropriate action. He suggested that the Commission should reduce the fine from \$600 to \$500.

**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 Baker.  
Seconded by Commissioner Runbeck.

**AMENDED**

**MOTION:** To amend the motion to reduce the fine from \$600 to \$500, by Commissioner Hartley.  
Seconded by Commissioner Robinson.

**VOTE ON AMENDED MOTION:** 7-0 Amendment passes.

**VOTE ON ORIGINAL MOTION:** 7-0 Motion carried.

**F. Surprise Exterminating (BL)/Roger Sanchez Diaz (Owner/QP) - Case # 2004-159**

**MOTION:** To suspend the applicator and qualifying party licenses of Roger Sanchez Diaz and suspend the business license of Surprise Exterminating for nonpayment of renewal fees and dismiss the complaint without prejudice, by Commissioner Baker.  
Seconded by Commissioner Runbeck.

**VOTE:** 7-0 Motion carried.

**G. S.O.S. Exterminating, Inc. (BL)/Stephen F. Weber (QP)/Jason Melkowski (APP) - Case # 2004-074**

Scott Richardson, attorney, was present.

Lisa Gervase stated that there are two different lab analyses for this case and it is too close to call for staff to allege a violation.

**MOTION:** To accept staff's recommendation to dismiss the complaint against the business license, qualifying party license and applicator license, by Commissioner Runbeck.  
Seconded by Commissioner Fraker.

**VOTE:** 7-0 Motion carried.

**H. Charles H. Tisdale, III (APP) - Case # 2005-029**

Scott Richardson, attorney for AAA Africanized Bee Removal, was present.

Scott Richardson stated that he does not represent Mr. Tisdale, but does represent the employer who's name appeared on today's agenda, and he thinks this is unfair, as Mr. Tisdale is licensed. Commissioner Baker asked why the Commission's only option is to send the matter to hearing. Commissioner Peterson stated that this is a fairly egregious situation that has gone on for about five years.

**MOTION:** To send the matter to hearing, by Commissioner Runbeck.  
Seconded by Commissioner Baker.

**VOTE:** 7-0 Motion carried.

**I. WWL, Inc. (Unlicensed)/Bruce A. Winters (President/CEO) - Case # 2005-009**

**MOTION:** To accept proposed resolution and if the Consent Agreement is not executed by the deadline stated in the Consent Agreement transmittal letter to impose the terms in an Order, by Commissioner Runbeck.  
Seconded by Commissioner Baker.

**VOTE:** 7-0 Motion carried.

**J. TEAC (Unlicensed)/C. Wayne Chambers (Owner) - Case # 2005-012**

**MOTION:** To accept proposed resolution and if the Consent Agreement is not executed by the deadline stated in the Consent Agreement transmittal letter to impose the terms in an Order, by Commissioner Runbeck.  
Seconded by Commissioner Baker.

**VOTE:** 7-0 Motion carried.

**VIII. Requests for Review or Rehearing of Previous Commission Decisions.**

*None.*

**IX. Review or Rehearing of Previous Commission Decisions.**

*None.*

**X. Consideration of Suspension of Business, Qualifying Party and/or Applicator Licenses for Non-payment of Civil Penalties and/or Nonpayment of Renewal Fees [Possible Dismissal of Cases without prejudice, if applicable].**

**A. Richard M. Lucken (App # 030884 B2) (Issued 12/15/03) (Expired 5/31/05) - Case No. 2004-099 - Mr. Lucken signed the consent agreement and paid the civil penalty, but did not complete the three hours of C.E. Since then, he did not renew his license. Commission's consideration of Suspension of Richard M. Lucken's Applicator License for nonpayment of**

renewal fees and close the case.

