

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

**COMMISSION MEETING
FRIDAY, January 13, 2006 - 9:00 A.M.
MINUTES**

I. Call to order, Commissioner roll call

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

Commissioners Absent: None

Staff Present: Eric Bauer, Rosemary Celaya, Vince Craig, Mike Francis, Lisa Gervase, Vani Mehta, Hugo Pulido, Charmayne Skow, Robert Tolton, Helen Turner, and Assistant Attorney General M. Elizabeth (Lisa) Miles

II. Call to the public

★Acknowledgment of Industry Member(s) service on the Arizona Structural Pest Control Commission.

Lisa Gervase stated that today's meeting is the final meeting for Commissioner Robinson, who has been a Commissioner for two terms and has attended 60 meetings. Commissioner Robinson has been in business for 40 years in four states plus the District of Columbia. Commissioner Peterson recognized Commissioner Robinson with a plaque in appreciation of his service.

Lisa Gervase stated that today's meeting also is the final meeting for Commissioner Fraker, who began his service in May, 2002 and has attended 40 meetings. He is a second-generation pest control operator, with a background in several states, and has set a great example for professionalism in the industry. Commissioner Peterson recognized Commissioner Fraker with a plaque in appreciation of his service.

★Welcome of new Public Member Patrick Black to the Arizona Structural Pest Control Commission.

Commissioner Black moved to Arizona in 1996 and his first job was with the Commission as a staff member for about two years. He is now an attorney in private practice and is happy to be back here to serve on the Commission.

★Congratulations to Public Member Debbie Runbeck for her appointment to a second term on the Structural Pest Control Commission.

★*Mike Means, from Metro Institute, appeared to address the issue with regard to unlicensed weed control. He acknowledged the Commission's effort over the past 4-5 years to license people who perform weed control services. He stated that as a test giver, he talks to many people who don't pass the licensing test. One of his observations has been that people in the weed industry are becoming angry because they are in a Catch-22 situation. The law that the Commission is enforcing says that you have to pass the test, but a large number of examinees are Spanish-speaking and have trouble because the test is written in English. The testing environment is a pressure environment; the wording is technical, not normal everyday language. He also observed that there are two kinds of companies: some are trying to do things right by having their applicators pass the test and others are trying to hide. The general public is not protected, and also hundreds of applicators may not be protected because they are applying pesticides without being licensed and they don't know the dangers of herbicides. He stated that he believes that the exams should also be administered in Spanish to facilitate getting a license and doesn't see why the Commission couldn't conduct Spanish-language testing. Drivers licenses can be obtained in multiple languages, so why can't pest control licenses also be obtained in multiple languages? He stated that if the Commission institutes Spanish-language testing, Metro Institute will pay to have its 18 tests translated to Spanish so that people can come in and be able to pass the tests.*

III. Communication with Commissioners

Commissioner Hartley stated that he received lots of communication from industry members about the possible future law changes.

Commissioner Runbeck stated that Carl Martin called her regarding the possible future law changes.

Commissioners Baker and Fraker stated that a couple of industry members contacted them also.

Commissioner Peterson stated that Carl Martin also contacted him.

IV. Summary of Current Commission Events, Activities, Notices

☞ Watch website for status of *Proposed Law and Rule Changes*.

www.sb.state.az.us

✓ Business License & Qualifying Party License Renewal status

Lisa Gervase provided an update, and reminded everyone that QPs who don't renew their licenses by the end of February will have to retest. Staff has sent out reminder notices to those QPs and businesses who have not yet renewed their licenses. Also, some business licensees have renewed their licenses without having an active QP; those business licensees may just want to keep their business licenses, but cannot operate in such status. Finally, in this second online renewal period, approximately 50% of the renewals were processed online.

☞ CEU (Continuing Education Units) and ILT (Initial Licensure Training) courses posted on web site. Registration: 480-CEU-SPCC; CEU@sb.state.az.us; 480-ILT-SPCC; ILT@sb.state.az.us

Lisa Gervase stated that the CEU and ILT schedules are on the Commission's website and RSVPs can be via phone or email.

V. Consent Agenda

A. Applications for New Business License

Qualifying Party

- | | |
|--------------------------|---|
| 1. Scarcelli, Jeffrey H. | Wickenburg Pest Control, LLC.
(Activating Qualifying Party for new business license in "B1" General Pest & Public Health) |
| 2. Cummings, James G. | Queen Creek Termite Control
(Activating Qualifying Party for new business license in "B2" Control of Wood-Destroying Insects and "B8" Wood-Destroying Insect Inspection) |

- 3. **Hultman, Julia Marie** **JMH Weed Control (Activating Qualifying Party for new business license "B3" Right of Way & Weed Control)**

- 4. **Clifford, Christopher M.** **Super Pest Control (Activating Qualifying Party for new business license in "B1" General Pest & Public Health and "B3" Right of Way & Weed Control)**

- 5. **Martinez, Bill** **Cobra Pest Control, LLC. (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)**

B. Applications to activate Qualifying Party for Existing Business License

- 1. **Hammond, Jr.; Donald P.** **Integrity Termite & Pest Control, Inc. (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)**

- 2. **Myers, Rodney L.** **Quintero Golf & Country Club (Activating Qualifying Party for existing business license in "B3" Right of Way & Weed Control and "B5" Turf & Ornamental Horticulture)**

C. Applications for Qualifying Party License

- 1. **Davis, Vincent M.** **"B1" (General Pest & Public Health)**

- 2. **Stadler, Brian W.** **"B3" (Right of Way & Weed Control) and "B5" (Turf & Ornamental Horticulture)**

3. Jantzen, Jon K. **“B3” (Right of Way & Weed Control) and “B5” (Turf & Ornamental Horticulture)**

*Pulled.
Mr. Jantzen appeared.*

Commissioner Baker asked if Mr. Jantzen had worked at multiple places. Mr. Jantzen stated that he worked at Phoenix Country Club.

MOTION: *To approve QP testing in “B3” and “B5” by Commissioner Baker.
Seconded by Commissioner Runbeck.*

VOTE: 7-0 *Motion carried.*

4. Ehritz, Jeffrey **“B8” (Wood-Destroying Insect Inspection)**
5. Gorodenski, Christopher **“B2” (Control of Wood-Destroying Insects) and “B8” (Wood-Destroying Insect Inspection)**
6. Colvin, David L. **“B3” (Right of Way & Weed Control) and “B5” (Turf & Ornamental Horticulture)**
7. Bussey, Daniel L. **“B1” (General Pest & Public Health), “B2” (Control of Wood-Destroying Insects), “B4” (Fumigation) and “B8” (Wood Destroying Insect Inspection)**
8. Saitman, James S. **“B1” (General Pest & Public Health)**

*Pulled.
Mr. Saitman appeared.*

Commissioner Baker asked Mr. Saitman about his insurance situation in California, from where he recently moved. Mr. Saitman stated that he always had insurance, he just didn't notify the structural pest control board in California, but he is not without insurance.

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

VOTE: 7-0 Motion carried.

9. Mott, Patrick J. "B1" (General Pest & Public Health),
"B2" (Control of Wood-Destroying Insects), "B4" (Fumigation) and "B8" (Wood- Destroying Insect Inspection)

10. Kirkey, Richard J. "B1" (General Pest & Public Health)

11. Staron, Paul David "B8" (Wood-Destroying Insect Inspection)

Tabled.

Commissioner Robinson noted that Mr. Staron signed his own verification for 4,000 hours of experience. He stated however, that Mr. Staron has not been in the structural pest control business and doesn't have the background to qualify for a QP license. Robert Tolton stated that he and Mike Francis talked to Mr. Staron to find out his knowledge base in the "B2" category. They are comfortable only with his qualifications in the "B8" category. He would have to get approval from the Commissioners in order to obtain licenses in additional categories. Commissioner Robinson stated that he is not comfortable with this application and would prefer that this application be tabled until Mr. Staron has the opportunity to come before the Commission. Commissioner Black asked if Mr. Staron knew about the Commission's possible concerns and that he should appear before the Commission. Robert Tolton stated that the certified mailing notifying Mr. Staron of today's meeting was signed. Commissioner Black agreed that this application should be tabled. Commissioner Peterson asked if, by tabling the application, they would run into any time frame concerns or problems. Robert Tolton stated that they would not.

12. Pisano, Napoleon O. "B5" (Turf & Ornamental Horticulture)

13. Paschke, Michael J. "B8" (Wood Destroying Insect Inspection)

14. Turcott, Eric Scott **“B1” (General Pest & Public Health),
“B2” (Control of Wood-Destroying
Insects), and “B8” (Wood-Destroying
Insect Inspection)**

D. Business License Name Change Requests

1. **Artezan Pest Services to SJM Exterminating**
2. **Coy Landscaping & Maintenance, Inc. to Coy Landscaping & Nursery, Inc.**
3. **SBM Cleaning Company of Oregon, LLC. to SBM Site Services, LLC.**

End of Consent Agenda

MOTION: *By Commissioner Hartley to accept Consent Agenda with the exception of those items pulled for discussion (C3, C8, C11). Seconded by Commissioner Fraker.*

VOTE: 7-0 *Motion carried.*

VI. Applications not on Consent Agenda

A. Request for Temporary Qualifying Party License Renewals

1. Gile, Barbara Beth **“B3” (Right of Way & Weed Control)
and “B5” (Turf & Ornamental
Horticulture)**

MOTION: *To approve a 60-day temporary QP renewal by Commissioner Runbeck.
Seconded by Commissioner Fraker.*

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

2. Smoot, Michael Ray **“B1” (General Pest & Public Health),
“B2” (Control of Wood-Destroying
Insects), and “B8” (Wood-Destroying
Insect Inspections)**

Mr. Smoot appeared.
Steven Glotzer appeared.

