

MINUTES OF THE
SPECIAL MEETING OF THE
STRUCTURAL PEST CONTROL BOARD
August 9, 2012

The meeting was held on Thursday, August 09, 2012, in the Hearing Room located at 2005 Evergreen Street in Sacramento, commencing at 9:02 A.M. with the following members constituting a quorum:

Curtis Good, President
David Tamayo, Vice President
Cris Arzate
Cliff Utley
Ronna Brand
Mike Duran
Naresh Duggal

Board staff present:

Susan Saylor, Assistant Executive Officer
Robert Lucas, Consumer Services Manager
Ronni O'Flaherty, Staff Services Analyst
Tom Ineichen, Board Specialist
Fred Bartley, Board Specialist
Melissa Sowers-Roberts, Disciplinary Action Analyst
Kristina Jackson-Duran, Office Technician

Departmental staff present:

Chris Reardon, Chief Deputy Director
Jodi Clary, Legal Counsel
Kathy Boyle, Enforcement Program Specialist

Mr. Good introduced new board members Ronna Brand, Mike Duran, and Naresh Duggal.

ROLL CALL

Ms. Saylor read the roll call.

FLAG SALUTE

Mr. Good led everyone in the flag salute.

PETITION FOR REINSTATEMENT

Michael Mooshabad, Field Representative License No. 39647, did not appear to petition for reinstatement.

DEPARTMENT OF CONSUMER AFFAIRS

Reichel Everhart, Deputy Director of Department of Consumer Affairs' Board of Bureau Relations, stated that the Governor's reorganization plan includes language to put the Structural Pest Control Board (Board) back under the umbrella of the Department of Consumer Affairs (DCA). She added that the DCA is looking forward to working with the Board at making this a seamless transition and is present to answer any questions the Board may have and take back any information that the Board would like to share with DCA.

Mr. Good asked if the official transfer date is July 1, 2013.

Ms. Everhart responded that July 1, 2013 is the date that was set in the Governor's plan.

Mr. Good expressed concern with the Board only having appointed an Interim Registrar and asked how a permanent appointment will be worked into the transition.

Ms. Everhart responded that she will take Mr. Good's question back to the department and seek an answer.

Mr. Good asked if the Board would have a chance to meet with DCA legal counsel regarding the appointment of legal counsel for the Board once back under the jurisdiction of DCA.

Ms. Everhart indicated that DCA would like to set up a meeting with Doretha Johnson, Head of Legal Department and Denise Brown, Director of DCA to discuss the transition.

Mr. Utey commented that when the Board transitioned to DPR that the trailer bill was not inclusive of the complete language necessary and clean up bills had to be pushed through at a later point. He asked if DCA would be working with Board staff to make sure nothing is missed with this transition.

Ms. Everhart stated that this is one of the reasons that she is attending the board meetings this early in the process and the trailer bill language was put through with the Governor's reorganization plan so now DCA can work with SPCB over the next year to make sure nothing was missed.

Mr. Duran asked if there was any possibility of Ms. Okuma coming back to fill the vacancy for Registrar.

Ms. Everhart responded that she is not familiar with the staffing issues of SPCB at this time.

Mr. Arzate asked that the Board stay informed of communications between DCA and DPR throughout the transfer. He added that he would like to hear discussion regarding how the powers and authorities of the Board are different between agencies as they relate to appointment of a permanent Executive Officer.

Ms. Everhart responded that under DCA, the authority to appoint an Executive Officer lays with the board members.

Mr. Utlely stated that the Board is currently working with DPR to appoint a new Registrar and he does not know if that appointment will take place before the Board transfers back to DCA. He asked that it is put on the agenda for the next meeting to have a discussion regarding the appointment of an Executive Officer or the possibility of appointing another interim.

Mr. Good stated that the work with DPR on appointment of a permanent Executive Officer has been put on hold due to the transfer of the board back to DCA and that DPR respects the transfer of SPCB back to DCA and is hesitant to appoint someone without DCA's involvement. He added that the Board would like to preserve any authorities they may have in the selection process.

Ms. Everhart stated that she will pass the information along to DCA.

