

COMMISSION MEETING
SEPTEMBER 08, 2000
MINUTES

I. Call to order and roll call

Commissioners Present: Chairman Tennenbaum, Commissioners Hartley, Hale, Burrows, Micuda, and Silva.

Staff Present: Acting Executive Director Jerry Davis, David Broadstreet, Anthony Harback, Richard Mars, and Assistant Attorney General Blair Driggs

II. Approval of August minutes.....TAB 1

DISCUSSION: It was noted there was an amendment to the minutes of August and should be included in the motion to approve the August minutes.

MOTION: To approve August 2000 minutes and the amendment to the minutes by Commissioner Burrows, Seconded by Commissioner Hartley

VOTE: 6 - 0 Motion carried

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

Robert Wagnor, president of Arizona Pest Management Associations Central Chapter addressed the commissioners in regard to the review of SPCC rules and regulations. He informed the association had formed a committee to look into changes in the laws and revisions, which the industry would like to see. He questioned what the time table was on the changes, and requested the association be informed of the proposed changes on a one by one basis, allowing the APMA committee to advise the Rules Committee of any changes the industry would like to see implemented.

IV. Correspondence with Commissioners

Commissioner Silva informed of letter received regarding.....Chairman Tennenbaum informed of letters received endorsing Jerome Davis as Executive Director of the SPCC.

V. Scheduling of future meetings / agenda items

- October 13, 2000 Tucson, AZ**
- November 17, 2000 Scottsdale, AZ**
- December 08, 2000 Scottsdale, AZ**

Chairman Tennenbaum questioned staff regarding a backlog of testing, informing he tried to get employees in to test and was informed there was a backlog till the 25th of September. Inquired if sub-contracting was a consideration. Requested the problem be addressed.

VI. Administrative Law Judges Findings and Recommended Conclusions.

A. S.O.S. Exterminating (Eagle) – case # 98-188 & 99-001 TAB 2

No one from the company present to represent the company.

DISCUSSION: Blair Driggs spoke as representation of the State, informing the Commissioners they needed to include in their Motion to formally dismiss against SOS, since this was only against the applicator.

MOTION: To ACCEPT FINDINGS OF FACT AND CONCLUSIONS OF LAW of the ALJ's Recommended Order , by Commissioner Burrows,
Seconded by Commissioner Hartley.

VOTE: 6/0 - Motion carried.

For the record David Broadstreet read the order in its entirety.

MOTION: To APPROVE the ALJ's Recommended Order , by Commissioner Hale,
Seconded by Commissioner Hartley.

VOTE: 6/0 - Motion carried.

MOTION: To DISMISS THE COMPLAINT AGAINST SOS, by Commissioner Hale,
Seconded by Commissioner Micuda.

VOTE: 6/0 - Motion carried.

B. No Bugs Allowed – case # 99-035 TAB 3

Edward Manciet was present to represent the company.

DISCUSSION: Blair Driggs spoke as representation of the State outlining the findings of fact and conclusions of law. Mr. Manciet stated his reasons as to the violations found.

MOTION: To ACCEPT FINDINGS OF FACT AND CONCLUSIONS OF LAW of the ALJ's Recommended Order , by Commissioner Micuda,

Seconded by Commissioner Hale.

VOTE: 6/0 - Motion carried

For the record David Broadstreet read the order in its entirety.

DISCUSSION: There was discussion regarding the order and changes. Mr. Manciet requested more time for payment of any fines. Blair Driggs discussed penalties allowed and offered advice on time frame.

MOTION: To AMEND the ALJ’s Recommended Order to strike paragraphs 4 and 5, imposing \$10,000.00 civil penalty payable within 120 days, automatic revocation of license if not paid within allotted time, by Commissioner Hartley,
Seconded by Commissioner Burrows.

MOTION: To AMEND the MOTION to include 18 month probation period upon reinstatement of “C” category of business license, by Commissioner Micuda,
Seconded by Commissioner Hartley.

VOTE: 5/1 – Motion carried

VOTE: 5/1 – Amended Motion carried.

C. Casa Grande Exterminating – case # 99-113 TAB 4

Michael Huppert, Qualifying Party was present to represent the company.

DISCUSSION: Blair Driggs spoke as representation of the State. Mr. Driggs outlined the finding of facts and conclusions of law.

MOTION: To APPROVE the Finding of Facts and Conclusions of Law, by Commissioner Micuda,
Seconded by Commissioner Hartley.