Commissioner Runbeck asked when the temporary QP license expires. Robert Tolton stated that it will expire at 11:59 p.m. tonight. The business license was expired until this morning when Mr. Smoot renewed it. Discussion ensued about Mr. Smoot's unsuccessful exam attempts, and delays with completing the application requirements. He explained the delay was in part due to the insurance company having questions about the SPCC's insurance certificate. The business is ready to have Mr. Glotzer, who already holds a QP license, activate his QP for this business.

MOTION: To deny a temporary QP renewal based on the fact that Mr. Smoot has not passed the exams for the past two years and has not obtained a QP in the appropriate time frame, by Commissioner Baker.
Seconded by Commissioner Robinson.

VOTE: 3-4 Motion failed. (Roll call vote: Commissioner Hartley-Yes, Commissioner Robinson-Yes, Commissioner Fraker-Yes, Commissioner Runbeck-No, Commissioner Baker-No, Commissioner Black-No, Commissioner Peterson-No)

MOTION: To approve a 60-day temporary QP renewal by Commissioner Runbeck.
Seconded by Commissioner Baker.

VOTE: 4-3 Motion carried. (Roll call vote: Commissioner Hartley-No, Commissioner Robinson-No, Commissioner Fraker-No, Commissioner Runbeck-Yes, Commissioner Baker-Yes, Commissioner Black-Yes, Commissioner Peterson-Yes)

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

None.

C. Applications for Qualifying Party License

None.

VII. Complaints

A. Christopher Kurtze (APP) - Case # 2005-046

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: *4-0 Motion carried (Commissioners Black and Hartley recused, Commissioner Baker not present).*

B. Warren Control Company (BL)/Kelly Warren (QP/Sole-Proprietor) - Case # 2005-067

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 Black.*

VOTE: *6-0 Motion carried (Commissioner Baker not present).*

C. Eartheart Company (BL)/Edward Schultz (QP/Sole-Proprietor)/Tyson Schultz (APP) - Case # 2005-064

Commissioner Runbeck asked if Mr. Schultz was involved in the settlement conference and if he agreed to have his applicator license revoked. Vince Craig stated that he was and he did. He stated that Mr. Schultz was opposed to a civil penalty, and revocation was the other option. Lisa Gervase added that Mr. Schultz didn't want anything to do with the pest control industry.

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: 6-0 *Motion carried (Commissioner Baker not present).*

D. All Pro Pest Control (BL)/Oby A. Dunn (QP) - Case # 2005-063

MOTION: *To suspend the business license and qualifying party license for non-payment of renewal fees (with automatic revocation one year later) and to dismiss Case No. 05-063 without prejudice, by Commissioner Runbeck.
Seconded by Commissioner Hartley.*

VOTE: 6-0 *Motion carried (Commissioner Baker not present).*

E. Norstar Pest Control, LLC. (BL)/Eric Lund (QP/APP) - Case # 2005-028

Commissioner Black asked if there was any reimbursement to any customers in this case. Vince Craig stated that Mr. Lund has refused to cooperate with staff regarding reimbursement.

MOTION: *To suspend the business license, qualifying party license and applicator license for non-payment of renewal fees (with automatic revocation one year later) and to dismiss Case No. 05-028 without prejudice, by Commissioner Runbeck.
Seconded by Commissioner Black.*

VOTE: 6-0 *Motion carried (Commissioner Baker not present).*

F. Albert Rene Pesqueira (APP) - Case # 2005-034

Lisa Miles advised the Commission that she cannot give legal advice in this matter because it has been referred to hearing.

MOTION: *To rescind the Commission's December 9, 2005 vote to send the matter to hearing, to suspend the applicator license for non-payment of renewal fees (with automatic revocation one year later) and to dismiss Case No. 05-034 without prejudice, by Commissioner Runbeck. Seconded by Commissioner Hartley.*

VOTE: *6-0 Motion carried (Commissioner Baker not present).*

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. Jason Thomas Workman, Applicator License No. 040692 B1 (Issued 08/11/2004) (Expires 05/31/2006) - Case No. 2005-001

MOTION: *To suspend the applicator license for nonpayment of civil penalties in Case No. 05-001, by Commissioner Hartley. Seconded by Commissioner Runbeck.*

VOTE: *6-0 Motion carried (Commissioner Baker not present).*

B. Brian W. Oldham, Qualifying Party License No. 2029 B1 B2 B8 (Issued 05/22/1998) (Expires 12/31/2006) and Applicator License No. 940470 B1 B2 B5 B8 (Issued 06/08/1994) (Expires 05/31/2006) - Case No. 2004-009

Lisa Gervase informed the Commission that this morning Mr. Oldham submitted a check to the Commission for \$2,300 to cover the civil penalties. However, they need to wait for the check to clear. The Commission took no action.

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. Xavier Martin Marquez, Applicator License No. 991073 B1

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

Lisa Miles encouraged the Commission to accept the Findings of Fact, Conclusions of Law and Recommended Order with the modification of two minor typographical errors.

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

VOTE: *6-0 Motion carried (Commissioner Baker not present).*

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

VOTE: *6-0 Motion carried (Commissioner Baker not present).*

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. Robert L. Morency, Applicator License No. 051084 B1 - Case No. 2005-077.

Tabled.

Lisa Gervase stated that Mr. Morency has to appear before the Commission with reasonable notice. She stated that staff had been notified by his former employer, Thomas McCormick, that Mr. Morency is no longer employed with Mr. McCormick. A clause in Mr. Morency's consent agreement requires Mr. Morency to notify the Commission of any change of employment. On January 3, staff sent a notice via regular mail and certified mail, which was signed and returned, requesting his appearance today. However, he is not here. Commissioner Peterson asked if it is also required that Mr. Morency's probation officer submit something. Lisa Gervase stated that every three months his probation officer must submit a status letter to the Commission; however, three months have not yet passed. She stated that Mr. Morency's change of employment is what triggered staff to contact him. Commissioner Peterson recommended tabling the matter for investigation.

B. Benjamin Sanchez, Applicator License No. 050236 B1 B3 - Case No. 2005-007.

Mr. Sanchez appeared.

Lisa Gervase stated that Mr. Sanchez has been compliant with the terms of the consent agreement and order, and a letter from his current employer indicates that Mr. Sanchez is continuing his full-time work. His consent agreement was entered in February, 2005. It is due to end in November, 2007. Mr. Sanchez may be a candidate for early release from the consent agreement. Commissioner Peterson asked Mr. Sanchez if everything is going well. Mr. Sanchez stated that it is. Commissioner Hartley congratulated Mr. Sanchez on his progress. Commissioner Peterson told Mr. Sanchez that the Commission appreciates Mr. Sanchez coming here from Tucson and encouraged him to keep up the good work and wished him good luck.

XVI. Applicants with Criminal Convictions.

Lisa Gervase asked if the Commission wants to use the adopted substantive policy statement and allow staff to do further evaluation on each applicant with a criminal conviction to consider possibly putting these applications on a consent agenda. Commissioner Peterson acknowledged the idea and informed Lisa Gervase that the Commissioners will think about this issue. One concern is the Commission's ability

to have applicants appear before the Commission and answer questions to judge their credibility.

A. Wilkerson, Joseph D.

Mr. Wilkerson appeared.

Dave Wise, Trades Maintenance Supervisor for Pima County Stadium District, appeared.

Mr. Wise stated that Mr. Wilkerson is a graduate of vocational school and came to work for him in the county as a full-time employee. He stated that Mr. Wilkerson works hard every day. Commissioner Fraker asked if getting an applicator license is an integral or mandatory part of his employment. Mr. Wise stated that it is, as they treat weeds at a sports complex. Commissioner Peterson asked how old Mr. Wilkerson was when his offense occurred. Mr. Wilkerson stated that he believes he was around 19 years old at the time and is 22 years old now. He stated that he returned everything and cooperated with the officers. He stated that he has a fiancé, future plans, and lives in his own house now. Commissioner Black asked if Mr. Wilkerson's attempted burglary charge generates concern with the Commission. He stated that the Commission should try to achieve consistency in how it handles criminal applicants. He stated that according to the substantive policy statement, Mr. Wilkerson shouldn't be allowed to get a license. Mr. Wise stated that Ben Sanchez was here earlier, and he works for Mr. Wise also. Commissioner Runbeck stated that this is the kind of case in which, similar to how the Commission handled Mr. Sanchez's application, she might consider allowing a probationary agreement with Mr. Wilkerson also. She stated that she takes age into account when evaluating applicants and that she would show more leniency towards someone who is young like Mr. Wilkerson. However, this offense didn't happen very long ago and it doesn't show respect for other people's property. She stated that she will only approve if the Commission does a conditional consent agreement with probationary terms. Commissioner Robinson asked if Mr. Wilkerson is on criminal probation. Mr. Wilkerson stated that he is until June, 2008, and that he has passed all of his urinalyses tests. Lisa Miles stated that in lieu of a denial, the Commission could move to grant a license subject to a probationary period with certain standard terms and also with some more specific terms relevant to Mr. Wilkerson's situation. Those terms would include the requirement to appear before the Commission upon its reasonable request, to obtain positive reports from his employer and probation officer, to follow all terms and conditions of his criminal probation, etc. Commissioner Black stated that Mr. Wilkerson is obviously a quick learner as evidenced by his demeanor in front of the Commission. Commissioner Fraker expressed concern, however, about the facts that Mr. Wilkerson's breaking and entering and theft conviction was only about a year and a half ago and that he is still on criminal probation.

