

MINUTES OF THE
SPECIAL MEETING OF THE
STRUCTURAL PEST CONTROL BOARD
October 16 and 17, 2013

The meeting was held on Wednesday and Thursday, October 16 and 17, 2013, in the Hoffman Community Room located at The San Diego Foundation, 2508 Historic Decatur Road, San Diego, commencing at 1:17 P.M. on October 16, 2013 with the following members constituting a quorum:

Curtis Good, President
David Tamayo, Vice President
Ronna Brand
Naresh Duggal
Mike Duran
Marisa Quiroz
Cliff Utley

Board staff present:

Susan Saylor, Executive Officer
Robert Lucas, Consumer Services Manager
Ronni O'Flaherty, Administrative Analyst
Ron Moss, Board Specialist

Departmental staff present:

Kurt Heppler, Legal Counsel
Kyle Muteff, Legal Counsel
Christine Lally, Deputy Director of Board Relations

Deputy Attorney General, Langston Edwards was also in attendance.

ROLL CALL / ESTABLISHMENT OF ROLL CALL

Ms. O'Flaherty read roll call.

FLAG SALUTE / PLEDGE OF ALLEGIANCE

Mr. Good led everyone in the flag salute.

REINSTATEMENT HEARINGS

Administrative Law Judge Roy W. Hewitt sat with the Board to hear the Petition for Reinstatement for Raymond DeLaTorre, Operator License No. 9544. The petitioner was informed that he would be would be notified by mail of the Board's decision.

Administrative Law Judge Roy W. Hewitt sat with the Board to hear the Petition for Reinstatement for Mark A. Angelini, Operator License No. 8927. The petitioner was informed that he would be would be notified by mail of the Board's decision.

CLOSED SESSION

The Board adjourned to closed session to consider proposed disciplinary actions in accordance with subdivision (c)(3) of section 11126 of the Government Code.

ADJOURNMENT

The meeting adjourned for the day at 5:03 P.M.

The open meeting resumed at 9:00 A.M. on October 17, 2013.

PUBLIC COMMENTS NOT ON THE AGENDA

David Wadleigh, Mega Fume, Inc., asked if the new bond and insurance requirements become effective January 1, 2014.

Mr. Heppler suggested that this discussion be held during the Executive Officer's report.

APPROVAL OF MINUTES FROM THE APRIL 24 & 25, JUNE 28, AND AUGUST 15, 2013 BOARD MEETINGS

Mr. Tamayo asked that his statement on page 12 of the April board meeting minutes is revised to read "not allow applicants to take the exam more frequently than once every 30 days."

Mr. Utley moved and Mr. Duran seconded to approve the minutes of the April 24 & 25, 2013 board meeting with recommended changes. Passed unanimously.

Mr. Utley moved and Mr. Ms. Quiroz seconded to approve the minutes of the June 28, 2013 board meeting. Passed unanimously.

Mr. Heppler stated that the August board meeting was not a teleconference meeting, but the minutes reflect that it was.

Mr. Duran moved and Ms. Brand seconded to approve the minutes of the August 15, 2013 board meeting with recommended changes. Passed unanimously.

EXECUTIVE OFFICER'S REPORT

Ms. Saylor reported on the following:

- Senate Bill 662 (SB662) was approved and chaptered on September 6, 2013, increasing the bond and insurance requirements for company registrations. This bill becomes effective January 1, 2014 and she is working with legal counsel to establish a compliance period which is expected to be between 90 and 180 days.
- Assembly Bill 1177 (AB1177) was approved and chaptered on October 5, 2013, extending the sunset date of the Fumigation Enforcement Program to January 1, 2018. This bill increased the fee set forth by the Fumigation Enforcement Program from \$5.00 to \$8.00 and also amended Food and Agriculture Code Section 15204 to give the County Agricultural Commissioner (CAC) more leverage in collecting this fee by not allowing pest control companies to reregister in that county if there are outstanding fees that have not been paid.

Mr. Good congratulated the Pest Control Operators of California (PCOC) on the passing of AB1177.

- Assembly Bill 1317 (AB1317) was approved and chaptered on September 26, 2013, which included the language that puts the Board back under the jurisdiction of the Department of Consumer Affairs.
- Licensing and Enforcement statistics and surveys were reviewed with the Board members.

Mr. Good pointed out that the passing rate for Field Representatives has increased.

Ms. Saylor stated that included in the Executive Officer's report are examination passing rates, broken down by month, for the last three months. She stated that when the new exams were put in place, the passing rate was extremely low and added that she has been working with the Office of Professional Examination Services (OPES) doing question analysis each month and removing questions that score poorly.