VOTE: 6 /0 - Motion carried

MOTION: To APPROVE the ALJ’s Recommended Order with the addition of a one-year probationary period, and an administrative warning for violations found , by Commissioner Micuda,
Seconded by Commissioner Hartley.

VOTE: 6 /0 - Motion carried

*For the record Chairman Tennenbaum requested the order be read to include the changes. David
September 10, 2000*

Broadstreet read the order.

D. Don's Termite Service – case # 99-121 TAB 5

Scott Richardson was present to represent the company.

DISCUSSION: Blair Driggs spoke as representation of the State recommended changes in finding of facts on paragraph 15, the times were incorrect, should be 8:50 and 9:17.

MOTION: To APPROVE the Findings of Fact and Conclusions of the ALJ with changes recommended by Mr. Driggs, by Commissioner Micuda, Seconded by Commissioner Hartley.

VOTE: 6/0 - Motion carried

MOTION: To APPROVE the ALJ's Recommended Order , by Commissioner Hale, Seconded by Commissioner Hartley.

VOTE: 6/0 - Motion carried

For the record Chairman Tennenbaum requested the order be read. David Broadstreet read the order.

E. Don's Termite Service – case # 99-122 TAB 6

Scott Richardson was present to represent the company.

DISCUSSION: Blair Driggs spoke as representation of the State, outlined the findings of facts and conclusions of law.

MOTION: To APPROVE the Findings of Fact and the Conclusions of the ALJ, by Commissioner Micuda, Seconded by Commissioner Hale.

VOTE: 6/0 - Motion carried

DISCUSSION: Scott Richardson representation for Don's Termite Service addressed the commission informing the employer did what he was able to get the applicator to appropriately do the job.

MOTION: To APPROVE the ALJ's recommended Order, by Commissioner Micuda, Seconded by Commissioner Hartley.

*MOTION: To AMMEND the Motion on the floor raising the fine to \$1000.00.
Seconded by Commissioner Hale.*

VOTE: Vote uncertain, Roll Call 6/0 – Motion failed.

*MOTION: To APPROVE the ALJ's recommended Order changing paragraph's c & d striking the 301 A & B violations, by Commissioner Hartley.
Seconded by Commissioner Micuda.*

VOTE: 5/1 – Motion carries.

For the record Chairman Tennenbaum requested the order be read to include the changes. David Broadstreet read the order in its entirety including the appropriate changes as voted on.

F. American Termite and Pest – case # 99-049 TAB 7

No one from the company present to represent the company.

*MOTION: To APPROVE the Findings of Fact and the Conclusions of Law, by Commissioner Hale,
Seconded by Commissioner Hartley.*

VOTE: 6/0 - Motion carried

For the record Chairman Tennenbaum requested the order be read. David Broadstreet read the order.

DISCUSSION: Questions were raised regarding extension of the warranty as written in the ALJ Recommended Order. CEU hours amount was also discussed.

*MOTION: To REVOKE the BUSINESS AND QUALIFYING PARTY CREDENTIALS, by
Commissioner Burrows.
Seconded by Commissioner Hartley.*

VOTE: 1/5 – Motion Fails.

DISCUSSION: Suspension and probation was discussed as well as fines.

MOTION: To AMMEND the ORDER to include imposition of a \$1000.00 civil penalty against the Business License; Suspension of the Business License for six months; the Business License be placed on Pretreatment Probation for a period of one year upon reinstatement of the Business License; imposition of a civil penalty against the Qualifying Party Credential in the amount of \$1000.00; and the Applicator to obtain and complete six hours of CEU

credits beyond the required amount of the Commission, to be completed within 90 days of the order, by Commissioner Hale..
Seconded by Commissioner Hartley.

VOTE: 6/0 – Motion carried.

VII. Request for Rehearing of Commission Decision.

A. American Termite and Pest – case # 99-074 TAB 8
No one was present to represent the company.

DISCUSSION: Blair Driggs spoke as representation of the State, pointing out that for the commission to rehear the case or review their decision there should be new facts or issues not heard at the hearing to be put forth, noting this was not the case in this instance..

MOTION: To DENY the Request for Rehearing., by Commissioner Burrows, Seconded by Commissioner Hale.