MOTION: *In lieu of denying the application, to offer a consent agreement to grant an applicator license under probationary terms concurrent with the length of Mr. Wilkerson's criminal probation with the standard terms that he provide the Commission with quarterly reports from his probation officer and employer and notification if he changes his employment or address, that he appear quarterly at Commission meetings for at least the first year, after which time the frequency of his appearances may be adjusted (increased or decreased) at the sole discretion of the Commission, and that he comply with all terms and conditions of his criminal probation, by Commissioner Runbeck.*
Seconded by Commissioner Black.

AMENDED MOTION: *To amend the motion to add the condition that if Mr. Wilkerson does not sign the consent agreement, then the Commission denies the application because it doesn't meet the good moral character aspect, and if the application is denied and Mr. Wilkerson then requests a settlement conference, the Commission would appoint the Executive Director to act with its authority to settle with terms limited to the consent agreement previously offered, by Commissioner Runbeck.*
Seconded by Commissioner Black.

VOTE ON AMENDED MOTION: 6-0 *A m e n d m e n t p a s s e s*
(Commissioner Baker not present).

VOTE ON ORIGINAL MOTION: 5-1 *Motion carried (Commissioner Fraker opposed, Commissioner Baker not present).*

B. Burrell, Christopher

Mr. Burrell appeared.

Daniel Denny, from U.S. Pest Control, Inc., appeared.

Mr. Burrell stated that he has been working for U.S. Pest Control for about 60 days. Mr. Denny stated that Mr. Burrell had been employed for just over 90 days when Mr. Denny let him off. Mr. Denny rehired him when he completed the information he needed to turn in. Commissioner Runbeck asked if Mr. Burrell is off probation. Mr. Burrell stated that he has been off probation since the beginning of the year, has completed all terms and went to all programs. Commissioner Peterson noted that

when Mr. Burrell's situation happened, he lied and continued to dig a hole. Mr. Burrell agreed and stated that he was very sick at the time and did bad things that he shouldn't have done. He stated that he is getting healthier now and wants to keep full-time employment. He stated that he has worked for 5-6 months with Mr. Denny and before that worked for Sexton. Mr. Denny stated that in the time that Mr. Burrell has worked for him, he has had no reason to distrust Mr. Burrell, and that Mr. Burrell goes beyond the normal job description. He stated that Mr. Burrell has expressed regret for what he has done. Commissioner Runbeck asked if Mr. Burrell's probation included a "no alcohol" provision. Mr. Burrell stated that it did and that he completed it. Commissioner Runbeck asked what made Mr. Denny give Mr. Burrell a chance. Mr. Denny stated that Mr. Burrell was very straight forward about the felony and expressed a willingness to go to work. Mr. Burrell stated that he has 3 kids and 7 grandchildren and he doesn't want to find a new career and wants to keep working for Mr. Denny. He stated that he would prove himself under conditional, probationary terms if necessary. Commissioner Runbeck stated that she understands the concerns, including that people do desperate things sometimes. She stated that a lot of her decisions take into account the way someone appears and accepts responsibility. Also, she likes the attitude of someone who wants to work and turn things around. She stated, however, that she is not sure that the probationary conditions are necessary in this situation. Such consent agreements require a lot of action on the applicant's part and on the Commission's part. Commissioner Black stated that the Commission should strive for consistency in how it treats the applications, and maybe creating a Matrix would help. But he thinks it is a "black or white" issue: you either want to better your life or you don't. Lisa Miles acknowledged that the Commission should strive for consistency. Factually though, there have been differences between the applicants. Mr. Wilkerson was on probation and Mr. Burrell is not. Commissioner Runbeck stated that, when it comes to reviewing applicants with criminal convictions, she acknowledges that there are Commissioners who strongly disagree with her. She stated that her job is to try to determine whether an applicant is a risk to the public. One of the factors that generally brings about the offer of a probationary consent agreement is if an applicant is on criminal probation or parole.

MOTION: In lieu of denying the application, to offer a consent agreement to grant an applicator license under probationary terms with the standard terms that he provide the Commission with quarterly reports from his employer and notification if he changes his employment or address, and that he appear quarterly at Commission meetings for at least the first year, after which time the frequency of his appearances may be adjusted (increased or decreased) at the sole discretion of the Commission, by Commissioner Black.
Seconded by Commissioner Runbeck.

MOTION Commissioner Black withdrew his motion and
WITHDRAWN: Commissioner Runbeck withdrew her second of the motion.

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

VOTE: 6-0 Motion carried (Commissioner Baker not present).

C. Miller, Mark J.

Mr. Miller appeared.

Daniel Norman, from AAA Landscape, appeared.

Commissioner Runbeck noted that Mr. Miller is currently on parole until February 4, 2006. Mr. Miller stated that his parole officer has taken him off of all programs and he has had no infractions while on parole. Mr. Miller stated that he knows that he did wrong, and when he was put away he went to school for 30 credit hours, got two licenses from the Arizona Department of Environmental Quality, and he also has a landscape construction degree. Mr. Norman, who is Mr. Miller's supervisor, stated that Mr. Miller is an exemplary employee and that fellow employees speak highly about his work ethic. Commissioner Runbeck asked if Mr. Norman was aware of Mr. Miller's background. Mr. Norman stated that he was not aware of all of the felony convictions, but he did see Mr. Miller's grade point background and gave him a chance, and Mr. Miller has proven himself to be an exceptional employee. Commissioner Runbeck asked if, as a condition of his parole, he has had to submit to drug testing. Mr. Miller stated that he has and that there have been no positive tests. Commissioner Robinson stated that one of the reasons that the Commission asks applicants to appear is so that the Commissioners can see them and talk to them. He stated that we have all made mistakes and should be able to turn things around. Lisa Gervase added that assessing credibility is easier to do when the applicant is here before the Commissioners. Commissioner Runbeck added that the Commissioners are put in the position of being a judge and that the paperwork in the file can't paint the whole picture.

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

VOTE: 6-0 Motion carried (Commissioner Baker not present).

D. Dietz, Jordan P.

Mr. Dietz appeared.

Mr. Dietz stated that his employer is not here because they are a small company. Robert Tolton added that Mr. Dietz's employer called him yesterday and said she wanted to be here but couldn't. She submitted a letter strongly supporting Mr. Dietz. Commissioner Runbeck noted that Mr. Dietz is no longer on parole or probation. Mr. Dietz stated that this is true. Commissioner Runbeck asked whether, as a condition of Mr. Dietz's parole or probation, his drug tests were negative. Mr. Dietz stated that they were negative, that he has done everything that he is supposed to do, and that he is a free man. Commissioner Peterson asked for Mr. Dietz to explain his situation. Mr. Dietz stated that he had a lot of problems and tried to do too much at one time. He stated that he took the wrong road and wants to put the past behind him and move on. Commissioner Peterson asked Mr. Dietz what has helped him. Mr. Dietz stated that his job and family have helped him. He added that he is divorced with a boy. Commissioner Peterson asked when Mr. Dietz was released. Mr. Dietz stated that he was released last July. Commissioner Runbeck stated that she is torn because she is concerned about the seriousness of the offense. She doesn't think that people change from methamphetamine that easily, and these circumstances are also relatively recent. Commissioner Fraker agreed with Commissioner Runbeck and added that, according to the Commission's substantive policy statement, the nature of Mr. Dietz's offenses would qualify for grounds to not accept the application. Mr. Dietz stated that he has already been through the mill and done his time already. Commissioner Peterson reminded Mr. Dietz that the decision regarding whether to approve Mr. Dietz's application belongs to the Commission. Commissioner Black stated that Mr. Dietz served his time and he is not one to generally disallow someone from making a living and taking care of their family. He acknowledged the recency of Mr. Dietz's offenses but stated that he is an optimist and wouldn't want to deny Mr. Dietz. Commissioner Fraker stated that, according to the Commission's substantive policy statement, trafficking in illegal drugs and substance abuse are reasons to deny the application. Mr. Dietz stated that he merely attempted to manufacture illegal drugs. He stated that he had stuff in his house that he shouldn't have had. Commissioner Peterson stated that his concern has to do with the time. He stated that the Commission often will get people with methamphetamine problems and the problem doesn't just disappear. He added that once you get a license you can expand the license, so the Commissioners must take this into consideration when making their decision. Commissioner Black stated that Mr. Dietz has the support of his boss. He added that generally, if the Commission denies a license, the denial may give someone a reason to go back to what he/she was doing before. Commissioner Runbeck stated that generally the drug offenses are less concerning to her than burglary offenses, but the idea of making easy money with methamphetamine concerns her because there may be easy ways to make money if you have access to people's homes. She stated that she is concerned with a possible propensity of doing these types of things.

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

VOTE: 1-5 Motion failed (Commissioners Hartley, Robinson, Fraker, Runbeck and Peterson opposed, Commissioner Baker not present).

