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Structural Pest Control Commission

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Structural Pest Control Commission
9535 E. Doubletree Ranch Road
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COMMISSION MEETING
FRIDAY, September 8, 2006, 9:00 A.M.
MINUTES

I. Call to order, Commissioner roll call

Commissioners Present: Dave Burns, Dan DeVere, Dave O'Neal, Bert Putterman, and Debra Runbeck

Commissioners Absent: Paul Baker, Patrick Black

Staff Present: Vince Craig, Lisa Gervase, Robert Tolton, Magdalena Vazquez and Assistant Attorney General M. Elizabeth (Lisa) Miles

II. Call to the public

None.

III. Communication with Commissioners

None.

IV. Summary of Current Commission Events, Activities, Notices

☞ Status of Law and Rule Changes.

Lisa Gervase mentioned the two law changes that become effective 9/21/06 (limited weed control license exemption and limited utility employee license exemption), and the law change that becomes effective 1/1/07 (child care facility notice of pesticide applications)

Also, the proposed rules approved by the Commission are anticipated to be on the 1/07 GRRRC agenda for approval.

Stakeholders are encouraged to communicate ideas for future proposed rule changes to Lisa Gervase, as a new rulemaking docket will soon be opened.

⇒ILT (Initial Licensure Training) courses posted on web site. Registration: 480-ILT-SPCC; ILT@sb.state.az.us

V. Consent Agenda

A. Applications for New Business License and Activating Qualifying Party License

Business

Qualifying Party

1. Pointman Pest Control

Mark S. Paterson ("B8")

Commissioner Putterman had a question about the category in which the applicant would be licensed, since he had applied for a license also in the B1 and B2 categories. He only passed the B8 exam so can only be licensed in that category at this time.

MOTION: *To approve the application for new business license in "B8" by Commissioner DeVere.
Seconded by Commissioner Putterman.*

VOTE: 5-0 Motion carried.

2. L & M Pest Control & Landscaping, LLC Mitchell Evan Stevens ("B1")

3. Pro-Turf International, Inc. Jeremie Matthew Smith ("B3" & "B5")

Mr. Smith appeared. Commissioner Burns asked about, and Mr. Smith explained, his involvement in the daily operation of the business.

MOTION: *To approve the application for new business license in "B3" and "B5" by Commissioner Burns.*

Seconded by Commissioner DeVere.

VOTE: 5-0 *Motion carried.*

4. Felix Pest & Inspection Services, LLC. Ronald David Felix ("B1", "B2", "B8")

Mr. Felix appeared. Commissioner Putterman asked about Mr. Felix' plans to activate the "B7" category. Mr. Felix stated that was his intent, as his application for a "B7" QP license is on the agenda today also, so that he can test in that category.

MOTION: *To approve the application for new business license in "B1", "B2" and "B8" by Commissioner Putterman. Seconded by Commissioner DeVere.*

VOTE: 5-0 *Motion carried.*

5. Bruce Burr Pest Control, LLC. Bruce D. Burr, Jr. ("B1", "B2", "B8")

Mr. Burr, Jr. appeared. Commissioner Putterman questioned this business name being confusing with another business name, based on the objection received from the other business license.

MOTION: *To deny the application for new business license due to A.R.S. section 32-2304(B)(18) by Commissioner Putterman. Seconded by Commissioner Burns.*

*Motion and second withdrawn.
Application Tabled for applicant to consider providing another business name*

6. MX Total Pest Control Thomas L. Camp ("B1", "B2", "B3", "B5", "B8")

Mr. Casey Christensen, owner and sole applicator, appeared. This applicant Made the name change as previously requested by the Commission. Commissioner Burns asked about Mr. Camp's involvement in the business. Mr. Christensen answered this question.

MOTION: *To approve the application for new business license in "B1", "B2", "B3", "B5", "B8" by Commissioner Burns. Seconded by Commissioner DeVere.*

VOTE: 4-1 Motion carried (Commissioner Putterman opposed).