**MOTION:** *To suspend the applicator license for non-payment of renewal fees and to close without prejudice Case Number 2004-099, by Commissioner Runbeck. Seconded by Commissioner Baker.*

**VOTE:** 7-0 *Motion carried.*

- B. Jonathan James Calligan (App # 040892 B2) (Issued 3/31/04) (Expired 5/31/05) and (App # 020373 B1) (Issued 4/26/02) (Expired 5/31/03) - Case No. 2004-149** - Mr. Calligan did not sign the consent agreement in this case, nor has he renewed his license. Recommendation for dismissal without prejudice against Jonathan J. Calligan's two Applicator Licenses and Commission's consideration of Suspension of Jonathan J. Calligan's two Applicator Licenses for nonpayment of renewal fees.

**MOTION:** *To suspend the two applicator licenses for non-payment of renewal fees and to dismiss without prejudice Case Number 2004-149, by Commissioner Runbeck. Seconded by Commissioner Fraker.*

**VOTE:** 7-0 *Motion carried.*

*(Break from 10:05 A.M. to 10:20 A.M.)*

- XI. Consideration of lifting Suspension of Business, Qualifying Party and/or Applicator Licenses.**

*None.*

- XII. Recommended Decisions and Orders of the Office of Administrative Hearings' Administrative Law Judges.**

- A. SOS Exterminating, Inc. (BL)/Stephen Weber (QP)/Steve Mayo, II (App) - OAH Docket # 04A-031-SPC/SPCC Case No. 2004-031 - SOS Exterminating - Structural Pest Control Commission - Commission's consideration of Pesticide Use Monitoring Program According to the Commission's August 15, 2005 Order.**

*Lisa Burns, Assistant Attorney General for the State of Arizona, representing the Structural Pest Control Commission, appeared.  
Scott Richardson, attorney for the respondents, appeared.*

*Lisa Burns and Scott Richardson stated that they agree to the Pesticide Use Monitoring Program created since last month's meeting.*

**MOTION:** *To approve the Pesticide Use Monitoring Program, by Commissioner Baker.  
Seconded by Commissioner Leavitt.*

**VOTE:** *7-0 Motion carried.*

**B. Dustin Vrska (App) - OAH Docket # 04A-068-SPC/SPCC Case No. 2004-068**

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

*Lisa Burns stated that a hearing was held on July 28, and on behalf of the State she asked that the Commission accept the Findings of Fact, Conclusions of Law and Recommended Order for an Administrative Warning and a \$500 Civil Penalty.*

**MOTION:** *To adopt the ALJ's Findings of Fact and Conclusions of Law, by Commissioner Runbeck.  
Seconded by Commissioner Fraker.*

**VOTE:** *7-0 Motion carried.*

**MOTION:** *To accept the ALJ's Recommended Order, by Commissioner Runbeck.  
Seconded by Commissioner Fraker.*

**VOTE:** *7-0 Motion carried.*

**XIII. Settlement Proposals [not part of Complaints agenda item].**

*None.*

**XIV. Consideration of Informal Settlement Conference proposed resolutions [for License Denial Applicants].**

*None.*

**XV. Reporting by Licensees on Probation.**

**A. Licensee's Probation Reporting: Bryan Robert Pearson, Applicator License # 050610 B1 - Case No. 2005-024.**

*Mr. Pearson appeared.*

*Lisa Gervase stated that this is Mr. Pearson's quarterly appearance. Mr. Pearson has given self-reports of AA attendance twice per week and has also had negative urinalyses tests. His former employer, The Beekeeper Total Bee Control, Inc., reported good work from him. Since then, Mr. Pearson has been working for an environmental company and wants to place his applicator license on inactive status. Commissioner Peterson asked if this would mean making a change to the consent agreement and order terms. Lisa Burns stated that the Commission may enter into an amended consent agreement until such time that Mr. Pearson is again employed in the pest control industry. The terms of the original consent agreement would be put on hold in the meantime.*

**MOTION:** *To place Mr. Pearson's applicator license on inactive status and to put on hold the terms of the consent agreement until such time that Mr. Pearson reactivates his applicator license and is again employed in the pest control industry, by Commissioner Baker.  
Seconded by Commissioner Runbeck.*

**VOTE:** 7-0 Motion carried.

*Mr. Pearson noted that in the original consent agreement, there was no "out" for him. He stated that he did not foresee this happening and thanked the Commission for making this motion.*