Mr. Dietz then left the room. Shortly thereafter, Lisa Miles asked that the Commission reopen this agenda item because the Commission had not reached a definitive decision. Commissioner Runbeck added that the Commission's motion to approve failed, but they didn't have a subsequent motion to deny.

MOTION: To reopen the matter, by Commissioner Hartley.
Seconded by Commissioner Runbeck.

VOTE: 6-0 Motion carried (Commissioner Baker not present).

Lisa Miles searched for Mr. Dietz but could not find him. In continuing to discuss this matter, the Commissioners believed that Mr. Dietz was not truthful on his application, in that the pre-sentence report indicates that he was on probation when committing the disclosed offense. There appears to be a second felony that was not disclosed.

MOTION: To deny based on lack of good moral character, the felony convictions, insufficient time to evidence rehabilitation, and non-disclosure on the application, by Commissioner Runbeck

Seconded by Commissioner Hartley.

VOTE: 6-0 Motion carried (Commissioner Baker not present).

E. Veltre, Troy K.

Mr. Veltre appeared.

Robert Tolton stated that this application was tabled from last month's meeting. Mr. Veltre did not receive the certified mailing notifying him of last month's Commission meeting until the 11th hour, and that is why he did not attend. Commissioner Peterson asked if Mr. Veltre has been clean since this occurred in 1999. Mr. Veltre stated that his driver's license was suspended for no proof of insurance. He stated that his felony was classified as a class 6 undesignated felony, but as soon as he pays back the fine it will be reduced to a misdemeanor. Commissioner Runbeck asked how long Mr. Veltre has been off of probation. Mr. Veltre stated that he has

been off since June, 2001 and has had no trouble since then.

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

VOTE: 5-0 *Motion carried (Commissioners Hartley and Baker not present).*

F. Smoluk, Jeffrey A.

Robert Tolton stated that Mr. Smoluk disclosed having a felony on his application and went to two different jurisdictions for information, but they didn't have any. Robert Tolton stated that Mr. Smoluk said the offense was a felony, but staff doesn't know if it was felony or misdemeanor. Mr. Smoluk did receive notice of the meeting today.

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

VOTE: 4-0 *Motion carried (Commissioners Hartley and Black recused and Commissioner Baker not present).*

G. Ruiz, Jorge

*Mr. Ruiz appeared.
Alex Escobar, from Sun City Pest Control, appeared.*

Mr. Ruiz stated that he works for a construction company right now. Previously, the Commission denied a license to Mr. Ruiz and he is now trying to go back to work for Sun City. Mr. Escobar, who is Mr. Ruiz's supervisor, stated that Mr. Ruiz worked for them about six months ago. He stated that Mr. Ruiz never complained, was a good worker and went over and beyond the call of duty. Commissioner Black asked if Mr. Ruiz has had any recent convictions. Mr. Ruiz stated that he had a misdemeanor for a "dog at large". He also had a disorderly conduct violation after he called 911 because his wife was hitting him. He stated that there also was a big crowd he was trying to control and he got caught in the middle. Commissioner Black asked if it was the same spouse as in the first offense. Mr. Ruiz stated that he has not been with her for about two years and is going through a divorce. He also stated that he believes that Commissioner Fraker said at the previous meeting that if he could bring proof of the charges, then the Commission would reconsider his application. Mr. Ruiz stated that he also brought two letters of recommendation. Robert Tolton stated that when Mr. Ruiz appeared before the Commission previously, he was denied in a split decision among 4 members. Then, there was

a 3-2 vote to deny based on recent arrests though there were no convictions. Mr. Ruiz was told that if there was some time and distance between the offenses, then he should come back and reapply. Mr. Ruiz stated that once he was out of prison, in 2000, he did 3 years of drug testing while on parole, and everything was fine. He stated that he has been discharged from parole and is doing great now, with his own house, a fiancé and custody of his kids. Commissioner Robinson asked how Mr. Ruiz came into possession of the methamphetamine in August, 1994. Mr. Ruiz stated that he was hanging out with a bad crowd in San Diego.

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

VOTE: 5-1 Motion carried (Commissioner Robinson opposed,
Commissioner Baker not present).

(Break from 1:55 P.M. to 2:05 P.M.)

H. Martin, Christopher L.

Mr. Martin appeared.

Mr. Martin stated that he works for a landscaping company and also for a group home for teenage boys. He stated that both of his employers are not here but they sent letters of recommendation and can be contacted. Commissioner Peterson noted that the offenses happened a while ago and asked if Mr. Martin has had any problems since then. Mr. Martin stated that he has not. He also stated that his assault charge was dropped and he was convicted of resisting arrest. He was 18 years old when it happened and will be 31 years old in April. Commissioner Black asked if Mr. Martin served time. Mr. Martin stated that he did and has not had any arrests since then. Mr. Martin stated that he is a chef by trade and just started landscaping a few months ago. He also stated that he grew up in group homes and is a staff member now working with a home 4-5 days per week for about the past four months. Commissioner Runbeck asked if Mr. Martin was on probation. Mr. Martin stated that he started on intense probation for about 22 months while he was going through a divorce and he had a dirty urinalysis test. He also stated that he had a six-month parole after prison and passed his urinalyses. He stated that he is clean now and has kids.

MOTION: To approve by Commissioner Runbeck.
Seconded by Commissioner Black.

VOTE: 6-0 Motion carried (Commissioner Baker not present).

I. Ireland, James V.

Mr. Ireland appeared.

Rod York, from TruGreen Landcare, LLC, appeared.

Commissioner Runbeck asked how the criminal endangerment charge and disorderly conduct with a dangerous weapon charge were classified. Lisa Gervase stated that the criminal endangerment charge was classified as a misdemeanor and the disorderly conduct charge is undesignated. Commissioner Black asked if the disorderly conduct charge is Mr. Ireland's only felony. Mr. Ireland stated that it is. Commissioner Runbeck asked if Mr. Ireland's probation was terminated early. Mr. Ireland stated that he violated his probation, was brought back and went through it again, including anger management classes, and had to pay fines. Commissioner Runbeck asked if Mr. Ireland was incarcerated. Mr. Ireland stated that he was incarcerated in 2001. Commissioner Runbeck asked if Mr. Ireland was put on probation after that. Mr. Ireland stated that he was on probation for 18 months. Commissioner Runbeck asked if Mr. Ireland successfully completed anger management class. Mr. Ireland stated that he did. Commissioner Black asked if Mr. Ireland was on probation prior to this offense. Mr. Ireland stated that he was not. Commissioner Runbeck asked, with felony on his record, whether Mr. Ireland is allowed to carry a weapon. Mr. Ireland stated that he is not and that he got rid of all of his guns. Mr. York, who is Mr. Ireland's supervisor, stated that Mr. Ireland has worked for him for about two years. He stated that Mr. Ireland has been exemplary and is a crew leader trying to move up the ladder. He stated that they take care of commercial maintenance accounts, including spraying weeds. He stated that he has a lot of confidence in Mr. Ireland and is the one who hired Mr. Ireland. He stated that they did a background check and gave Mr. Ireland a probationary period. Mr. Ireland had discussed his history with Mr. York. Commissioner Black asked if Mr. Ireland has a family. Mr. Ireland stated that he has been divorced for over 20 years and has a daughter and son in Pennsylvania.

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

VOTE: *5-0 Motion carried (Commissioner Fraker abstained,
Commissioner Baker not present).*

J. Armstrong, Michael W.

Tabled.

Robert Tolton stated that Mr. Armstrong did not anticipate that today's meeting would last this long and had to leave for another job.

K. Sakievich, David W.

Tabled.

Robert Tolton stated that staff did not receive the return receipt from the certified mailing notifying Mr. Sakievich of today's meeting, so staff doesn't know whether he received the notice.

L. Carey, Timothy D.

Mr. Carey appeared.

Mike Garcia, from Heritage Service, appeared.

Commissioner Runbeck asked if Mr. Carey is still on probation. Mr. Carey stated that he is until 2008. He submits to random urinalyses and has passed all of them. He stated that his probation was dropped from monthly to quarterly. Commissioner Runbeck asked if the offense is his only felony conviction. Mr. Carey stated that it is and that he has not drunk since 2003. He added that he was previously "certified" (licensed) in the 1980s. Mr. Garcia stated that Mr. Carey is a good, reliable employee who made a mistake in the past and deserves a chance. Commissioner Robinson asked if Mr. Carey has an Arizona driver's license. Mr. Carey stated that he does not, and that if he is caught driving he will have to go back to jail for two years.

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

VOTE: *6-0 Motion carried (Commissioner Baker not present).*

XVII. Commission Updates and Reports; Miscellaneous Action Items.

A. Royal Pest Control (BL)/Derrill L. Hume (QP) - Case No. 1996-192.

Lisa Gervase stated that this is one of two of the very last of the approximately 750 cases prior to 1999 that staff has been trying to clean up. The case file does not document whether Mr. Hume paid the \$500 civil penalty. She stated that Mr. Hume has a history of cooperation and timely license renewals. It is up to the Commission's discretion how to handle this, given the age of the case.

MOTION: *To close the matter by Commissioner Hartley.
Seconded by Commissioner Runbeck.*

VOTE: *6-0 Motion carried (Commissioner Baker not present).*

B. Possible Future Law Changes

Scott Richardson, attorney, appeared.

Fred Willey, from Invader Pest Management, Inc., appeared.