7. National Exterminating Kelly Clark Denny ("B1")

Jamie Bearden appeared for applicant. Commissioner Burns questioned whether this name was too similar to an existing business.

Tabled for applicant to consider submitting an alternative name.

8. Independence Pest Control Benjamin Joshua Denny ("B1")

Jamie Bearden appeared for applicant. Commissioner Burns questioned whether this name was too similar to an existing business.

Tabled for applicant to consider submitting an alternative name.

9. Freedom Exterminating Claudia Ann Denny ("B1")

Jamie Bearden appeared for applicant. Commissioner Burns questioned the QP's involvement in the business, and the relationship of the owners and QPs of this business and the two prior businesses on today's agenda.

MOTION: To approve the application for new business license in "B1" by Commissioner Putterman.
Seconded by Commissioner DeVere.

VOTE: 5-0 Motion carried.

B. Applications to activate Qualifying Party for Existing Business License

Qualifying Party

Business

1. Dave Lannes ("B1")

A Busy Bee Removal Company

Dave Lannes appeared. Commissioner Putterman questioned, and Mr. Lannes explained, his involvement as the QP for this business while working full-time for the City of Phoenix.

MOTION: To approve the application to activate qualifying party for existing business license in "B1" by Commissioner Putterman.

Seconded by Commissioner O'Neal.

VOTE: 5-0 *Motion carried.*

2. Scott A. Anderson Seville Golf & Country Club
("B3" , "B5")
3. Napoleon O. Pisano, Jr. Lawn Doctor of Mesa
("B1")
4. David Joseph Maskulka ("B3", "B5") CareScape, Inc.
5. Marla Cauliene McCarroll ("B1") HomeTeam Pest Defense, LLC.
6. Thomas John Siegfried, Jr. ("B9") Flood Control District of Maricopa County

C. Applications for Qualifying Party License

1. Ronald David Felix "B7"
2. Jason M. Rogers "B3" and "B5"

Commissioner Burns questioned why the "B9" category isn't being considered today, and Mr. Tolton explained that, as reflected on the cover sheet, this applicant does not hold a "B9" applicator license, so cannot yet seek a QP license in the "B9" category.

MOTION: *To approve the application in "B3" and "B5" by Commissioner DeVere.
Seconded by Commissioner Putterman.*

VOTE: 5-0 *Motion carried.*

3. Brooks Elliot Crandell "B1"
4. Robert J. Bartelme "B1" and "B5"
5. Daniel W. Monson "B3"
6. Daniel S. Heinrich "B1"
7. Gregory T. Kahler "B3"

8. Festus J. Kahn

"B1"

D. Business License Name Change Requests

None.

End of Consent Agenda

MOTION: *By Commissioner Putterman to accept Consent Agenda with the exception of the items pulled for discussion (A1, A3, A4, A5, A6, A7, A8, A9, B1, C2). Seconded by Commissioner DeVere.*

VOTE: *5-0 Motion carried.*

VI. Applications not on Consent Agenda

A. Request for Temporary Qualifying Party License Renewals

None.

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

None

C. Applications for Qualifying Party License

1. Charles Michael Pfeiffer "B3" and "B5"

Mr. Pfeiffer appeared. Commissioner DeVere questioned why this applicant let his QP license expire in 2005. Mr. Pfeiffer said that he wanted to be able to take the exams again because he provides pre-exam training as part of his business and needs to know what is on the exams. He previously was part of a group creating the exams, but had sent all of the exams back to the agency and wanted to see them again. Commissioner DeVere clarified that Mr. Pfeiffer only wanted to take the exams to see the questions, and questioned whether he had any intention of using a QP license, and why his higher education wouldn't provide the experience required to obtain a QP license. Mr. Tolton explained that Mr. Pfeiffer knew the law required any education or other form of experience to have been obtained within the previous 5 years, and that his education was older than 5 years. Mr. Francis further explained that staff must follow the legal requirements, which is why this application was not on the consent agenda, and the Commission may use its discretion.