- Wood Destroying Organisms (WDO) statistics were reviewed with the Board members.

Ms. Brand asked if the questions that are being removed from the examinations pertain to a particular subject.

Ms. Saylor stated that she would look into it.

Mr. Tamayo asked if a question is poorly worded if it is removed from the exam even if it contains information that is necessary to know.

Ms. Saylor responded that all of the questions that are removed from the exam are put in a bank where they are later rewritten.

Mr. Utley asked if the questions that score well are pulled from the exam as well.

Ms. Saylor stated that OPES does not remove questions that score well, but the previous examination developer did pull such questions. She added that Field Representative Branch 2 Examination Development Workshops are scheduled to be held on November 6 and 7.

- Kristina Jackson-Duran returned to the Administration Unit from maternity leave in May.
- Kevin Lau was hired to fill the Office Technician vacancy in the Enforcement Unit.
- Ronni O'Flaherty was promoted to fill the Criminal History Analyst vacancy in the Administration Unit.
- CAC Training was held in Dublin on September 24-26 and had about 130 participants, which included 25 counties, all of the Board's field investigators, two office staff, and two board members. She thanked Dan Fuentes from Best Care Fumigation, Darren Van Steenwyk from Clark Pest Control, and Michael Watkins from Cardinal Professional Products for their assistance in making this training a success.

- There is a Target Fumigation School which is to be held on November 5-6 in Cerritos. All Board field investigators as well as herself are going to attend.
- The Act Review Committee Meeting that was scheduled for October 18 has been cancelled due to lack of quorum.
- The December and January examination development workshops are scheduled for December 4-5 and January 15-16.

ANNUAL REVIEW OF BOARD PROCEDURES

Mr. Good asked the Board if they had any comments or recommendations for changes to the Board Procedures.

Mr. Tamayo asked if the Board Procedures would be the appropriate place to draw out criteria for approving Continuing Education Courses.

Ms. Saylor stated that the Board can look into adding such criteria either to the Board Procedures or into regulation.

Mr. Langston suggested that all public records requests are given to legal to redact non-public information prior to releasing records.

Ms. Saylor stated that all public records requests are already being approved by legal.

Mr. Muteff stated that Board members should not get involved in investigations and Board Procedure E-7 should be repealed.

Mr. Utley moved and Mr. Tamayo seconded to repeal Board Procedure E-7.

Mr. Tamayo asked that refresher training is provided at the next board meeting.

Mr. Muteff stated that if any Board member is looking for guidance he is available to advise them.

Mr. Lucas stated that Ethics Training is provided on DCA's website and is required to be taken no less than every two years.

Ms. Lally stated that the Ethics Training is available online and can be taken at the convenience of the board member.

Mr. Muteff stated that he will do a presentation during open session at the next board meeting regarding this issue.

Passed unanimously.

**REVIEW AND DISCUSSION REGRADING CONTINUING EDUCATION (CE)
CRITERIA FOR BOARD APPROVED IPM CE COURSES**

Ms. Saylor stated that at the April board meeting, it was requested that board staff provide the approval criteria used in approving IPM CE courses and samples of courses that have already been approved. She stated that staff uses CCR Section 1984 criteria in approving IPM courses and that there are about 230 approved IPM CE courses at this time.

Mr. Tamayo stated that the information provided does not indicate how much of the course needs to focus on IPM or how many of the IPM concepts need to be addressed during a course in order for it to be approved as an IPM CE course.

Ms. Saylor responded that if the course outline describes fifty percent or more of the concepts, the courses are being approved for IPM.

Mr. Tamayo stated that he would like to see such language spelled out in procedures or in regulation.

Ms. Saylor asked legal if such procedures could be added to the Board Procedures.

Mr. Heppler suggested that such language be added to the Board's regulations along with other course approval criteria.

Mr. Duggal stated that the samples provided are great examples of what an IPM CE course should look like. He added that his concern is that there are no approval standards set that are consistent with and that reference the materials by which IPM is defined. He stated that courses approved as IPM should be inclusive of all of the elements of IPM because not everyone would know that what they are being taught is only part of the whole concept of IPM.

Mr. Utley stated that currently, staff is having a hard time getting course approvals out in 30 days and providers are having a hard time getting them to the Board's office for approval in a timely manner. He added that he believes that sometimes courses are being approved based upon the specific provider or the teacher's credentials, not so much the course content.

Ms. Saylor stated that courses can take up to 60 days to approve, depending on staff workload.

