

MINUTES OF THE
SPECIAL MEETING OF THE
STRUCTURAL PEST CONTROL BOARD
JULY 19, 2002

The meeting was held on Friday, July 19, 2002, at the San Jose State Building, 100 Paseo de San Antonio, Auditorium, San Jose, California, commencing at 9:02 PM with the following members constituting a quorum:

Ken Trongo, President
Jean Melton
Michael Roth
Mustapha Sesay
Gregory Traum

Board Members Karl Thurmond and Bill Morris were not present

Board staff present:

Kelli Okuma, Registrar
Susan Saylor, Assistant Registrar
Dennis Patzer, Enforcement
Barbara Howe, Licensing

Departmental staff present:

Gary Duke, Legal Counsel

Board Liaison Deputy Attorney General Robert Eisman was also in attendance.

I. ROLL CALL / FLAG SALUTE

Ms. Saylor read the roll call. Mr. Trongo led the flag salute.

II. APPROVAL OF APRIL 11 AND 12, AND MAY 14, 2002 MINUTES

Ms. Melton moved and Mr. Traum seconded to approve the minutes of the meetings of April 11 and 12, and May 14, 2002. Passed unanimously.

III. TECHNICAL ADVISORY COMMITTEE REPORT AND RECOMMENDATIONS: STATEMENT TO CONSUMERS REGARDING LOCAL TREATMENT AND ITS LIMITATIONS

Tom Murray, Chairman, reported on the Technical Advisory Committee's recommended statement to consumers regarding local treatment and its limitations.

Ms. Melton moved and Mr. Sesay seconded to amend and notice for public hearing the statement to consumers regarding local treatment and its limitations as follows:

"Local treatment is not intended to be an entire structure treatment method. If infestations of wood-destroying pests extend or exist beyond the area(s) of local treatment, they may not be exterminated."

Passed by majority. (Ayes – Melton, Roth, Sesay, Trongo. Abstain –Traum).

IV. TECHNICAL TERMITE BAITS COMMITTEE REPORT AND RECOMMENDATIONS: REGULATIONS REGARDING THE USE OF BAITS AND RELATED ALTERNATIVE METHODS OF PEST CONTROL

Mr. Murray, Chairman, reported on the Technical Termite Baits Committee's suggested language for termite bait stations.

Ms. Melton moved and Mr. Traum seconded to notice for public hearing the adoption of Sections 1993.2 and 1993.3 as follows:

§ 1993.2. Termite Bait Stations.

Prior to the installation of any wood-destroying-pest monitoring and/or baiting system, a full or limited inspection of the structure must be made.

NOTE: Authority cited: Section 8525, Business and Professions Code.

Reference: Section 8514, Business and Professions Code.

§ 1993.3. In-Ground Termite Bait Stations.

Use of in-ground termite monitoring and/or baiting systems shall be considered a control service agreement as defined by section 8516 of the code.

NOTE: Authority cited: Section 8525, Business and Professions Code.

Reference: Section 8516, Business and Professions Code.

Passed unanimously.

V. REGISTRAR'S REPORT

Ms. Okuma introduced to the Board members Board specialists John Ellinger and Tom Ineichen. She reported on the following:

- There was a recent fumigation death in San Diego of a resident who returned to the home while it was being fumigated and was subsequently found deceased in the hallway. No violations were issued.
- All board members were reminded to submit their year-end per diem and travel documents. Parking would no longer be reimbursed for valet or short-term. Only long-term parking will be reimbursed.
- Legislative bills were reviewed with the Board members.
- A County Agricultural Commissioners Office reported that an applicant left an examination site with an applicator examination. A new examination was written in about a week's time and the old examinations were collected. Less than one month later, another applicant took an examination from an examination site. During that rewrite, staff combined like duties and, pursuant to a legislative request, developed one examination to include both Branches 2 and 3.

Ms. Saylor reported on the following:

- Licensing statistics and survey results were reviewed with the Board members.
- Budget hearings were held on June 19, 2002. \$2,000,000 from the Board's reserves was borrowed to help balance the budget. Although it will not be until 2003-4 when this loan could impact the Board fiscally, conservation steps are currently being enacted and expenses will be monitored. By the end of 2002-3 the Board should be at an acceptable reserve level.
- A Budget Letter issued July 1, 2002 eliminated 6,000 positions from the State of California, which reflects approximately 50% of all vacancies. The Board currently has one vacant position, which may be abolished.
- The Research contract is currently at the UC Forest Products Laboratory awaiting signature.

Mr. Patzer reported on the following:

- On June 10, 2002, a new specialist was hired, Steven R. Smith. He will work in part of Los Angeles and all of San Bernardino County. He has been a licensed operator since 1984 and is undergoing 30 days of training in the field.
- On May 7, 2002, he spoke at the Northern Solano County Association of Realtors.
- On June 8, 2002, he attended the SCAM-JAM, sponsored by the Better Business Bureau, with Consumer Services Representative Patricia Jensen.
- On June 10, 2002, he attended the County Agricultural Commissioners Annual enforcement training.