Commissioner Putterman believed that Mr. Pfeiffer's primary business of instructing pest management businesses constitutes sufficient experience.

MOTION: *By Commissioner Putterman to approve the applicant to test in the "B3" and "B5" categories. Seconded by Commissioner Burns.*

VOTE: *5-0 Motion carried.*

D. Business License Name Change Requests

None.

VII. Complaints

A. Contractors Termite & Pest Control (BL)/Kevin Etheridge (QP)/Douglas Pinnecker (QP) - Case # 2005-076

Business and Qualifying Party Licensees appeared with their attorney Steve Sparks, Esq. Commissioner Burns questioned why this complaint was filed. That the company should not shirk its responsibility, but that there was an issue about access to the home because of the slate floor. Mr. Francis explained that staff was aware of this issue, but that the documentation that purportedly prevented the company from providing a complete termite treatment when required was lacking. Mr. Sparks explained that the company did have numerous verbal conversations with the homeowner. Mr. Craig clarified that the treatment was not provided until after the fourth occurrence of termites and after the SPCC became involved. Commissioner Putterman said that a company should provide notice to the homeowner of areas to which they need access and if the homeowner doesn't cooperate, it's a difficult situation in that regulatory compliance may not be consistent with possible legal liability for damage to a floor.

MOTION: *To dismiss the complaint by Commissioner DeVere. Seconded by Commissioner Putterman.*

VOTE: *4-1 Motion carried (Commissioner Runbeck opposed).*

B. Polo Exterminating, LLC (BL)/Zachariah Blankenship (QP & APP) - Case # 2006-010

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 Putterman.
Seconded by Commissioner DeVere.*

VOTE: 5-0 Motion carried.

C. Truly Nolen (BL)/Robert Hartley (QP)/Gary Utter (APP) - Case # 2006-001

Business and Qualifying Party Licensees appeared. Commissioner Burns suggested that the civil penalty for the applicator was too high and perhaps more CEUs would reduce the penalty. Mr. Craig explained that the Applicator was trained, so more CEUs would not prevent this type of violation. Commissioner Putterman agreed about reducing the civil penalty since applicators do not earn a lot of money.

MOTION: *To offer an amended resolution to the applicator of an Administrative Warning, a \$100.00 civil penalty, and two hours of additional CE in Laws and Rules, and if the Consent Agreement is not executed by the deadline stated in the Consent Agreement transmittal letter to send the case to the Office of Administrative Hearings; and dismiss the complaint against the Business and QP licensees, by Commissioner Putterman.
Seconded by Commissioner Burns.*

VOTE: 5-0 Motion carried.

D. Executive High Reach Maintenance, Inc. (Unlicensed company)/ Richard Mead (Owner) - Case # 2006-007

Mr. Mead appeared.

MOTION: *To issue a Cease & Desist Order and a \$250.00 civil penalty against Executive High Reach Maintenance, Inc. and Richard Mead, jointly and severally, by Commissioner Putterman.
Seconded by Commissioner O'Neal.*

VOTE: 5-0 Motion carried.

E. Doyle Exterminating Co., Inc. (BL) - Case # 2005-079

Daniel Doyle, QP/Owner, appeared.

MOTION: *To accept the 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; and dismiss the complaint against the Business and QP licensees, by Commissioner Burns.
Seconded by Commissioner Putterman.*

VOTE: *5-0 Motion carried.*

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

None.

IX. Review or Rehearing of Previous Commission Decisions.

None

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

None.

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.

None.

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.

None.

XVI. Applicants with Criminal Convictions.

A. Virgil Keith Kanuho

Mr. Kanuho appeared.

MOTION: *To approve by Commissioner Putterman.
Seconded by Commissioner Burns.*

VOTE: *5-0 Motion carried.*

B. Alfred Manuel Ray Denogean

Mr. Denogean appeared and answered Commissioners' questions.

MOTION: *To approve, by Commissioner Putterman.
Seconded by Commissioner DeVere.*

VOTE: *5-0 Motion carried.*

C. Rene Anthony Solano

Mr. Solano did not appear. Tabled.