**XVI. Applicants with Criminal Convictions**

**A. Barber, Gary Thomas**

*Mr. Barber appeared  
Keith Whitted, from Western Exterminator Company, appeared.*

*Mr. Whitted stated that Mr. Barber has worked for Western for several months with no problems*

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



**VOTE:** 7-0 Motion carried.

**B. Trujillo, Jr.; Gene Ramirez**

*Mr. Trujillo appeared.*

*Mr. Trujillo stated that he is employed by KG&E Development as a heavy equipment operator, but he wants to get an exterminator's license. Commissioner Peterson stated that the Commission could potentially give to Mr. Trujillo a license that would allow him to go into people's homes, and noted that his felony was in theft. Mr. Trujillo stated that he was having a hard time financially at the time and it won't happen again. He stated that he had just gotten married and had a kid, and he had some additional expenses. Commissioner Runbeck asked if Mr. Trujillo only got a year of probation for this. Mr. Trujillo stated that he received one year of unsupervised probation and he is not on probation now. He also stated that he was a detective for the Douglas Police Department for 20 years. Commissioner Fraker asked if this is Mr. Trujillo's only offense. Mr. Trujillo stated that it was and that his record has been expunged. He was also required to make restitution. Commissioner Fraker asked what draws Mr. Trujillo to the pest control business. Mr. Trujillo stated that there are pretreatment opportunities in Douglas because of the growth of housing there and in surrounding areas. He also felt it would be a good way to take care of his family. Commissioner Runbeck stated that, as a former police officer herself, she recognizes it as a position of trust and it concerns her that someone would violate that trust. Mr. Trujillo acknowledge this and stated that it was an embarrassing thing that he has to live with. However, he stated that people with whom he used to work are trying to get him back on his feet.*

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

**VOTE:** 7-0 Motion carried.

**C. Irvine, Jeffrey S.**

*Mr. Irvine appeared.*

*Scott Richardson, attorney for Sexton Pest Control, Inc., Mr. Irvine's employer, appeared.*

*Commissioner Robinson asked if Mr. Irvine is still on probation. Mr. Irvine stated that he is until July, 2007, but he could get off earlier. Commissioner Baker asked what Mr. Irvine is doing to keep himself away from bad influences. Mr. Irvine stated that he sticks to himself and just goes to work, which is about all he can do. Commissioner Baker asked if has Sexton has helped him. Mr. Irvine stated that he*

has been supportive. Commissioner Runbeck asked how long Mr. Irvine has been working for Sexton. Mr. Irvine stated that it has been 5 years. Commissioner Peterson noted that Mr. Irvine's most recent felony conviction occurred in February, 2004 and asked when his two prior convictions occurred. Mr. Irvine stated that they were both in 2000, and both were misdemeanors. He stated that he has been clean since the arrest in February, 2004. Commissioner Runbeck asked if Mr. Irvine is subject to random testing under his probation. Mr. Irvine stated that he is and that he has also done drug classes.

**MOTION:** To approve application for renewal by Commissioner Runbeck.  
Seconded by Commissioner Hartley.

**VOTE:** 7-0 Motion carried.

**D. Francis, III; William Wilson**

Mr. Francis was not present.

This application was tabled from last month's meeting.

Commissioner Peterson asked what Mr. Francis is doing now. Robert Tolton stated that he has had no communication with Mr. Francis. Staff sent out notices of today's meeting via certified mail, and they were returned. Lisa Burns stated that the Commission may not deny Mr. Francis' application merely for not attending today's meeting. A denial would have to be based on evidence presented. Commissioner Peterson stated that Mr. Francis seemed like he had a fairly nonchalant attitude about the things he did wrong.

**MOTION:** To deny based on lack of good moral character, by  
Commissioner Baker.  
Seconded by Commissioner Leavitt.

**VOTE:** 7-0 Motion carried.

**E. Bell, Billy Dewayne**

Mr. Bell was not present.

This application was tabled from last month's meeting.

