

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

COMMISSION MEETING
FRIDAY, August 8, 2003, 9:00 A.M.
MINUTES

I. Call to order and roll call (Chairperson Fraker, Ms. Vazquez)

Commissioners Present: Commissioners Fraker, Hartley, Robinson and Runbeck

Commissioners Absent: Commissioners Allen, Baker and Peterson

Staff Present: Jason Aanderud, Dave Colvin, Vince Craig, Carl Martin, Alan Pugh, Robert Tolton, Dirk VandenBerg, Maggie Vazquez, and Assistant Attorney General Blair Driggs

II. Approval of July 11, 2003 (regular session) Minutes.

MOTION: To approve the July 11, 2003 (regular session) Minutes by Commissioner Robinson and seconded by Commissioner Hartley.

VOTE: 4 - 0 Motion carried.

Mr. Carl Martin, Troop Leader of Boy Scout Troop 742 of Peoria, Arizona introduced the scouts who were watching the process of the Commission meeting, to help earn their merit badges.

III. Call to the public.

None

IV. Communication with Commissioners

None

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

Current Proposed dates and locations

September 12, 2003Scottsdale, AZ
 October 10, 2003Tucson, AZ
 November 14, 2003Scottsdale, AZ
 December 12, 2003 Scottsdale, AZ

Mr. Carl Martin commented that there will be broad publicizing to announce the Tucson meeting for the public and the industry in October 2003. It will be held at the Pima County Board of Supervisors Auditorium.

VI. Consent Agenda.

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

- 1. Kilmer, Darril A. dba Dorado C.C., Inc. (Activating Qualifying Party for new business license in “E” Weed Control)

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

- 1. Bartko, Joseph dba Mesa Country Club (Activating Qualifying Party for existing business license in “E” Weed Control and “F” Turf & Ornamental)
- 2. Fox, Grady dba North Country Pest Management (Activating Qualifying Party for existing business license in “E” Weed Control, “E-1” Aquatic Weed and “F” Turf & Ornamental)
- 3. Frink, Clifford William dba Troon North Golf Company (Activating Qualifying Party for existing business license in “E” Weed Control and “F” Turf & Ornamental)
Tabled

Correction to name of Company which should be Golf. This matter was tabled because Commissioner Robinson recused himself, since Mr. Frink and Commissioner Robinson work for the same company. No vote because there was not a quorum. Commissioner Robinson then asked for a Telephonic Commission meeting to be scheduled.

4. Sneer, Scott Loren dba Proven Ecological (Activating Qualifying
Pulled Party for existing business license in “C”
Wood Destroying Organisms)

*Mr. Sneer appeared and answered
Commissioners’ questions.*

MOTION:

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

VOTE:

4 - 0 Motion carried.

*Correction to name of company, it should be
Proven Ecological. Commissioner Robinson
asked about residential requirements for
Qualifying Party applicants out of state.
Discussion about supervision, since Mr.
Sneer is out of state. Mr. Sneer stated that
his company has business in Arizona,
Oregon, Washington and Idaho and he is
the Qualifying Party for all four states. Mr.
Sneer further stated that he is available by
telephone and is in Arizona two to three
times a month to meet with his four
technicians and there is a plan in place for
emergencies. Mr. Blair Driggs stated the
Commission has no jurisdiction out of state,
the Commission can take action if the
company is not following Arizona laws and
rules there is no residency requirement for
the Qualifying Party, but the Qualifying
Party must follow the proper statutes.*

C. Applicants for QP Testing (Mr. Tolton)

1. Brodie, Robert Michael “B” (General Pest)

2. Flood, David M. “E & F” (Weed Control and Turf & Ornamental)

3. McDaniel, David Lee “B & C” (General Pest and Wood Destroying Organisms)

D. Treatment Proposals (Mr. Colvin)

1. RUSH Termite and Pest Control

End of Consent Agenda

MOTION: *By Commissioner Hartley to accept Consent Agenda as read with the exception for those items VI (B)(3) & (B)(4).
Seconded by Commissioner Runbeck.*

VOTE: *4 - 0 Motion carried.*

VII. Application for New Business License not on the Consent Agenda (Mr. Tolton)

1. Fickett, Timothy dba Bug on the Run Pest Control (Activating Qualifying Party for new business license in “B” General Pest)

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

VOTE: *4 - 0 Motion carried, based on Mr. Fickett’s prior violations of Commission statutes, which negatively reflect on his ability to properly manage a pest control business and his moral character.*

VIII. Request for Temporary Qualifying Party License Renewal (Mr. Tolton)

1. Flood, David M. dba Rancho Manana Golf Club. TAB 12

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

VOTE: *4 - 0 Motion carried.*

Mr. Flood was present and there were no questions by the Commissioners’.