Mr. Tamayo stated that he does not feel that this can be resolved in the course of regular board meetings and expressed concern with only fifty percent of the content having to be related to IPM. He suggested that courses are evaluated and approved based upon their actual content and if a two hour course is only fifty percent IPM, it should only be approved as one hour IPM and one hour of whatever else the course relates to. He asked that staff provides suggestions as to how CE courses can be evaluated guaranteeing a more acceptable level of IPM.

Mr. Heppler suggested that the Board direct staff to hold an Interested Parties Meeting where necessary changes can be discussed to address the Board's concerns with the approval of IPM CE courses.

Mr. Good suggested that the board put together a committee that can get together before the next meeting.

Mr. Heppler clarified that his suggestion was not to form a committee, but have a noticed meeting where experts and any other interested parties can brainstorm ideas to present to staff and the Board, who can then refer the suggested changes to the Act Review Committee.

After much discussion, the Board agreed that an interested parties meeting will be scheduled.

UPDATE ON SAN FRANCISCO CITY ORDINANCE REGARDING BED BUGS

Mr. Edwards stated that the Board has expressed concerns with an ordinance that was recently passed in San Francisco that imposes additional reporting requirements on the pest control operators who are operating in San Francisco. He added that a teleconference was held with the author of this ordinance who was unaware that some of the criteria set forth in this ordinance are duplicative of laws that are already in place. He stated that another meeting is to be scheduled to determine what is necessary to make the laws between the Board, DPR, and the City of San Francisco work together. He added that at the end of this process, all of the additional reporting requirements should be put back on the owners of the property and not impose any additional requirements on the pest control operators.

Mr. Ennes stated that he spoke with the San Francisco CAC and as of two weeks ago the reporting program that is to be used to file and house the data that is required by this ordinance, has not been developed and the CAC has received direction to not enforce this ordinance.

Mr. Tamayo stated that even though this ordinance is not being enforced, it needs to be repealed to protect the pest control operators.

RESEARCH FUND UPDATE

Ms. Saylor stated that as of June 30, 2013 there was approximately \$300,000 available in the Research Fund. She stated that she included in the board packages the requests for proposals from the last research projects that the Board funded as well as the fund condition showing projections for the next two fiscal years. She suggested that due to staff time that needs to be dedicated to preparing the requests for proposals, the Board does not move forward with future research proposals until the end of this fiscal year. She added that this will also allow time for more funds to be deposited into this account.

DISCUSSION REGARDING THE IMPLEMENTATION OF COMPUTER BASED TESTING (CBT) AND THE COST ASSOCIATED WITH CBT – CONSIDERATION TO ABSORB COST FOR ONE YEAR UNTIL LEGISLATION IS AMENDED TO INCREASE MAXIMUM FEE FOR TESTING APPLICANTS

Ms. Saylor stated that at the April Board meeting, the Board directed staff to begin the process to increase the maximum examination fee to \$125 for all three categories of licenses and try to amend Senate Bill 662 to include this fee change. She stated that she was questioned by Senator Galgiani's office as well as by DCA as to why the fee cap is the same for an entry level license compared to an owner / operator level license. She stated that after discussion with Mr. Good, she changed those fee caps to \$60 for an Applicator, \$75 for a Field Representative, and \$100 for an Operator, but was still unsuccessful in getting this language added to Senate Bill 662. She stated that in order to move forward, she needs the Board to approve the new fee caps, as well as approve for the additional costs of computer based testing to be absorbed by Board funds until a legislative change has been approved, which would be at least January 1, 2015. She added that the costs being absorbed by the Board would be approximately \$152,000 from January 2014 through January 2015. She stated that some of these costs would be reduced because there would no longer be a need to rent the examination facilities or pay staff to proctor the exams.

Mr. Tamayo moved and Mr. Duran seconded to begin a legislative proposal to set the examination fees at \$60 for Applicators, \$75 for Field Representatives, and \$100 for Operators.

Mr. Utley stated that the cost at the site to take the exam is \$39 and suggested raising the examination fee to recoup some of the money that will be lost by absorbing the costs of computer based testing for one year.

Ms. Saylor stated that this motion would set maximum fee levels in the Business and Professions (B&P) Code and a regulation change would also have to be done to set the actual fees that will be charged.

Harvey Logan, Western Exterminator Company, asked if the proposed changes to B&P Code Section 8538 will be included in this legislative proposal.

Ms. Saylor stated that changes to B&P Code Section 8538 would be included in this bill package.

Josh Adams, PCOC, asked if the Board sought out multiple bids for a computer based testing vendor.

Ms. Saylor responded that DCA has a contract in place with a vendor that several programs in DCA are already using. The Board would be added to that contract.

Passed unanimously.

Mr. Good asked Ms. Saylor how long the Board can afford to absorb the additional costs of computer based testing.