Mr. Tamayo stated that he would like for the Board to discuss their desires and what administrative and legal constraints they may face.

APPROVAL OF MINUTES

Mr. Utlely moved and Mr. Tamayo seconded to approve the minutes of the April 25-26, 2012 board meeting. Mr. Duran abstained from the vote. Passed unanimously.

Mr. Utlely moved and Mr. Arzate seconded to approve the minutes of the May 10, 2012 board meeting. Passed unanimously.

EXECUTIVE OFFICER'S REPORT

Ms. Saylor reported on the following:

- Board staffs Tom Ineichen, Fred Bartley, Kristina Jackson-Duran and Melissa Sowers-Roberts were present for the meeting.
- Kristina came to the Board in June and is working in the Administration Unit.
- Melissa Sowers-Roberts was recently promoted to the Disciplinary Action Analyst position in the Administration Unit.
- Francisco Del Pozo and Noelle Chesley also began working for the Board in June.
- Luther Woods and Kristel Flores left their employment with the Board in June.
- Licensing survey and the complaint handling survey results were reviewed with the Board members.

Mr. Good pointed out a comment on the licensing survey results where someone commented that their application was lost.

Ms. Saylor stated that she did see that but has not looked into it yet.

Mr. Good commented that Melissa's name is mentioned quite often in the licensing survey and always has great feedback. In regards to the complaint handling survey, he asked if case numbers 10-385, 11-130, 11-171, and 11-463 have been reviewed.

Mr. Lucas stated that he has reviewed the cases but has not had a chance to follow up on them.

Mr. Good asked Mr. Lucas to please look into these cases. He added that Ron Moss was mentioned six times in the complaint handling survey regarding his professionalism and thoroughness.

- WDO Statistics were reviewed with the Board members.

Mr. Utley asked that the reserve fund figures be added to the WDO statistics for future meetings. He added that the filing fee was raised to replenish this account and that the Board should be monitoring the balance in this account so that when there are ample funds deposited that the filing fee can possibly be decreased again.

Ms. Saylor stated that those figures will be provided at the October board meeting.

Mr. Good commented that at roughly seventy-five percent of the informal conferences regarding WDO filings it is determined that there is a glitch with the WDO program and asked that PCOC write an article in the news brief asking companies to communicate with their programmers to make sure their programs are functioning properly.

Mr. Utey commented that he attends the informal conferences as well and has found that quite often the lack of filings or filing errors are due to the person doing the filing, not the computer systems.

Mr. Ineichen stated that a lot of companies have uploaded activities from their WDO program but these activities are simply sitting in their pending queue, presumed to be filed but are not until they are submitted from the pending queue.

Martyn Hopper, PCOC, asked Mr. Good to write an article in these regards for the News Brief.

Mr. Good agreed.

Mr. Hopper reported that Senate Bill 1480 is a trapping bill that will cost the state about one million dollars that went on suspense. He added that this bill would add an additional license to be required when trapping animal depending on whether they are pregnant, nursing, etc. He asked Ms. Boyle if she knew DPR's position on this bill.

Ms. Boyle stated that she will get DPR's position on this bill and report back.

DEPARTMENT OF PESTICIDE REGULATION UPDATE

Ms. Boyle reported on the following:

- Survey results regarding fumigation burglaries were discussed with the Board members.

Mr. Duggal asked Ms. Boyle if there is a consumer manual published regarding fumigation procedures.

Ms. Boyle stated that there are inspection sheets on DPR's website that would show a consumer exactly what is expected from the company.

Mr. Duggal asked when the last time these inspection sheets were updated.

Ms. Boyle responded that they were updated in 2006 or 2007 and currently there are constraints to updating them.

Mr. Duggal asked that a discussion regarding the fumigation process be added to a future meeting agenda.

Mr. Good stated that he does not understand the question and that the fumigation industry is very well enforced but due to the economy there have been individuals taking advantage of this industry and breaking into homes that are under fumigation. He offered to provide Mr. Duggal with additional information should he like.

Lee Whitmore, Beneficial Exterminating, commented that break-ins are increasing amongst all properties, not just those under fumigation, but the break-ins on fumigated properties are reported more often. He added that publicizing mechanisms being used to prevent break-ins will only help the criminals who are breaking into these homes.