Lisa Gervase stated that the application can't be tabled again though because of the time frame, so a decision would need to be rendered today. Robert Tolton stated that Mr. Bell is currently working for Yavapai College. Commissioner Leavitt asked if the Commission could move into executive session to obtain legal advice.

**MOTION:** To enter Executive Session to obtain legal advice by Commissioner Leavitt.  
Seconded by Commissioner Hartley.

**VOTE:** 7-0 Motion carried.

(Executive Session from 10:50 A.M. to 11:00 A.M.)

Upon emerging from the executive session, Commissioner Leavitt recused herself due to the possibility of bias. Commissioner Runbeck stated that she is inclined to approve the application in light of the facts that the offense occurred 11 years ago, Mr. Bell is off probation he and has been with Yavapai College for three years.

**MOTION:** To approve by Commissioner Runbeck.  
Seconded by Commissioner Baker.

**VOTE:** 2-4 Motion failed (Commissioners Hartley, Robinson, Fraker and Baker opposed and Commissioner Leavitt recused).

**MOTION:** To deny based on lack of good moral character, by Commissioner Baker.  
Seconded by Commissioner Hartley.

**VOTE:** 4-2 Motion carried (Commissioners Peterson and Runbeck opposed and Commissioner Leavitt recused).

**F. Kittle, Ryan Matthew**

Mr. Kittle appeared.

Charles Hickle, from S O S Exterminating, Inc., appeared.

Mr. Hickle stated that he is Mr. Kittle's field supervisor and the one who hired him in February. He stated that Mr. Kittle does trenching on stem pretreatments around houses. He stated that Mr. Kittle's moral character and professionalism have been outstanding. Lisa Gervase added that staff received a court order document this morning discharging Mr. Kittle from parole. Commissioner Peterson asked Mr. Kittle if this was a one time thing. Mr. Kittle stated that it was.

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

**VOTE:** 7-0 Motion carried.

**G. Tucker, Brian Patrick**

*Mr. Tucker appeared.*

*Ken Tucker, Mr. Tucker's father and employer, appeared.*

*Commissioner Fraker recused himself.*

*Ken Tucker stated that Mr. Tucker has been working for him part-time while studying pest control materials. Mr. Tucker is enrolled with Metro to test soon for his applicator license. Mr. Tucker stated that he started parole on June 6 and will be on parole until March, 2006. Commissioner Robinson asked Mr. Tucker to explain the circumstances surrounding his car theft. Mr. Tucker stated that in 2001 he went through a divorce and started hanging around with the wrong people. He was driving a stolen vehicle with others in the vehicle. There were also stolen checks in the car that he was in possession of within his reach. He stated that he is now making restitution for thousands of dollars and accepts responsibility for his own actions. In 2002, he was sentenced to 3.6 years in prison. He got out early after serving 34 months and completed the rest on parole. He stated that he was incarcerated in Winslow with no disciplinary action against him, and spent his time there studying pest control manuals again. Commissioner Peterson asked if Mr. Tucker had new friends now. Mr. Tucker stated that he does. He also stated that he is staying with his parents now until his supervision is done. He stated that he has been going to church every week, and his time is well focused with his kids and at work for his dad. He wants to get back in the pest control industry though and would like to eventually get a QP license and do it on his own. Commissioner Runbeck asked if there is a company that has agreed to hire him. Mr. Tucker stated that there isn't one yet and that he wants to first get his license. Commissioner Runbeck asked who Mr. Tucker worked for before when he was in the pest control industry. Mr. Tucker stated that he worked for Commissioner Fraker at Patriot Pest & Termite Control for eight months and also for Burns Pest Elimination for almost two years. Commissioner Baker stated that Mr. Tucker is showing the right signs of behavior now but is still concerned because Mr. Tucker just got out of prison and is still on parole. Commissioner Robinson agreed. Commissioner Peterson advised Mr. Tucker that he has the option to withdraw his application today and can come back before the Commission at a later time and apply again perhaps when his parole is done. This way, he would be able to avoid having a denial on his record. Lisa Gervase noted, however, that if a license is denied, Mr. Tucker still would have the right to go to a formal hearing and present his case to an Administrative Law Judge if he so chooses. Mr. Tucker then withdrew his application.*