D. Cornelio Hernandez, Jr.

Mr. Hernandez appeared and answered Commissioners' questions. David Sexton, his supervisor with the Groundskeeper appeared and testified that Mr. Hernandez is an outstanding person, and is reliable as a worker, and is responsible for several thousand dollars of work, safety regulation compliance, and has had no conduct issues, and has had negative random drug tests. Mr. Hernandez has worked under his personal supervision for two years, but began working for the Groundskeeper prior to that time.

MOTION: *To approve by Commissioner Burns.
Seconded by Commissioner O'Neal.*

VOTE: *5-0 Motion carried.*

E. Mitchell Prescott Steele

*Mr. Steele appeared and answered Commissioners' questions..
Craig Trout and Kevin Jessup, his supervisors with Hometeam also appeared.
Kevin testified that Mr. Steele has been an exemplary sales person since June 2005. This is an old offense and he doesn't make bad choices now.*

MOTION: *To approve by Commissioner O'Neal.
Seconded by Commissioner DeVere.*

VOTE: 5-0 *Motion carried.*

XVII. Commission Updates and Reports; Miscellaneous Action Items.

A. Ant Brian Exterminating (Business License No. 8369), Brian W. Oldham (Qualifying Party License No. 2029, Applicator License No. 940470) – Complaint 2006-031

MOTION: *To continue summary suspension of these business, QP and Applicator licenses, by Commissioner Putterman.
Seconded by Commissioner DeVere.*

VOTE: 5-0 *Motion carried*

B. Guillermo Sotelo, Applicator License No. 040825 – Case No. 2004-120:

The Commission considered a proposed amendment to Mr. Sotelo's September 2004 Consent Agreement. The Commission wanted more terms than staff proposed, that would include that Mr. Sotelo's license be suspended until he is evaluated by a substance abuse health professional approved by the SPCC. When that professional says that it is safe for Mr. Sotelo to begin working again as an Applicator, the SPCC will remove the suspension, followed by a lengthy probation with terms that include substance abuse counseling, random urine testing, appearances before the Commission, and other recommendations from the health care professional.

MOTION: *To offer Mr. Sotelo a proposed Amended Consent Agreement with terms as discussed by the Commission, by Commissioner Putterman.
Seconded by Commissioner O'Neal.*

VOTE: 5-0 *Motion carried*

C. None

- D. Complaint Status Log – *update via written log*
- E. Computer Based Testing “CBT” Status and Statistics – *update via written memo*
- F. Expenditure Report – *None.*
- G. Case Status Report (Every other month) – *update via written memo*

XVIII. Approval of Minutes and Continuing Education Programs

A. August 1, 2006 (rules session) Minutes

MOTION: *To approve by Commissioner Putterman.
Seconded by Commissioner Burns.*

VOTE: *3-0-2 Motion carried (Commissioners O’Neal and DeVere
abstained).*

B. August 14, 2006 (regular session) Minutes

MOTION: *To approve by Commissioner Putterman.
Seconded by Commissioner DeVere.*

VOTE: *4-0-1 Motion carried (Commissioner O’Neal abstained).*

C. August 14, 2006 (executive session) Minutes

MOTION: *To approve by Commissioner Putterman.
Seconded by Commissioner DeVere.*

VOTE: *4-0-1 Motion carried (Commissioner O’Neal abstained).*

D. Continuing Education Program Applicants

MOTION: *To approve by Commissioner Putterman.
Seconded by Commissioner DeVere.*

VOTE: *5-0 Motion carried.*

XIX. Scheduling of future meetings/agenda items.

Current Proposed dates

November 9, 2006 (**Thursday**)
December 8, 2006
January 12, 2007
February 9, 2007
March 8, 2007
April 12, 2007
May 11, 2007
June 8, 2007

XX. Adjournment - 11:06 p.m.

MOTION: *To adjourn by Commissioner Putterman.
Seconded by Commissioner DeVere.*

VOTE: *5-0 Motion carried.*