2. Henderson, Jason P. dba A Bee & Pest Pro

Mr. Henderson appeared and answered Commissioners’ questions.

MOTION:

To approve Renewal by Commissioner Runbeck.

Seconded by Commissioner Hartley.

VOTE:

*3 - 1 Motion carried.
(Commissioner Robinson opposed)*

The Commissioners questioned Mr. Henderson about his licensing tests. Mr. Henderson stated each time he took the tests he would fail worse and they are confusing. On Tuesday, he is going to retest for the third time and each test takes about two hours. Commissioner Runbeck wanted to know if the testing was harder on the computer than the written examination. Chairman Fraker would like to know the statistics of CBT testing. Mr. Carl Martin stated the statistics for the written and CBT testing are essentially the same. Commissioner Robinson would like to know the statistics for Applicators if the failure rate is the same as the Qualifying Parties. Mr. Martin stated the tests are more relevant and it “raises the bar” on the individual to prepare for the exam. Chairman Fraker would like to see each month an update of the statistics on the percentage for those who pass or fail and a breakdown of the test scores.

3. McKenzie, Barbara dba Zap Pest Control, Inc.

Pulled

Ms. McKenzie appeared and answered Commissioners' questions.

MOTION:

To approve Renewal by Commissioner Hartley.

Seconded by Commissioner Runbeck.

VOTE:

3 - 1 Motion carried. (Commissioner Robinson opposed)

Mr. Scott Richardson attorney for Ms. McKenzie stated this will be her third attempt, and if she fails she will need to get a new Qualifying Party for the business. Chairman Fraker asked whether she has tested three times yet since the statute allows three times in a category and then a QP has to wait a period of time to retest. There was discussion if you fail any test three times then the file is closed. Chairman Fraker further stated that Ms. McKenzie has not even tested in the "B" category. Commissioner Hartley asked Ms. McKenzie why she did not test in the "B" and "C" categories, but only took the Core exam. Ms. McKenzie stated that she was trying to do one section at a time and she cannot pass the Core test. Several of the Commissioners were concerned that this company has been without a permanent QP for seven months.

IX. Treatment Proposals not on the Consent Agenda (Mr. Colvin)

1. Patriot Pest & Termite Control

Tabled

Chairman Fraker had to recuse himself and there was no quorum.

Break from 10:00 A.M. to 10:15 A.M.

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

1. Anteater Exterminating Inc. - Case 2001-190

***MOTION:** To approve Dismissal for Case # 2001-190 by Commissioner Hartley.
Seconded by Commissioner Runbeck.*

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

2. First Inspections Termite & Bat Removal - Case # 2000-309

***MOTION:** To approve Case # 2000-309 consent terms, and if the Consent Agreement is not executed by the deadline stated in the Consent Agreement transmittal letter to send the case to the Office of Administrative Hearings, and process Applicator Milroy George Kellogg for suspension for failure to renew his applicator license by Commissioner Hartley.
Seconded by Commissioner Robinson.*

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

3. Tucson Exterminating - Case # 1998-018

***MOTION:** To approve Dismissal for Case # 1998-018 by Commissioner Hartley.
Seconded by Commissioner Runbeck.*

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

4. Timothy Fickett - Case # 2003-082

***MOTION:** To approve Case # 2003-082 consent terms, and if the Consent Agreement is not executed by the deadline stated in the Consent Agreement transmittal letter to send the case to the Office of Administrative Hearings by Commissioner Hartley.
Seconded by Commissioner Robinson.*

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

XI. Unlicensed Activity (Mr. Craig)

Mr. Vince Craig read into the record that the law cited for unlicensed activity should be A.R.S. § 32-2328 (B)(1)(2) and not the citations reflected on the Agenda.

1. Central Home Spraying Services - Case # 2003-069

***MOTION:** To Order a \$750.00 Civil Penalty and issue a Cease and Desist Order against Robert M. Ferro (owner) and Central Home Spraying Services jointly and severally by Commissioner Runbeck. Seconded by Commissioner Hartley.*

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

2. Horizons West Landscape Contractors - Case # 2003-024

***MOTION:** To Order a \$750.00 Civil Penalty and issue a Cease and Desist Order against Norman Farmer (owner) and Horizons West Landscape Contractors jointly and severally by Commissioner Hartley. Seconded by Commissioner Robinson.*

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

3. The Pigeon Guy - Case # 2003-059

***MOTION:** To approve Dismissal for Case # 2003-059 by Commissioner Hartley. Seconded by Commissioner Runbeck.*

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

Commissioner Hartley asked Mr. Vince Craig if there was a duplication between the Registrar of Contractors and SPCC statutes for licensing these types of applicants. Mr. Craig said they have a bird exclusion license and Lisa Gervase asked ROC to provide these applicants with SPCC information to determine which agency has jurisdiction over them.