VOTE: 6/0 - Motion carried

B. American Termite and Pest – case # 99-142 TAB 9
No one was present to represent the company.

DISCUSSION: Blair Driggs spoke as representation of the State, again noting that new facts or evidence was not presented.

MOTION: To DENY the Request for Rehearing., by Commissioner Burrows, Seconded by Commissioner Micuda.

VOTE: 6/0 - Motion carried

The Amended Agenda Item was discussed at this time.

University Pest Control – case # 99-140

The Qualifying Party was not present, however his council requested this be postponed till a later date so he may attend. The commissioners noted that he himself had proposed to be on this agenda, thus should have been present. The Commissioners agreed to TABLE the matter till the next meeting.

VIII. Consent Agenda.

The consent agenda was read in its entirety and items pulled were discussed. The remaining items were voted on all at once.

MOTION: *To APPROVE ALL ITEMS NOT PULLED FROM THE AGENDA FOR DISCUSSION, by Commissioner Burrows, Secoded by Commissioner Hale.*

VOTE: *6/0 – Motion carries.*

A. Applications for Business Licenses & Qualifying Party Credentials

- 1. Aloe, Cynthia A. dba Desert Pest Control (New Business License Activating Q.P.) (B) TAB 10**
- 2. Alongi, Donald dba Rescue Pest Management (Activating Q.P. for Existing Business) (B, C) TAB 11**
- 3. Balows, Chris B. dba Scottsdale Golf Group (Activating Q.P. for Existing Business) (E, F) TAB 12**
- 4. Bartko, Joseph dba Mesa Country Club (Activating Q.P. for Existing Business) (E, F) TAB 13**
- 5. Bornkessel, Joseph G. dba Sun City Grand Community Association (New Business License & Activating Q.P.) (E, F)..... TAB 14**
- 6. Brecheisen, Ron dba Brec Tree (New Business License & Activating Q.P) (E, F) TAB 15**
- 7. Green, Charles H. dba TPC of Scottsdale (Activating Q.P. for Existing Business) (E, F) TAB 16**
- 8. Golightly, William Hal dba Western Exterminator Company (Activating Q.P. for Existing Business) (C) TAB 17**
- 9. Goren, Jeff dba Terravita Golf and Country Club (Activating Q.P. for New Business) (E, F, E-1, F-1) .TAB 18**
- 10. Knaussman, Kevin dba K-Tech Pest Systems (Activating Q.P. for New**

Business) (B) TAB 19

11. Kostas, William L. dba Arizona Country Club (Activating Q.P. & New Business License (E, F) TAB 20

12. Kudick, Andrew P. dba Intec Services Inc. (Activating Q.P. & New Business License) (C, D) TAB 21
Pulled

DISCUSSION: Questions raised about the Q.P. being from a different state. Mr. Kudick was present and answered the commissions questions.

MOTION: To APPROVE, by Commissioner Hartley. Seconded by Commissioner Hale.

VOTE: 6/0 – Motion carries.

13. Lyman, Mark dba Consolidated Sport Holdings (USA) Inc., (Coyote Ridge Golf Course) (Activating Q.P. & New Business License) (E, F)..... TAB 22

14. Matiello, Sam J. dba Artezan Pest Services (Activating Q.P. & New Business License) (B) TAB 23

15. McDavid, William E. dba Coconino Pest Control, Inc. (Activating Q.P. for Existing Business) (F & Broadening BL to F) TAB 24

16. Natti, Johnathan D. dba Hassayampa Golf Club, L.L.C. (Activating Q.P. for Existing Business) (E,F) TAB 25

17. Nowicz, Lucinda dba Maricopa Exterminating (Activating Q.P. for Existing Business) (B) TAB 26
Pulled

DISCUSSION: The Commission commended applicant on the Business Plan presented and questioned regarding the amount of time business practicing. Ms. Nowicz was present and answered the commissions questions.

MOTION: To APPROVE, by Commissioner Hale.

Seconded by Commissioner Micuda.

VOTE: 6/0 – Motion carries.

18. Patton, Michael J. dba Pattons Pest Management (Activating Q.P. & New Business License) (B) TAB 27
Pulled

DISCUSSION: Questions were raised about the name.

*MOTION: To APPROVE, by Commissioner Hartley.
Seconded by Commissioner Hale.*

VOTE: 6/0 – Motion carries.