Dr. Vernard Lewis, UC Berkeley, stated that there is information on his website regarding the fumigation process that may be beneficial to Mr. Duggal.

Ms. Boyle suggested Mr. Duggal go out with the CAC from Santa Clara County to see firsthand what the inspectors are dealing with and looking for.

- There was only one CAC training session held this year and it was held mid-June in Pomona. About 85 people attended, including Board President, Curtis Good. She added that both Western Exterminator and Beneficial Exterminating provided staff persons throughout the training for field demonstration purposes. She thanked Michael Katz, Harvey Logan, and Lee Whitmore for allowing their staff to participate in these demonstrations to educate the inspectors.

Mr. Utlely asked how many CAC staff attended the training.

Ms. Boyle replied that about 60-70 CAC staff attended.

Mr. Utlely commented that enforcement is inconsistent between inspectors and suggested providing counties with the recorded demonstrations.

Mr. Whitmore stated that the branch 1 and 3 demonstrations were recorded to be distributed among the CACs.

Ms. Boyle stated that DPR is looking for ways to utilize current technology to provide training for CAC staff.

Ms. Clary stated that the other two items that Ms. Boyle wished to discuss should not be discussed because they were not noticed on the agenda.

Mr. Good stated that he would add Ms. Boyle's items C and D to the October board meeting agenda.

FREDDIE MAC HOMES / HOMESTEPS UPDATE

Mr. Katz reported that he corresponded with Congressman Dole in regards to the correspondence from Freddie Mac. He stated that Mr. Dole said that he would be happy to help but since this is primarily an issue in California, suggested that Mr. Katz try to obtain a letter from a Californian Congressman. Mr. Katz stated that he wrote a letter to Congressman Miller and is awaiting a response.

Mr. Good updated Ms. Brand on the issue and asked her to share the Board's concerns with the California Association of Realtors (CAR).

ASPCRO / NPMA SURVEY OF STATE REGULATION

Ms. Saylor introduced the survey results provided by the Association of Structural Pest Control Regulatory Officials and the National Pest Management Association and asked the Board to allow her more time to review the results and summarize the survey report at the next board meeting.

Mr. Good commented that California is leading the way in a regulatory fashion and that only five other states are performing background checks on their licensees.

Mr. Tamayo expressed concern with allowing a person to apply pesticides in a warehouse without having a license.

Ms. Boyle stated that this is allowable if the person is serving as an employee as long as the employer has provided proper training for that employee.

Mr. Tamayo stated that he would like to know the perspective of the industry on this.

Mr. Utley stated that schools also fall under these guidelines.

Mr. Logan stated that this has been addressed before and the industry agrees that such persons should be licensed, but the proposal was highly objected by the schools and entities that perform their own pest control because of funding issues. He added that there is a history of misuse with these applications and stated that he would like to see the Board address the issue once again.

Mr. Katz stated that he agrees with Mr. Logan and feels that those applying pesticides at schools should have the same training as a structural pest control licensee.

Mr. Utlely commented that schools overlook or do not follow the posting requirements when they apply pesticides themselves. He added that DPR and SPCB will have to work together to find a resolution and forming a committee may be necessary.

Dr. Lewis volunteered to be on a committee should one be formed to address the issue.

Mr. Whitmore commented that the insurance and bond requirements in California are substantially lower than in other states.

Mr. Good stated that he will share Mr. Whitmore's concerns with the Act Review Committee.

Mr. Tamayo asked that this is added to the next meeting agenda to permit further discussion.

Ms. Boyle asked if further action is required on the part of DPR.

Mr. Tamayo asked Ms. Boyle to provide a brief review of the training requirements for those not required to have a license to apply pesticides.

Ms. Boyle stated that she will provide what statutes are currently in place, when a license is required versus when a license is not required and how this impacts the consumer.

Mr. Ineichen stated that the use of a pesticide by a homeowner or an employee on personal property is in the exemption clause under the Structural Pest Control Act and suggested reviewing the entire section.

Mr. Good asked Mr. Ineichen to compile information regarding his concerns for the Board members.