*Application withdrawn.*

**H. Mitchell, Jason Eshunn Romar**

*Mr. Mitchell appeared.*

*Darren Kirkham, employer from Frontline Exterminating, LLC, appeared.*

*Mr. Mitchell submitted a reference letter from his mother-in-law. Mr. Kirkham stated that Mr. Mitchell has good customer service skills. Commissioner Baker asked what Mr. Mitchell has been doing over the past couple of years. Mr. Mitchell stated that he has been working in customer service jobs and in sales jobs selling about anything he can sell, telephone work for the most part. He stated that he stumbled upon the pest control industry in the newspaper, namely Safeguard Pest Control, who allowed him to enter the industry. He stated that it seemed like it could be profitable and would allow him to work outside of an office atmosphere. Mr. Kirkham stated that Mr. Mitchell just started about a week and half ago as an applicator and has been honest with what has happened in the past and has nothing to hide. Mr. Mitchell acknowledged that he has a pretty long criminal history and affiliation with gangs. In 1996, he received his first felony for resisting arrest while under the influence of PCP. He stated that he got into an altercation with a friend of his and then ran away from officers. His charge of attempted forgery was committed in 1994, but he didn't serve time on that until being released from prison for the resisting arrest charge. He stated that his friends asked him to cash a stolen check, and he got caught because they were dumb enough to go to the bank where the victim banked. He was 22 years old at the time. He stated that he was incarcerated from 1996-1997, and was re-incarcerated from 1998-1999 for the forgery felony. He stated that his fourth felony for resisting arrest and disorderly conduct was in 1999. He served three years for that, was released in 2003, and completed parole in 2004. Commissioner Runbeck asked if Mr. Mitchell was subject to random drug tests while on parole. Mr. Mitchell stated that he was and that he completed those and completed anger management classes. He also took classes about changing his ways of thinking. Commissioner Runbeck asked if Mr. Mitchell had to pay restitution. Mr. Mitchell stated that there is no more restitution to pay and that his co-defendants had to pay forgery restitution. Commissioner Peterson asked if Mr. Mitchell has had any problems since February, 2004. Mr. Mitchell stated that he has not except for only a couple of traffic tickets: speeding and running a red light. Commissioner Peterson asked if once you are a member of a gang, whether you are always a member. Mr. Mitchell stated that is a cliché. He stated that he is a man who got involved with a group of kids. They would use each other to get different things and after his second time in prison, when he was 22, he realized that he did not need them any more. He told them that he is a man now and has a family to look after. He stated that he never turned his back on them as a friend, but he told them he couldn't deal with them in criminal aspects anymore. Most, if not all of them, are locked up right now. The only recent contact he has had was when one of them came over to him. Commissioner Runbeck asked what happened in 1999 and 2000. Mr. Mitchell stated that he had come home late after being at a bar and police were on the premises investigating something else. He started being a jerk and was cited*

*for resisting arrest and disorderly conduct. He stated that he had recently gotten out of prison when that happened. He took it to court and to trial, which ended up with a hung jury. Commissioner Peterson asked if Mr. Mitchell still drinks. Mr. Mitchell stated that he used to have hard liquor but now will occasionally have a few beers. But he stated that he does not get out of hand now. He also used to drink by himself, which was problematic. Commissioner Runbeck recognized that Mr. Mitchell's criminal history stems from a young age and stated that she was impressed by his honesty and willingness to deal with the things that have gone on, and also the fact that he has someone willing to vouch for him. She expressed hope that he would not let people down.*