19. Pologa, Trudi A. dba Pinky’s Pest Control, Inc. (Activating Q.P. & New Business License) (B) TAB 28

20. Reed, Dennis Robert dba Tru Green Landcare L.L.C. (Activating Q.P. for Existing Business) (E, F) TAB 29

21. Sutton, James N. dba Bee Gone Pest Service (Activating Q.P. & New Business License) (B) TAB 30
Pulled

*DISCUSSION: Questions were raised about the name, too similar to an existing company.
The applicant was present and agreed to use the second choice on application.*

*MOTION: To APPROVE the Name SUTTON EXTERMINATING, by Commissioner Hale,
Seconded by Commissioner Hartley.*

VOTE: 6/0 – Motion carries.

B. Applications Requesting Company Name Change.

1. Enviro Care to Pro Clean Pest Elimination . TAB 31
Pulled

DISCUSSION: Questions were raised about the business, The applicant was present and informed he is forming a partnership with Proclean.

*MOTION: To APPROVE, by Commissioner Burrows,
Seconded by Commissioner Hartley.*

VOTE: 6/0 – Motion carries.

2. Donahue/McDaniel Pest & Termite to MD Pest & Termite Inc., . . . TAB 32

C. Applicants Requesting Extension of Temporary Qualifying Party Certificates.

1. Treadway, Thomas dba Treadway Pest Control (B) TAB 33

D. Applicants for Q.P. Testing.

1. Aparisi, Christopher (B) TAB 34

2. Brady, Tim (E, F) TAB 35

3. Buxton, John (B) TAB 36

4. Ferguson, William E. (B) TAB 37

5. Gonzalez, Deciderio (C) TAB 38
Pulled

DISCUSSION: Inquiries regarding experience, verified.

*MOTION: To APPROVE, by Commissioner Hale,
Seconded by Commissioner Hartley.*

VOTE: 6/0 – Motion carries.

6. Harrison, James V. (E) TAB 39

7. Hay, Mark E. (C) TAB 40

DISCUSSION: Inquiries regarding experience and classification thereof.

MOTION: To APPROVE, by Commissioner Hale,

Seconded by Commissioner Micuda.

VOTE: 6/0 – Motion carries.

- 8. Mathis, Dennis II (B) TAB 41**
- 9. Millen, Mickey (B) TAB 42**
- 10. Saxton, Laurianne M. (B,C) TAB 43**
- 11. Slupe, Romaine G. (C) TAB 44**

DISCUSSION: Discussion as to the fact that this was staff.

*MOTION: To APPROVE, by Commissioner Hartley,
Seconded by Commissioner Micuda.*

VOTE: 6/0 – Motion carries.

- 12. Treadway, Thomas (B) TAB 45**

E. Structural Treatment Proposals

- 1. KSB Pest Prevention TAB 46**

F. Certification Testing Proposal

- 1. Metro Institute TAB 47**
Pulled

*DISCUSSION: Mike Means present to inform the company of twenty years sold one year ago,
now does training in Phoenix and Tucson areas. Discussed possibility of Metro
Institute conducting testing as well to assist in overload at SPCC.*

End of consent Agenda.

IX. Continuing Education Committee Meeting of August 29, 2000 TAB 48

September 10, 2000

- 1. Minutes of July Committee Meeting Approved
- 2. Commission Meeting
- 3. Scott Richardson
- 4. University Pest Control
- 5. Pesticide Training Resources
- 6. Truly Nolen Approved
- 7. Pesticide Training Resources
- 7. Pesticide Training Resources
- 8. Southwest Horticultural Conference
- 9. Discussion Item
- 10. Adjournment

DISCUSSION: Doug Seeman present and discussed issues of categorizing courses, amount of times course taken allowed and substitution of courses.

MOTION: To APPROVE, by Commissioner Hale,
Seconded by Commissioner Hartley.

VOTE: 6/0 – Motion carries.

X. Settlement Conferences

- A. Ark Exterminating – case # 2000029 TAB 49**
No one present to represent the company.

DISCUSSION: Settlement resolution outlined for the commissioners who were informed the sanctions were within the matrix.

MOTION: To ACCEPT as written, by CommissionerHale,
Seconded by Commissioner Micuda.

VOTE: 6/0 – Motion carries.

XI. Complaints

- A. Liberty Pest Control - case # 99-094 TAB 50**
No one present to represent the company.

DISCUSSION: It was noted the consumer had been satisfied by company.