ELECTRONIC SIGNATURES / NOTIFICATIONS

Ms. Clary stated that under Business and Professions Code 8516(b) it is required that a written inspection report is prepared and delivered to the person requesting the inspection or their agent within ten business days and there has been a recent inquiry as to whether that report can be delivered electronically. She added that the statute does not specify how the report is to be delivered and with modern technology and the ability to track and monitor electronic communications, any reliable method should satisfy this section of law as long as one can obtain verification of the delivery.

Mr. Katz asked if it is permissible to deliver a branch 2 service slip via electronic communication.

Ms. Clary stated that she is unfamiliar with the section of law pertaining to service slips and does not feel comfortable answering Mr. Katz' question without first reviewing it.

Mr. Katz asked Mr. Good to request a legal opinion regarding electronic delivery of a branch 2 service slip.

PEST CONTROL EMPLOYEE LEASING

Mr. Good asked for a legal opinion regarding where one's license should be displayed if an employee is being leased through a leasing agency.

Mr. Gordon stated that a Field Representative must be under the employment of an Operator and their license should be displayed in the office of the Operator for whom the Field Representative works for, not at the office of the leasing agency.

Mr. Duran requested more information on this topic so that he can become more familiar with it for a later discussion.

CALIFORNIA LABOR ENFORCEMENT TASK FORCE

Mr. Good introduced a document provided by the California Labor Enforcement Task Force (LETF) and suggested having someone from LETF speak at a future board meeting and discuss different ways companies are skirting the law. He stated that he would like to see more from Board Specialists in these regards when performing office records checks.

Mr. Ineichen stated that before the board was transferred to DPR they were working with DCA on task force issues. He added that the Contractor's State Licensing Board does a great job of having task forces where they bring in other agencies such as the Department of Industrial Relations.

Mr. Utley stated that financial and related documents would be necessary to determine some of the task force issues and the board may want to look into the legalities of board staff requesting these documents.

Mr. Good asked Ms. Clary to provide a legal opinion.

SPCB ACT REVIEW COMMITTEE UPDATE

Mr. Gordon stated the Act Review Committee has been meeting on a monthly basis to review and update the Structural Pest Control Act and will be meeting on August 22 at Western Exterminator in Anaheim.

Mr. Arzate stated that he has been unable to attend any of the meetings of this committee and asked to be removed as a member to allow for the appointment of another Board member to fill the public member vacancy on the committee.

Mr. Good asked Ms. Brand if she would like to fill the vacancy left by Mr. Arzate on this committee.

Ms. Brand stated that she would like to attend a meeting to see if she feels that she can bring any insight to the committee.

Mr. Good invited everyone to attend the future meetings of this committee, stating that the committee can use as much input as they can receive.

RESEARCH PRESENTATION

Dr. Vernard Lewis, UC Berkeley, made a final presentation on the research project "Laboratory and Field Investigations of Monitors for the Bed Bug, *Climex Lectularius*".

BOARD MEETING CALENDAR

Mr. Good stated that the annual board meeting is already scheduled for October 24 and 25, 2012 at the Ronald Reagan State Building in Downtown Los Angeles.

The January board meeting was scheduled for January 16 and 17, 2013 in Sacramento.

FUTURE AGENDA ITEMS

Mr. Duran requested information and findings of the Integrated Pest Management Certification Program Committee.

Mr. Arzate asked for the end of fiscal year 2011-2012 budget documents. He suggested having staff look into creating an online survey to replace the survey cards being mailed out to licensees.

Mr. Good stated that he would like to review the Strategic Plan at the October Board meeting.

Mr. Utley asked if a representative from DCA would be present for the review of the Strategic Plan since the current Strategic Plan was built around DPR's missions and goals.

Mr. Good responded that he is unsure if DCA will need to be involved and added that Ms. Clary will have a few items to report back to the Board on at the October meeting.

PUBLIC COMMENTS NOT ON THE AGENDA

There were no public comments.

ADJOURNMENT

The meeting adjourned at 11:54 A.M.



President



Susan Saylor, Assistant Executive Officer

Interim

10/25/12
DATE