Ms. Saylor stated that if the legislative proposal passes, the new fees would be effective January 1, 2015 and it is her intention to only absorb those costs through then.

Mr. Utley moved and Ms. Quiroz seconded to direct staff to begin computer based testing as soon as possible and that the Board will absorb the additional costs until December 31, 2014. Passed unanimously.

DISCUSSION AND CONSIDERATION OF REVISING RENEWAL APPLICATION TO REQUIRE LISTING OF CONTINUING EDUCATION COURSES COMPLETED

Mr. Good commented that it is very frustrating how many people lose their licenses for not having sufficient continuing education hours. He asked that staff look into the revision of the renewal form to require licensees to write on their renewal forms, all of

the continuing education courses that they completed for the renewal period. He added that with the implementation of BREEZE, this should be an option.

Ms. Saylor stated that there is a freeze on changes to any of the legacy databases with DCA due to the implementation of BREEZE. She added that when the Board goes live with BREEZE, it will be required that licensees enter the CE courses that they took for that renewal period when they renew.

DISCUSSION REGARDING STRATEGIC PLANNING

Ms. Saylor stated that the last Strategic Plan was approved in 2007 and the Board drafted a new Strategic Plan in 2011 while under the jurisdiction of DPR. She stated that DCA has a training unit that provides facilitators to assist with Strategic Planning and she needs direction from the Board to schedule a meeting with DCA to begin working on a new Strategic Plan that is in sync with DCA's goals and objectives.

Mr. Good asked if some of the items that were included in the 2011 draft can be included in the new Strategic Plan.

Ms. Saylor stated that it is her intention to look at the current version as well as the draft from 2011 when drafting a new Strategic Plan. She added that she will contact DCA in this regard and report back at the January meeting.

REVIEW AND APPROVAL OF SUNSET REPORT

Ms. Saylor stated that the Board sunsets on January 1, 2015 unless the sunset date is extended. The Senate B&P requires that sunset reports be approved by Board members before submitting to the Committee for consideration in a legislative bill for several programs in DCA. This report is due to the Committee on November 1, 2013.

Mr. Good stated that the report is very comprehensive.

Mr. Utley moved and Mr. Tamayo seconded to approve the sunset report.

Mr. Logan asked when the hearing process will begin.

Ms. Saylor stated that hearings will begin in February.

Passed unanimously.

ELECTION OF OFFICERS

Mr. Good thanked everyone for the opportunity to serve as the Board President.

Ms. Quiroz thanked Mr. Good for his service.

Mr. Tamayo stated that Mr. Good was very dedicated and did an excellent job as the Board president for the past two years.

Ms. Saylor thanked Mr. Good for his service and stated that there have been very turbulent times over the past couple years and added that he has been very supportive and that staff appreciates his support.

Mr. Good stated that he has had great support during his term and serving as the Board President has been his pleasure.

Ms. Saylor asked if there are any nominations for Board President.

Mr. Utley moved and Ms. Quiroz seconded to nominate Mr. Tamayo as the Board President.

Ms. Saylor asked if there were any other nominations for President.

There were no other nominations for President.

Passed unanimously.

Ms. Saylor asked if there were any nominations for Board Vice President.

Ms. Brand moved and Ms. Quiroz seconded to nominate Mr. Good as the Board Vice President.

Mr. Good stated that he would be happy to serve as the Board's Vice President but is concerned that he is in his grace period and his term expires in June.

Mr. Duran stated that the Board can address Mr. Good's term expiration at a later date.

Ms. Saylor asked if there were any other nominations for Vice President.

There were no other nominations for Vice President.

Passed unanimously.

BOARD MEETING CALENDAR

The next meeting was scheduled for January 23 and 24, 2014 in Sacramento.

The following meeting was scheduled for March 26 and 27, 2014 in Sacramento.

The following meeting was scheduled for June 25 and 26, 2014 in San Diego.

FUTURE AGENDA ITEMS

Mr. Heppler stated that Mr. Muteff is to give a presentation regarding Board member's involvement in investigations.

Mr. Tamayo asked that a report regarding the outcome of the interested party meeting for the approval process of continuing education courses be given at the next meeting.

Mr. Good asked that The Act Review Committee provide an update and present any changes that they would like to recommend to the Board.

Ms. Byerly asked that DPR updates are to be added to future meeting agendas for meetings that are being held in Sacramento.


ADJOURNMENT

Mr. Duran moved and Mr. Utley seconded to adjourn the meeting. Passed unanimously.

The meeting adjourned at 11:56 A.M.


Board President


Susan Saylor, Registrar


DATE