Barry Aarons appeared.

Jim Saitman appeared.

Paul Peaty, from Ariat Services, Inc., appeared.

Mike Pfeiffer, from Pesticide Training Resources, appeared.

Bert Putterman, from Arizona Exterminating Co., Inc., appeared.

Dave Burns, from Burns Pest Elimination, Inc., appeared.

Susan Tomlinson, from North Country Pest Management, Inc., appeared.

Mara Kelly, attorney and lobbyist for Goodman Schwartz, representing the Commission, appeared.

Eric Ruden, Vice President of Northwest Exterminating Co., Inc., appeared.

Lisa Gervase stated, as background, that on January 4, 2005, she put together an outline of items for the Commission to consider if they wanted to change anything in the laws. Discussion of possible future law changes has been an item on each monthly agenda since January, 2005. In May or June of 2005, a more final outline of ideas was put together, and stakeholder meetings were held in June, July and August. Issues were discussed and they came back before the Commissioners for their review. They put a draft bill together of consensus items in mid-September of 2005 and sent it out to everybody. She stated that she received an email from Barry Aarons saying that he had not been part of the discussions and that he wanted to meet. At that meeting, he and Scott Richardson stated their agreement with the changes, and the bill went to Senator Barbara Leff to file in October-November, 2005. Senator Leff at first was not interested in sponsoring an SPCC bill because of what she had heard from people in the weed control business. Senator Leff was planning on proposing a weed control license exemption, and after some discussion, it was thought that if they were going to have an exemption, they might as well come up with workable, enforceable language regarding specific issues. Lisa Gervase stated that the Commission wanted to be part of the solution and have meaningful input or control over this proposed exemption, so it was included in the SPCC's omnibus bill. She looked at all of the exemptions going back to 1985, looked at complaints, and listened to everyone's concerns and came up with a draft that the Commission approved at its November meeting. Unfortunately, shortly before Christmas, a few folks went directly to Senator Leff with objections to 4 items in the bill. Senator Leff then decided to run the weed control bill as her own bill and take it out of the omnibus bill, so that issue is now out of the Commission's hands. Lisa Gervase stated that issues raised to Senator Leff by Scott Richardson, Barry Aarons and others are areas where compromise can be reached. Based on a meeting that was held to discuss these 4 issues, she drafted amended language to resolve the purported objections. The draft bill with her

amendments proposed were provided to the Commission for review.

Commissioner Peterson asked what the big issues are. Lisa Gervase stated that the first big issue has to do with the proposed definition of what a "pretreatment" is. The concern is that the definition is too broad. There; however, is the rules amendment process ongoing that would address parameters and standards of termite treatments and the re-treatment/warranty period. Lisa Gervase stated that, in an outline dated 01/03/06, she put some language to create the framework for language in rules. It can either be reworded in law or they could choose not to have the definition of pretreatment. Commissioner Fraker stated that the issue is not just solely addressing the five-year retreatment rule. It is more than just a soil treatment under the slab. If someone is not using a liquid to treat, it is not accurate. The way the rule definition is currently written, it doesn't cover all types of applications, so he's in favor of changing the definition. Commissioner Hartley stated that he has problems with the proposed law definition because it leaves the interpretation too open, and he doesn't think that a rule could be tied into this law. Commissioner Peterson asked if the Commission would be able to further define pretreatment in the rules without having to do it in this bill. Commissioner Hartley stated that it can be done, but he doesn't know how solid it would be. He stated that if he was challenging it, he would say that he has done what the law requires. He stated that he doesn't like the new definition because he thinks it is too vague and can be challenged easily, no matter what the rules are.

Scott Richardson stated that he personally did not contact Senator Leff or any of her staff with objections to the omnibus bill. He stated that the definition of pretreatment can be done in the rules. It is filtered through his clients and he is not sure that it needs to be defined in law. Commissioner Black stated that the way the rule reads now, it talks about application of liquid under slab. Lisa Miles stated that the Commission has authority under the rules; the rules carry the same force as laws. Fred Willey, President of the AZPPO, stated that his organization represents approximately 40 members. He recommended that the Commission drop its support of the legislative bill and any law changes at this time and instead address any proposed changes in the rules.

Lisa Gervase addressed the financial security issue for business licensees, which more often than not is in the form of liability insurance. There is old language in the current statute that has evoked confusion about what is to be obtained. After stakeholder meetings, the language was proposed to be changed from \$300,000 property damage and \$300,000 public liability, each separately, to \$600,000 per occurrence and aggregate for bodily injury and property damage. She stated that she has heard some comments, one being that the law only requires \$300,000 of insurance because there is no such thing as public liability insurance. Actually, there is such a thing, but it is an outdated term referring to general liability. She

stated that it is difficult to get limits at \$600,000. Typically, insurance companies want to write \$300,000, \$500,000 or \$1 million policies. The majority of pest control companies are at \$2 million or more. She stated that there is still some confusion and they are working to get expert advice about whether the insurance requirements are accurate and obtainable. Commissioner Peterson stated that it sounds like Lisa Gervase heard what the Commissioners said and is doing what they asked her to do. 86% of the pest control companies have \$1 million or more in coverage already. Lisa Gervase stated that, particularly with smaller businesses, it is a challenge for a company to write pest control insurance.

Barry Aarons stated that the term "public liability" is still used and is a useful term, so the law language could be left as it exists now. Lisa Gervase stated that comments have been made in public and in writing that there is no such thing as "public liability" insurance. She suggested changing the law to reflect reality and what the insurance people understand. Commissioner Runbeck stated that she noticed a suggestion to change the language from \$600,000 back to \$300,000 for personal injury and \$300,000 for property damage. She asked if that change would keep everyone happy. Scott Richardson stated that \$300,000 for public liability would mean \$300,000 for general liability. Under general liability, you get coverage for personal injury and property damage. How do you get \$300,000 more? He stated that he suspects that the reason some people have \$1 million in coverage is because they couldn't get \$600,000. Commissioner Runbeck asked if this change addressed his concerns. Scott Richardson stated that the problem is that you would only have \$300,000 of coverage if the house goes bad. Commissioner Runbeck suggested maybe requiring \$500,000 of coverage for each category. She stated that she looks towards the industry people to tell her the type of damage they get. Commissioner Fraker stated that, in his experience, there is minimal of amount of damage. Commissioner Baker asked what "minimal" means. Commissioner Fraker stated that he thinks that you need a sufficient amount of coverage, but he doesn't think that most people in most companies experience a lot of claims with termite damage to homes. He stated that he has been in business for a long time, and his company has never had a claim of even \$1,000. He acknowledged that it can happen occasionally though. But, in this market with the species of termites here, they are more of a nuisance than a structural threat to the property. Do I need to have \$2 million in coverage? Not really, unless the law says so. Commissioner Runbeck stated that, as a practical matter, \$300,000 for personal injury and \$300,000 for property damage would probably be sufficient. Businesses run a risk if they don't get more insurance because they could have to pay more if something were to happen. But maybe the State doesn't have to mandate any more than these minimums.

James Saitman stated that, in practice, they have to go back to an underwriter who crunches numbers. If there is a problem, the business should go back and fix it on

their own unless there is a death or something major. He said that premiums for a non-standard amount could be higher than a standard amount of insurance with higher limits. Commissioner Runbeck stated that the Commission should set an amount and either have the insurance companies adjust or have businesses adjust, as we cannot keep changing out law to keep up with the insurance industry. The important thing is for the Commission to be clear with its requirements. Commissioner Peterson agreed.

Mr. Peaty stated that he has been doing insurance the way it has been in the laws for the past several years and doesn't see the need to change the laws. Commissioner Peterson stated that the Commission is really only looking at changing the archaic language. Scott Richardson stated that if the requirement is \$300,000 personal injury, \$300,000 property damage, an insured couldn't go into the \$300,000 personal injury portion to address property damage. But if you do a single limit policy, the money can be used for either property damage or personal injury. There would be a broadband of coverage, with some exceptions, as opposed to being restricted, like with car insurance. Scott Richardson stated that a pest control company would essentially be buying two policies. If there is a \$500,000 single limit, it can be used for one or the other or both. Commissioner Peterson stated, however, that if the Commission changes the language, then the insurance companies may have issues. Mr. Peaty stated that if they have issue with the recent new forms like they have, then they will likely have issue with this change also. Commissioner Runbeck stated that people coming into the industry need to understand the terminology and the Commission needs to get rid of archaic terms. She suggested having one amount that covers everything. Commissioner Black noted that this appears to be the way that the proposed change reads now, with \$600,000 for the aggregate. Scott Richardson stated that this would be fine as long as they just pick a limit that is realistic for insurance companies, because there are not many insurance companies out there for pest control. Commissioner Peterson stated that they have had \$600,000 in the past, and that doesn't seem like an easy number to get. There is always an exception to the rule. If people can get \$500,000 and still cover what they need to cover, then this should be fine. Lisa Gervase stated that, in staff's research, they didn't come up with anything that determines what the limit should be. \$500,000 would be fine, but she just hopes that industry members who have been paying for \$600,000 worth of coverage won't be upset. If they drop it down to \$500,000, that shouldn't change the endorsements for wood-destroying insect repair work, etc. Commissioner Peterson stated that \$500,000 is good.