*MOTION: To DISMISS, by Commissioner Hale,
Seconded by Commissioner Hartley.*

VOTE: 6/0 – Motion carries.

B. Phoenix Pest & Termite Control – case # 99-127 TAB 51

Scott Richardson, counsel for the company present to represent the company.

*MOTION: To SEND TO HEARING, by Commissioner Hale,
Seconded by Commissioner Micuda.*

VOTE: 6/0 – Motion carries.

C. Ralph Gibson dba Bug Killers – case# 2000-082 TAB 52

No one present to represent the company.

*DISCUSSION: It was noted this was a case of non-payment of penalty imposed by commission,
however prior to this meeting the penalty was paid in full by certified check.*

*MOTION: To DISMISS, by Commissioner Hartley,
Seconded by Commissioner Hale.*

VOTE: 6/0 – Motion carries.

D. Ranger Pest Control – case # 2000-137 TAB 53

Jeff Abrahamson, Qualifying Party, was present to represent the company.

*MOTION: To SEND TO HEARING, by Commissioner Hale,
Seconded by Commissioner Hartley.*

VOTE: 6/0 – Motion carries.

E. Conn Pest Control – case # 2000-143 TAB 54

*STAFF REQUESTED THIS BE TABLED UNTIL LATER MEETING DUE TO FAMILY
EMERGENCY.*

Application for Certification.

A. Palma, Thomas A. TAB 55

The applicant was present and outlined in detail his efforts and hardships till now in his efforts to become certified.

MOTION: To APPROVE, by Commissioner Hale,
Seconded by Commissioner Hartley.

VOTE: 6/0 – Motion carries.

XIII. Executive Director's Report

Acting Executive Director Jerome Davis reported the Bi-Annual Budget was submitted on August 24th, which was two weeks early. He further discussed the ICT Training and the work being done with Mike Means and Metro Institute. Mr. Davis reported on ASPRO Meeting on August 28th, informing of the turnout from Arizona and APCA. He discussed the IPM Program for schools, informing of the efforts being taken in the delivery of the packets to the Maricopa County School Districts. He further discussed the Rules Committee informing a report would probably be ready in two to three months. He mentioned the SPCC Newsletter would be going into access newsletter sometime the following month.

XV. WIR Committee – The Report TAB 56

Scott Richardson addressed the commission discussing this informing the discussion centered on what should be done, identifying need and defining whether a rule or law change should be made. He pointed out an important issue was getting all parties involved in a sale to understand and know what a WIR is and means. Commissioner Hartley further discussed the TARF filing issues and when and how supplemental TARF's could and or should be filed. He pointed out the real estate industry should be more involved, noting that if buyer gets WIR in inspection period that may allow enough time for confirmation of information listed thereon. He further noted that categorizing the WIR as a part of the licensure may help, then when there was a violation, that portion of license may be suspended, revoked, etc.

XVI. Statewide Public Hearing Recap (HUD)

Acting Executive Director Jerome Davis discussed a letter composed in reference to the hearings of the HUD warranty, and the five-year retreat. He noted that staff requested this be tabled and re-visited during the rules process, noting that if nothing were done at that time it would become a mute issue. Blair Driggs, A..A.G. pointed out that for anything to be done it would have to go through the rules change process. Staff recommended the rules stay the same pointing out that no other state in the union has the five-year warranty rule at this time.

XVII. Enforcement Response Program (Sanctions Matrix) TAB 57

The Commissioners were reminded they had seen it at the last meeting and to comment if desired.

XVIII. Item for Discussion

A. Felony Guidelines Committee TAB 58

The felony guidelines committee’s findings were further discussed at this time, discussion as to how other agencies limited the felony applicants. The possibility of modifying the application, to be more inquisitive of those who mark the felon box was discussed. The Commissioners were provided with a questionnaire the committee created, it was noted that this type of information being presented to the commissioners prior to a meeting would serve to be less embarrassing to the applicant while providing more detailed information to the commissioners

XIV. Personnel - Interim Executive Director

- A. Executive Session regarding Interim Executive Director’s work performance.**
- B. Public Session – Review, discuss possible action regarding Interim Executive Director.**

This was not addressed at this time because only four commissioners were present, Commissioners Burrows and Silva had taken leave during the course of the meeting.

IX. Adjournment

MOTION: To adjourn by Commissioner Hartley,
seconded Commissioner Hale.

VOTE: 4 - 0, motion carried.