XII. Suspension/Revocation of Licenses (Mr. Craig)

1. A Bedder Pest Control Services - Case # 2000-189

MOTION: *To suspend A Bedder Pest Control Services, Business License # C 4103 and Steven C. Barrett's Qualifying Party Credential # 1318 B for failure to pay civil penalties by Commissioner Robinson. Seconded by Commissioner Hartley.*

VOTE: *4 - 0 Motion carried.*

Commissioner Hartley asked that staff follow-up with suspensions and that they are enforced. Mr. Blair Driggs stated an Order with a letter will be sent via certified mail to the parties informing them their Business License and/or Qualifying License has been suspended and to cease operations.

2. Ant Brian's Exterminating, Inc. - Case # 2002-084

MOTION: *To suspend Ant Brian's Exterminating, Business License # C 5531 BC and Brian Oldham's Qualifying Party Credential # 2029 BC for failure to pay civil penalties, TARF fees and late TARF fees by Commissioner Hartley. Seconded by Commissioner Runbeck.*

VOTE: *4 - 0 Motion carried.*

Mr. Vince Craig stated that there will be a TARF audit in two weeks for Ant Brian's Exterminating.

3. Evergreen Lawn Sprinklers - Case # 98-187

Mr. Vince Craig stated a Cashier's Check was given to the Commission on August 5, 2003 to pay \$500.00 for Case # 98-187 for Lee Bougneit. No Action taken.

Mr. Driggs stated that the Order did not need to be amended to remove applicator Urbonas, because he is not subject to the Order since he did not sign the Consent Agreement. Mr. Urbonas should be processed for suspension for not renewing his applicator license

4. No Bugs Allowed Termite & Pest Control - Case # 99-035 - OAH Case # 99A-035-SPC

Mr. Vince Craig stated a Cashier's Check was given to the Commission on August 7, 2003 to pay \$11,496.00 for Case # 99-035. No action taken.

Chairman Fraker commended staff on the collection of the civil penalties.

XIII. For discussion, consideration and possible action. Request Suspension of Expired Business Licenses and Qualifying Party Licenses which have not Renewed (Mr. Tolton)

Tabled because the Commission wanted information about why each licensee did not renew; the licensees' names and license numbers need to be noticed on the Agenda; and each licensee must receive notice by certified mail.

Mr. Martin read into the record the commendation's Robert Tolton, Irene Norman, Vince Craig, Dirk VandenBerg, and Mike Francis received from North Country Pest Management Systems, Inc. by Susan Tomlinson. Also there were commendations for Robert Tolton and Mike Francis from Barbara McKenzie.

XIV. For discussion, consideration and possible action. The Wood Infestation Inspection Form and a Fungi Inspection Form. (Mr. Martin)

Discussion by Mr. Carl Martin on the Wood Infestation Inspection Form which is still in draft form, and now three pages long. There has been some small modifications. Mr. Martin called 44 people for comments and he redrafted the form with the comments received. Most people stated the form was hard to follow. Mr. Martin distributed the form to the participants at the Commission meeting and stated he will take more comments. Mr. Martin noted that items have been renumbered. Commissioner Hartley stated the form is originally FHA/VA and the form used to be submitted to them for approval. The form should also be sent to lending institutions. Mr. Martin responded that he does not consider FHA as a stakeholder and he will check on FHA requirements. Also, the legislature tells the Commission what to do. Chairman Fraker stated if the form is not user friendly there will be problems. Mr. Scott Richardson stated the lenders require the form and the box is checked by the title company and they are a stakeholder. Form should be sent to Arizona Mortgage Brokers and Bankers Associations even though the form is not a warranty or guarantee. Chairman Fraker stated that mold is not an issue. Mr. Richardson said both forms need to be done by September 18, 2003, so industry can use them. It is premature to discuss what will happen if the form is not available. Mr. Bill Fuller of Termite Advisory Services made comments to the forms. Mr. Mike Denny stated # 9 on the current form "treatment proposal can be either or." Mr. Martin responded that the wording comes from the current form that is in place. Mr. Richardson would like for Mr. Martin to e-mail the form to Barry Aaron's, Mr. Martin stated he gave it to Jennifer at Mr. Aaron's office.

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

Tabled

XVI. For information and discussion, not action: Complaint Status Log (Mr. Craig)

Discussion by Vince Craig on Complaint Status Log that there are five or six unlicensed company complaints and Enforcement is pursuing unlicensed activity. Commissioner Hartley requested for next months meeting the number of inquires received and how many turn into Complaints. Mr. Craig also clarified that the new inquiry process will begin soon, and the SPCC receives about five complaints a week.

Chairman Fraker commended Mr. Craig for the great job he is doing on the cases.

XVII. Adjournment - 11:53 A.M.

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

VOTE: *4 - 0 Motion carried.*