Mr. Willey then read a prepared written statement. He stated that the Arizona legislature has amended the Commission's statutes seven times in the past five years on a myriad of matters. The Commission has requested some of the revisions and the industry has also requested some of the revisions. It is a lot to

digest. The Commission has just recently instituted a rule revision process. During this process, the Auditor General or someone else will review the rules. He stated that the AZPPO opposes any new amendments, knowing that the sunset process is upon us which means that there will likely be more changes in a couple of years. He stated that he doesn't think there should be additional legislation during this session, and that most of the proposed statutory changes could be imposed administratively. Commissioner Peterson and Commissioner Runbeck stated, however, that they have not heard these views before. Lisa Gervase stated that she hasn't either. Commissioner Peterson stated that they can still have that position, but the Commission hoped that people would have spoken up earlier if there were a lot of people in support of this position. Lisa Gervase asked what proposed changes would create a burden on businesses. She stated that the proposed changes are written to clear up inconsistencies. She asked if there are any fee increases or any form changes. Commissioner Black added that he believes that the insurance language change would be an industry-friendly change. [No response about burdens].

Commissioner Hartley questioned the proposed change to A.R.S. Section 32-2312(E). He asked what it means to scratch out the words "applying pesticides" on page 13, line 7. He asked what it would mean to change the definition of structural pest control to "providing pest control services", not just merely "applying pesticides". He stated that this would now bring into focus and require applicator licensure for people who do things other than just apply pesticides. He asked what it means to be providing pest control services. Does this mean that the girl answering the phone needs to be licensed? He is not sure that the Commission wants to head in that direction. Commissioner Hartley also mentioned that in trying to comply with the 90-day rule, his company, when they have a person who has been employed for 90 days, rather than firing that person, assigns that person other duties, such as trenching around houses, etc. He stated that his company doesn't try to get around the law, but if the law language was to change to "providing pest control services", that would mean that such an employee would no longer be able to work for the company. Assistant Attorney General Lisa Miles disagreed and stated that is not true. Lisa Gervase added that the example of trenching would not constitute pest control services under the proposed definition. What they did is change "business of structural pest control" to "pest control services" because of the confusion that someone not actually running a business, like someone who is merely helping out a neighbor, would need to be licensed. They are not changing anything else substantively. This is meant to be a nomenclature change only, not changing who would need to be licensed. She asked if it would be right for someone who is making inspections, bids, etc. not to have to be licensed within 90 days or at all. Instead of the trigger being the date of employment, the trigger would be the date of first providing pest control services. Commissioner Runbeck asked if the definition of pest control services sufficiently limits the requirement of licensure

to the appropriate people. She asked if someone who answers the phones is actually providing pest control services. Lisa Gervase stated that the discussion has centered around devices. The discussion was to leave the definition this broad, and other than unlicensed weed control folks, no one has voiced dissent. Commissioner Hartley stated that he doesn't want Arizona's regulations to start resembling those of California. He stated that they are so anal there that someone can't even tell people that the bug in their hand is a cockroach without first being licensed. He stated that he is a strong supporter of having people licensed if they handle pesticides. He agreed with the expansion of that idea into termite inspection work. Now, however, he sees the Commission possibly going further than they should go. Commissioner Runbeck asked if it would solve everything if they changed "providing" to "performing" or "doing". Commissioner Hartley stated that he believes that this still wouldn't cover the 90-day problem.

Dr. Pfeiffer stated that he sometimes is confused by who is in the business of structural pest control. Would people who are trapping rodents, taking weeds down, doing bird exclusion count? He stated that it seems to him that pesticide use should dictate and that the current definition is too broad. Mr. Putterman stated that he has also heard discussion about sales people, etc. He stated that he does tent fumigation, and some of his guys are employed strictly for their length and girth, and they don't spray pesticides. His company needs to hold on to these people. He suggested leaving the definition alone to just deal with pesticide applications. Commissioner Peterson asked what type of regulatory authority the Commission should have over people like the pigeon guy. Mr. Burns stated that his company does a lot of bird jobs. They might have people on the ground cutting cloth, but do they need to be licensed? Lisa Gervase stated that they would not and that this law language wouldn't be changing that. This is a specific, narrow change. No one that isn't currently required to be licensed wouldn't be required to be licensed with this language change. The above issues are easily resolved with minor amendments to the bill.

Commissioner Hartley suggested getting rid of the bill until the Commission can address this. He stated that with all of the changes, there are things that are feeding on each other, and the new language doesn't address everything. With the sunset review process coming soon, he recommended withdrawing the bill and instead working on the rules. Commissioner Black asked how long a copy of this current version of the bill has been available to the industry. Lisa Gervase stated that it has been available since August or September of 2005. Commissioner Black asked if the person from the AZPPO even participated in the discussions at all until now. He acknowledged that certain people have problems with these proposed law changes, but their arguments don't hold as much weight as they would hold if they had participated up until now. Ms. Tomlinson stated that early on in this process she was invited to take part in the discussion sessions. However, when the sessions

are scheduled in June, during the busiest time of the year, there are few people who will be able to give up time to be here. She stated that she did make comment on the laws before, but she really doesn't have much time to make more. She stated that she runs a business and really just wants to make sure that she follows the law. She stated that, within the industry, on the way to the meeting today they had a big discussion about the laws and about issues like whether they can legally catch a racoon. There are Catch 22s all over the place. Commissioner Black stated that a lot of people work and don't have the time, but there are associations that can hopefully facilitate the discussion process. Also, these issues aren't addressed towards particular people but towards the industry as a whole. Commissioner Hartley stated that one of the reasons that the Commission went through this process was to cover bits and pieces of the issues at the various meetings, and this was done in good faith. Rather than putting the whole group of laws together in his head, he would look at parts of it at the time. He stated that when he later read the bill contextually, he found that certain sections would cause problems in other sections. He stated that when he saw the whole bill in November, 2005, he thought that the Commission shouldn't sent it to the Senate. Barry Aarons stated that the legislative process is evolutionary, not revolutionary. He stated that he received the bill in August and has looked at it over time. He stated that he received calls in November from industry members in the Pest Management Association. The sunset review is coming up, and so he suggested that maybe they shouldn't be doing an omnibus bill. He stated that he talked to Stuart Goodman, and has met with him and Senator Leff. The only thing discussed was the gardener issue. He stated that while there were meetings, and the bill started to gel, in the process it would have been easy for a consensus bill to be requested by the agency. As it gets closer in time to the deadlines, like now, people look at it more seriously. He stated that the Commission just spent approximately 20-25 minutes on a cosmetic, minor issue like insurance. The legislature will not spend that long. He stated that he appreciates the discussions, and now we have reached the point of critical mass. These things get stretched out and then compressed in. Mr. Putterman stated that he personally participated in the process, and lots of ideas and issues were discussed. What came back from staff does not necessarily agree with what his opinions are. He stated that he reserves the right to object, and he takes insult to the idea that industry members may have been waiting until now to object. He added that just because a lot of time was spent on this bill doesn't mean that we should agree with all of it or that we should leave it altogether. Finally, he believes that the proposed changes don't seem to help out the consumers at all.

(Break from 11:25 A.M. to 11:40 A.M.)

Commissioner Peterson stated that he doesn't think that time has been wasted and that there have been some good discussions. He stated that he is disappointed in how the objections have come about. He complimented Lisa Gervase because she

has done a wonderful job at collecting input and trying to get a consensus. Commissioner Runbeck stated that there are always going to be points of contention on a bill, whether we do this now or next year or whenever. Delaying law changes doesn't change that. She agreed that there has been a lot of effort and she personally has proposed some changes based on some things people have said. She feels that her suggestion for language changes resolves the issues raised and recommended proceeding and amending the bill at the legislature, because the problems and points of contention can be addressed. We have a sponsor and bill is out there. Commissioner Baker stated that he is disappointed in the industry, but on the flip side, working at university as he does, reviewing grant proposals, etc., they don't work on anything until there is a deadline, so he realizes that this not uncharacteristic in human nature. There are several positive changes in the bill and any changes that clarify the law protect the public. He stated that you have to be involved in your business and speak up. Commissioner Black commended the work put into this bill, and asked if there really have been a lot of statutory changes in recent years. Mara Kelly stated that the number of law changes experienced by the Commission in recent years is not terribly uncommon. Commissioner Hartley stated that even though the weed control exemption part of the bill has been withdrawn and put somewhere else, additional things still need to be addressed. He stated that the proposed changes are not just mere tweaking of the law, and that there could be some fundamental changes regarding the purpose of this Commission. Commissioner Robinson stated that he commends staff, but if the industry members are uncomfortable, then the Commission should stand back. Commissioner Fraker stated that the industry members have been involved in the discussion process and have been meeting and reviewing and making recommendations. He stated that it has been a slow process getting to this point because they have been looking at pieces at a time. The industry is the group most affected and the public members of the Commission are not really affected. These decisions affect industry members' earning power, their employees, livelihood, etc., and the Commission has to look at the total package. He stated that Lisa and staff have made a conscious effort to interpret what the Commissioners have said. Industry is an essential part of this process. Everyone here has a burning issue, but not everyone expresses themselves. He stated that in order to come up with something that will work, there needs to be more active participation from people in the industry. If that had been the case, these issues could have been addressed earlier. Commissioner Runbeck stated, however, that there was a motion at an earlier meeting and the Commission voted to propose this bill. Lisa Gervase stated that Senator Leff has made it perfectly clear that the weed bill is to be separate from this bill. The stakeholder meetings were like a committee process, obtaining input from industry. Do we want to be at the legislature every year? No. But you can't get everything done quickly, and even this bill was narrowed down to encompass maybe only half of the original proposed changes. Commissioner Black asked how many prior votes the Commission has had regarding this bill. Lisa Gervase and