**MOTION:** *To approve by Commissioner Runbeck.  
Seconded by Commissioner Baker.*

**VOTE:** 7-0 *Motion carried.*

**I. Mackendrick, Jason Christopher**

*Pulled from the agenda.*

**J. Sheets, Diane Louise**

*Ms. Sheets appeared.*

*Commissioner Baker asked Ms. Sheets if she is currently employed. Ms. Sheets stated that she is employed by Top Notch Pest Control, which is owned by her husband. She has been working for them for about two to three years without a wage. She stated that she would just be filling in doing pesticide applications. Commissioner Peterson asked Ms. Sheets if she has or did have a problem with drinking. Ms. Sheets stated that she drank and drove, which resulted in her having to pay fines, take classes, go to counseling, etc., and she thinks that helped, because she has since given up drinking. She stated that she was on supervised probation for 18 months with no dirty random screenings, and she has been off of probation for a little over a year.*

**MOTION:** *To approve by Commissioner Baker.  
Seconded by Commissioner Runbeck.*

**VOTE:** 7-0 *Motion carried.*

**XVII. Commission Updates and Reports**

**A. Metro Institute's request to modify test site locations**

*Lisa Gervase stated that she has been in discussions with Mike Means from Metro Institute regarding moving a testing site from Tempe to a location more in demand for customers. The current contract requires that the testing sites be one east of Central Avenue and one west of Central Avenue. She stated that it seems like it would be a good idea to have a testing site more towards the northwest valley, and she will probably craft a letter amendment to the contract. Commissioner Fraker agreed that this would be a step in the right direction.*

**B. Possible Future Law Changes**

*Scott Richardson, attorney, appeared.*

*Keith Whitted, from Western Exterminator Company, appeared.*

*Larry Musgrove, from Western Exterminator Company, appeared.*

*Tom Kosinski appeared.*

*Brian Ferris, from Terminix, appeared.*

*Andy Weber, from S O S Exterminating, appeared.*

*Lisa Gervase stated that at the last stakeholder meeting, they reviewed draft language of the proposed bill that she will be submitting to the legislature. She and the Commissioners then discussed some of the highlights and new items.*

*One new issue for which consensus was reached involves when a business license is held as a sole proprietorship, and the sole proprietor dies, allowing their surviving spouse to take over the business license.*

*Lisa Gervase stated that another issue concerns how to handle termite treatments to additions. After discussion, there was consensus about proposed language.*

**C. Possible Future Rule Changes**

*No update.*

**D. Complaint Status Log - written report provided**

**E. Computer Based Testing “CBT” Status and Statistics - written report**

**F. Expenditure Report - separate handout or verbal report**

*Lisa Gervase stated that there is no new information here. The Commission had \$200 remaining in the budget on June 30, the end of the budget cycle.*

**G. Case Status Report - no update**

**H. Gloria Kilian, dba Kilian's Termite and Pest Control, Co., vs. Structural Pest Control Commission, Case No. C20053438**

*Lisa Gervase stated that this past Tuesday, Lisa Burns had a conference with the judge in this case, who extended until September 30 the stay of the Commission's decision to deny a renewal of Ms. Kilian's temporary qualifying party license. The judge told her that she needs to either get her own QP license or get someone else to be her qualifying party by September 30, or she will have to shut her doors and stop operating except in the "B1" category in which she does have an active qualifying party working for her.*

**XVIII. Approval of Minutes**

**A. August 12, 2005 (regular session) Minutes**

**MOTION:** *To approve the August 12, 2005 Minutes by Commissioner Hartley.  
Seconded by Commissioner Baker.*

**VOTE:** 6-0 *Motion carried (Commissioner Runbeck abstained).*

**B. Continuing Education Minutes**

*Jason Aanderud stated that in the coming months the Commissioners will be seeing a lot more.*

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

**VOTE:** 7-0 *Motion carried.*

**XIX. Scheduling of future meetings/agenda items**

**Current Proposed dates**

**October 14, 2005: In TUCSON - Commissioner Fraker unavailable.  
Pima County Board of Supervisors Auditorium  
130 W. Congress, 1<sup>st</sup> Floor, Tucson, AZ**

**November 10, 2005: This is a THURSDAY  
December 9, 2005  
January 13, 2006**



February 10, 2006  
March 10, 2006  
April 14, 2006

**XX. Adjournment - 1:00 p.m.**

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

**VOTE:** *7-0 Motion carried.*