Commissioner Runbeck stated that there has been just one, when it was in a final package at the November meeting, after months of discussion and language reviews. The Commission voted, 4-2 (with Commissioners Hartley and Robinson against the bill, and Commissioner Runbeck absent), to move forward with this package. Lisa Gervase stated that she thought that the opposition from Commissioners Hartley and Robinson was because the weed control licensing exemption issue was included in there. Commissioner Hartley stated that the other reason was because the impression was given that this could be tweaked at the Senate level, and he thinks more Commissioners maybe voted for this than should have because they thought it would go forward as written. But Senators and Representatives don't spend as much time as the Commission spends on minutia, and he is concerned that the Commission might end up with something they don't want. Mara Kelly stated that it is common for a person working for regulatory agency to work with the legislature, and the bill would be "dropped" only when there is final agreement. The bill can be further amended upon input from another group of people, and nothing can stop a legislator from amending it, but legislators also look towards the regulatory agency for help. She stated that we are still well within the periods to drop the bill, Senator Leff has agreed to be sponsor, and the Senate has different time frames. February is the deadline. Commissioner Baker stated that all along the industry was pretty much behind this and he feels like the Commission has now been dropped a bombshell. He stated that he thought they had been working through these issues and didn't realize there was a stop sign put up. He stated that the Commission wants to do the right thing and doesn't want to force something down the industry's throat, but this is the first time he's hearing objections that could be resolved with minor language changes. Commissioner Fraker stated that he also didn't realize that there was such a number of issues and naysayers. He didn't think the industry was totally opposed. He stated that people are reluctant to come here and voice their opinions, but they need to get here to make their feelings known because the public Commission members don't hear all of the issues like industry members do. Commissioner Peterson stated that he went to the stakeholder meetings and thinks they worked well. No one was shy - people spoke up. He asked how the Commission is going to look in the legislature's eyes if they now vote against the bill. He acknowledged that they are about to go through the sunset process and could be negatively viewed. On the other hand, if this bill goes away, does the Commission gain some good will from the industry? He stated that he doesn't know why there is a barrier between the people who represent the industry and the people on the Commission. He stated that if they don't deal with these issues legislatively, then they could be ignoring some problems. Nothing was raised that can't be worked on. Commissioner Runbeck stated that she thinks that the interested parties have worked well together and have made progress, even on the issues brought up for discussion today. She thinks that the Commission can still come up with a bill that deserves to see the light of day. Commissioner Hartley stated that he doesn't believe that this bill has any great positives for the

Commission or the consumer and that any small positives are far outweighed by negatives. Mr. Putterman stated that there are more than just the two or three items with which people in the audience have issues. Commissioner Runbeck asked, if people want to stop the whole bill, why should they continue discussing any items? Commissioner Runbeck stated that the purpose behind most of this bill is to clarify things that aren't clear and to do away with things that are archaic. Statutes always need that type of cleanup - perhaps annually. She stated that she hasn't heard anyone talk about the other issues that they don't like.

Mr. Ruden stated that he disagrees with the people in industry here today. He stated that the AZPPO doesn't represent him or even close to the majority of the more than 1,000 companies in Arizona. Only a few of the many voices are speaking today. He stated that Barry Aarons doesn't represent him and that the APMA doesn't even exist anymore - it fell apart at the seams. So, who does Barry Aarons represent? He stated that staff's emails and communications have given him the opportunity to participate in the discussion process, and he doesn't think this bill hurts the industry. He stated that he has seen a number of situations where the laws and rules don't allow certain action by the Commission, and this is one of the reasons to change them. But if you don't change the laws, how do we deal with the rules? He has been here 9 times in the past year and has heard many people complaint that they can't do things because it's not allowed in law. This bill clears that up. He stated that he is speaking for the large number of companies who are not here today. 95% of the industry is not here today because they're fine with the bill. Commissioner Black asked if law changes are necessary to change rules. Lisa Gervase stated that a lot of the proposed changes are to make laws consistent with rules or with reality. Everything can't be changed at once, but things do need to be tweaked a little bit. Mr. Peaty stated that nobody has touched the rules. Lisa Gervase stated that a rules discussion item has been on every Commission agenda since January, 2005 and that a rule package has been opened. She added that she is getting tired of the misstatements. These misstatements have invoked hysteria among a few vocal industry members. She added that she has made every effort to make this an open process. Mara Kelly stated that it is not as if Senator Leff couldn't decide to carry this bill on her own if she wants, although they haven't had a specific conversation with her about this.

MOTION: *To withdraw the bill from consideration by the Senate, by Commissioner Hartley.
Seconded by Commissioner Robinson.*

VOTE: *4-3 Motion carried (Commissioners Runbeck, Black and Peterson opposed).*

Commissioner Peterson stated that the Commission now needs a commitment from everyone to participate in future discussions, and that they should realize that the rules revisions will be based on the law language as it is written now. Commissioner Runbeck added that this bill could go forward without the Commission's support and that the Commission won't be suggesting any changes. Commissioner Fraker stated that the people in the industry need to step up.

C. Possible Future Rule Changes (emailed to Commissioners on December 30, 2005, and on SPCC Web site)

Kevin Etheridge, from Contractors Termite & Pest Control, Inc., appeared. Gene Harrington, from the National Pest Management Association, appeared. Doug Wyly, from Nisus Corporation, appeared.

Commissioner Hartley stated that in light of the Commission's decision regarding how to deal with the laws, they are probably going to have to go back over the rules and revise the proposed changes. Mr. Etheridge stated that, as he understands it, there is still a law package at the legislature. If it does not die, aren't the rules to mirror what is in law? He asked if maybe the Commission should defer all this rules discussion until the next legislative session. Commissioner Peterson stated that the Commission still needs to continue to work on the rules regardless of what happens with the Senate bill. Lisa Gervase stated that they just had their first rules stakeholder meeting last week. From a policy direction, the issue from a previous December meeting that she wanted to raise has to do with pretreatments. The Commission's direction was that the Commission should define "pretreatment" and have the rules set out standards. The door to new technologies would be open, but not so wide that there would be problems with parameters. What appeared to be the consensus of the discussion at this first meeting was that standards should not be set out in rules and the label is the law. She stated that, along with a couple of industry members, she and her staff disagreed with that position. But Nisus and BASF and a couple of industry members who don't typically do pretreatments seem to agree that the label should be the law. Mr. Etheridge stated that he was at the meeting and spoke in direct opposition to the consensus. He stated that he believes that this state is unique and practices are in place to protect the consumer. In the absence of regulatory presence, there will be chaos. Commissioner Hartley stated that there is a lot to be said for allowing the label to dictate, except for that in recent years, certain products have been allowed to be labeled in ways that are in direct conflict with interest of consumers. Boracare, according to their label, is a stand-alone treatment. But he stated that he doesn't believe that Boracare as a stand-alone treatment is in the best interests of the consumers. Mr. Harrington stated that his association has worked over the last ten years with the Environmental Protection Agency ("EPA") and state regulatory officials to come up

with guidelines, and they have come a long way in enhancing communications; the loopholes are now closed. He stated that baits were registered before the guidelines stiffened up. Now, the product performance guidelines cover baits, liquid treatments, etc. A group is charged with reviewing efficacy data to see if the products work as proposed and officials from the Association of Structural Pest Control Regulatory Officials ("ASPCRO") work with them. He stated that if you start to pick and choose the products, he is not sure what additional criteria you would use. The process is sealed tight at this point. Mr. Wyly stated that there is a strict protocol nationally. He stated that he has been a member of the industry for 17 years and has sat on law and rule committees. He stated that Commissioner Fraker alluded that the species of termites here are more of a nuisance pest than a structural damage issue. He stated that his company has run efficacy tests and Boracare has passed. They have added language to apply to anticipated problems. He stated that he doesn't see a separate protocol for 5-year data in Arizona. There is a rule that says you can only use a soil product in Arizona. If his company has a product that passes national standards, are we not blocking in rule separate technologies? Commissioner Hartley stated that heterotermes is more than a nuisance pest and that when Nisus first came in here, he didn't agree with their treatment opinions. He stated that he was horrified that there was no mention of a final grade in Arizona, and it sounds like Nisus has started to address this. He stated that he is not against the Boracare product but doesn't believe it is a panacea product. Mr. Wyly stated that he is still struggling with how to deal with this issue in rule without Arizona having a separate protocol. Commissioner Peterson stated that they may not have standards set up here, but they do have folks with a wealth of knowledge who have seen what works and what doesn't work here. He stated that he believes that Nisus had the labels changed so they could play the game. Mr. Wyly stated that Boracare is being used and that they have had almost 6,000 homes in the past three months, but we don't have a protocol. He stated that PMPs can go do a treatment and not be regulated. He stated that his group wants to be regulated and that they are in 49 other states. He asked where the process goes from here. Commissioner Hartley stated that Commissioner Baker wanted to have some discussion with Nisus about protocol before he would be willing to get on board. He added that big names in the industry have said that Boracare, as a stand-alone treatment without a final grade, would not be a good method of doing pretreatments. Mr. Wyly asked where the gap is with the Commissioners. He asked if there is data to the contrary saying their product won't work. He stated that in seven years the product has worked well and it has been adopted. They can move forward in Arizona, but it is not a good thing to not be under regulation by the Commission here. Mike Francis stated that one of the issues he has heard about surrounds the critical areas. He stated that he knows that there is a concrete portion to the label. He asked if, by applying liquid to concrete, Nisus's research has shown that the product repels or kills the termites so they are not an issue anymore if they come up through critical areas. Mr. Wyly stated that the product

does repel termites from tunneling, and that is why they got approval from the EPA on cement and non-cellulose areas. Mike Francis stated that the Commission still does have regulatory authority over Boracare applications, but not as a pretreatment, so therefore they would not be under a five-year retreatment obligation. For regulatory purposes, it would be more like a post-treatment. Mr. Etheridge stated that he thinks that we do have to be open to various technologies, and that in the absence of regulatory presence, all products have to be upheld to the same standards. From his experience in civil lawsuits, he can't find a manufacturer who will make a twelve-year warranty to a PMP. Manufacturers have indemnifications on any labels, and there are certain qualifications that a PMP has to meet in order to meet the twelve-year warranty standard, including annual inspection. Also, there is no specific requirement on the product label to do a final grade. It is in regulation, however. He stated that when you have expansion joints through a living room or center of a garage, you can't treat these critical areas because they are not adjacent to lumber. Mr. Harrington stated that the level field needs to be a fair one, and he believes that the current guidelines do that. He added that the forest service in Arizona does efficacy testing here. Mr. Wyly stated that he agrees that it needs to be fair. He stated that in his 17 years in this business, he has yet to see a soil termiticide that doesn't get disrupted. For the comparison to be fair, you can't hold Boracare to a standard of perfection because soil products are not perfect either. He stated that sometimes the fail rate for soil products is 10%-20%. Lisa Gervase stated that the issue is not about product approval, but for the people who set the rules in Arizona, it is appropriate for there to be certain standards. Critical areas are required to be treated in a pretreatment. Because "pretreatment" is defined in rule so narrowly, without a law change, a borate-only treatment is by definition not a pretreatment and therefore not subject to the standards laid out in rule regarding pretreatments. She also stated that there hasn't always been a communicative relationship with the Environmental Protection Agency ("EPA") for label approval. She stated that we are looked at as a leader across the country for regulation, so it is not really a persuasive argument to say that a product should be allowed in Arizona because it is allowed in other states. Commissioner Peterson stated that he believes that all pretreatment products should be held to the same standards. He stated that he would hate to see that anyone could use a Boracare product and that would be enough. Lisa Gervase stated that they are regulated to the extent that they have to do a final grade, but they don't have to create vertical and horizontal barriers nor be subject to the 5-year retreatment rule. The product will be able to be used for at least a year without a level playing field. Commissioner Peterson stated that we are going to continue to chase the clock, and he thinks that companies are going to continue to play the ethical and moral game and work around the rules. Commissioner Fraker suggested setting up some definitions in Rule 101 and getting input from the industry and staff and the Commissioners as to how "pretreatment" should be defined. Commissioner Black asked if Lisa Gervase has received any written

comments concerning current the draft of the rules. Lisa Gervase stated that she has received 1 written comment but has received various verbal comments. Commissioner Black stated that he would like to see written comments so that we don't get into a situation where someone says "I didn't say that".

D. Complaint Status Log - no questions/comments

E. Computer Based Testing "CBT" Status and Statistics - no questions/comments

F. Expenditure Report - separate handout or verbal report

Lisa Gervase stated that, as of the end of December, 2005, halfway through the fiscal year, the Commission has expended a little over 50% of its budget.

G. Case Status Report - separate handout

Lisa Gervase stated that there are roughly 55-60 active cases, and as recently as 6-12 months ago there were closer to 80-100 active cases. 60 cases have been sent to the Attorney General's Office for collections totaling about \$100,000. There are still a few cases that still need to be sent there. There are 14 cases that were sent to the Attorney General's for collections before Lisa Gervase's time at the Commission and staff is trying to obtain the status on those cases. After the Commission voted today to close Mr. Hume's case, there is now only one old case prior to 1999 that still either needs to be closed or have compliance verified.

The Commission commended staff on obtaining compliance with and closing out the hundreds of pre-1999 cases.

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

Lisa Gervase stated the Superior Court judge, based on the work of Lisa Miles, upheld the SPCC's denial of her request for temporary QP renewal. Ms. Kilian's attorney filed an appeal to the Court of Appeals. Right now, Ms. Kilian can only operate in category "B1". Commissioner Peterson noted that Ms. Kilian wants to obtain licensure to work in another category. Lisa Miles stated that a recent significant case came down regarding what it takes to get a stay, so Ms. Kilian is giving it another shot because there is another standard.

I. Continuing Education On-line Reporting Tool - Commission's consideration of a C.E. provider's complaint.

Mike Pfeiffer, from Pesticide Training Resources, appeared.

Mike Means, from Metro Institute, appeared.

Commissioner Peterson noted that Dr. Pfeiffer had raised some concerns about the Continuing Education ("CE") On-line Reporting Tool. He stated that based on what he has heard, the data entry is fairly quick. Dr. Pfeiffer stated that he has input the data, and the system has worked well and the process has speeded up considerably. He stated that he got a new service provider, IPS, but has a problem with the reporting tool. He enters one thing at a time but can't adequately check the data to see who received credit for 6 hours of training. He stated that he proposed to Hugo Pulido that he wanted data whereby all he would see is the name and number of hours received. There were three situations that came about where people were saying that they didn't have the hours. He stated that he made a mistake in the data entry and couldn't find the mistake. He couldn't figure out who received what hours, and it makes him look like he is not doing his job. Two people received 3 hours of credit and the other 26 people received 6 hours, but he can't tell from the report who the people were. The right names aren't necessarily on there. Lisa Gervase stated that at the last three courses the Commission put on as a CE provider, she was doing the online data entry from the sign-in sheets and the report from the online tool was alphabetical, making it easy to verify data entry. She stated that what she thinks Dr. Pfeiffer is asking is for the names to be in the same order on the report as on the sign-in sheet so that only one sheet is necessary. Hugo Pulido stated that this can be done now. All you have to do is enter someone's applicator number and you can further specify the search criteria by adding the date, etc. Dr. Pfeiffer stated that it would be ideal if he could enter the data, check the data and then have the data shoot over to the Commission. Lisa Gervase stated that it takes seven seconds or less to enter the data for each attendee. Hugo Pulido stated that he did a check this morning, and, as of February, 2004, the Commission has received approximately 51,000 entries. He stated that he can't recall the last time he got a support call related to this system. Dr. Pfeiffer stated that he is not complaining about the system, and merely just wants to get the information on one page and to simplify the output. Commissioner Black asked if staff has heard any complaints from the rest of the people doing training in Arizona. Hugo Pulido stated that they have not and that there are about 247 approved CE providers. Commissioner Peterson asked how Mr. Means does this. Mr. Means stated that his company does the same thing, it works great, and they love the on-line reporting tool. He added that they verify the hours. Commissioner Fraker asked if it would be an improvement if the total number of hours was added in another column. Mr. Means stated that occasionally they do make a mistake, but they do a check and haven't had any problems with people calling them. If

someone did call in, they would look them up on the Commission website, and if they were missing their name they would just add them in. Commissioner Robinson asked how much trouble it is to do a sort. Hugo Pulido stated that it is a bit complicated and he would have to leave the report as it is. If they modify it, they may be back here before the Commissioners next month also with someone complaining again. Lisa Gervase stated that the report from the Commission's website prints for one person all of the courses and hours. Dr. Pfeiffer stated that he can't figure out on the front end if he has a problem, and it makes him look like he is not doing his job. Commissioner Black stated that he doesn't think anyone would accuse him of that. He also stated that if it ain't broke, don't fix it. Over 200 people provide this service and Dr. Pfeiffer is the only one with a problem. Dr. Pfeiffer stated that he is not sure why he needs a twelve-page report when a one-page report would be adequate. Commissioner Peterson suggested that if staff receives future requests or complaints about this, then maybe they should make a change, but they shouldn't make any changes now. Systems can always be enhanced as time and priorities permit.

XVIII. Approval of Minutes

A. December 9, 2005 (regular session) Minutes

MOTION: To approve the December 9, 2005 Minutes by Commissioner Hartley.
Seconded by Commissioner Runbeck.

VOTE: 5-0 Motion carried (Commissioner Black abstained, Commissioner Baker not present).

B. December 9, 2005 (executive session) Minutes - (emailed to Commissioners on December 30, 2005)

MOTION: To approve the December 9, 2005 executive session Minutes with a slight grammatical error typo in the second paragraph ("a respondent") by Commissioner Hartley.
Seconded by Commissioner Runbeck.

VOTE: 5-0 Motion carried (Commissioner Black abstained, Commissioner Baker not present).

C. Continuing Education Minutes

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

Seconded by Commissioner Runbeck.

VOTE: 5-0 *Motion carried (Commissioner Black abstained, Commissioner Baker not present).*

XIX. Scheduling of future meetings/agenda items.

Current Proposed dates

February 10, 2006

March 10, 2006

April 14, 2006

May 12, 2006

June 9, 2006

July 14, 2006

August 11, 2006

September 8, 2006

XX. Adjournment - 3:35 p.m.

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

VOTE: 6-0 *Motion carried.*