VI. PROPOSED LEGISLATIVE AMENDMENT TO INCLUDE STRUCTURAL PEST CONTROL BOARD IN BUSINESS AND PROFESSIONS CODE SECTION 144 TO CLARIFY ABILITY TO CONDUCT CRIMINAL HISTORY RECORD CHECKS

Business and Professions (B&P) Code section 144 provides express authority for designated agencies to obtain criminal history information from the Department of Justice and the United States Federal Bureau of Investigation. The Structural Pest Control Board is not included in this express authority, but to obtain these records has relied on a provision of the B & P Code that allows for denial of a license based on a criminal history.

Staff recommended the Board seek an amendment to section 144, to include the Structural Pest Control Board in that express authority.

Mr. Traum moved and Mr. Roth seconded to seek a legislative amendment to section 144 to include the Structural Pest Control Board in the express authority to obtain and receive criminal history information. Passed unanimously.

VII. REQUEST FROM CHUCK HOMER THAT RETIRED LICENSEES BE EXEMPT FROM CONTINUING EDUCATION REQUIREMENTS

Ms. Okuma stated that Mr. Homer was asking that a licensee who is retired, not actively working and with no intention to work, be allowed to renew their license without meeting continuing education requirements at renewal time.

The Board took no action on this matter.

VIII. CONTINUING EDUCATION COMMITTEE REPORT AND RECOMMENDATIONS: FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT (FIFRA) CONTINUING EDUCATION GUIDELINES, OTHER REGULATORY STATE'S GUIDELINES, REALLOCATION OF CONTINUING EDUCATION REQUIREMENTS FOR EACH BRANCH OF LICENSURE, DEVELOPMENT OF GUIDELINES FOR STAFF APPROVAL OF CONTINUING EDUCATION ACTIVITIES IN THE AREAS OF COURSE APPROVAL GUIDELINES, RANDOM AUDITS, TESTING PRACTICES, IMPROVING QUALITY OF SERVICE TO CONSUMERS, OVERALL EVALUATION OF EFFECTIVENESS OF CONTINUING EDUCATION

Mr. Trongo read a letter sent by Doug Carver, chair of the committee, stated he agreed with the Committee's findings and recommendations, and asked the committee to continue with its directives. Mr. Trongo stated when he attends the Association of Structural Pest Control Regulatory Officials meeting in Mississippi, he will talk to representatives from Florida regarding continuing education programs and report back.

IX. REQUEST FROM THOMAS J. MEANY TO APPROVE NAMESTYLE "THE ANT BUSTERS"

Thomas Meany requested the Board reconsider staff's disapproval of the company name style "The Ant Busters," as he had used this name for 14 years on trucks, in flyers and the yellow pages. The Board supported staff's disapproval of "The Ant Busters" name style because on March 22, 2002, another company in Southern California had registered the name "Antbusters." The Board agreed these names were confusingly similar.

Mr. Meany requested the Board consider his proposed business name "The California Ant Busters." The Board denied this request because the issue before the Board dealt only with the specific name style "The Ant Busters." The Board suggested Mr. Meany submit a Request for Approval of Registered Company to staff for "The California Ant Busters" name and if that request was denied he could ask for reconsideration by the Board at the next meeting.

Mr. Roth asked that the minutes reflect the fact that the Board's disapproval of the request for the name "The Ant Busters" or "The California Ant Busters" is not intended in any way to take a position on Mr. Meany's claim to have a superior right to the name. If any claims are made that this Board, by not approving Mr. Meany's requests for name style, is suggesting that anyone has a superior right to the names, these minutes also reflect that is not the case. Mr. Roth reaffirmed that the Board is neutral on this issue.

X. PROPOSAL TO LICENSE BRANCH 1 CREWPERSONS

Mr. Patzer presented a proposal that the Board also license Branch 1 crewpersons. There was a recent situation wherein a crewperson stated he had on a self contained breathing apparatus upon entering a tarp during fumigation when he did not. The County Agricultural Department can only fine licensees, not crewpersons, so the Board was being asked to consider licensing crewpersons also.

The Board took no action on this matter.

XI. STRATEGIC PLAN / ACTION PLAN UPDATE

- **USE OF BAITS AND RELATED ALTERNATIVE METHODS**
- **CONSUMER OUTREACH**
- **WEB SITE SURVEY**
- **CONTINUING EDUCATION AD HOC ADVISORY COMMITTEE**
- **WOOD DESTROYING PEST / ORGANISMS (WDO) INTERNET ON-LINE FILING**
- **REVIEW OF LAWS AND REGULATIONS**
- **COMPUTER BASED TESTING**

Ms. Okuma reported as follows:

- Use of Baits and Related Alternative Methods – This was reported with a committee update, agenda item IV.
- Consumer Outreach – Staff attended the SCAM-JAM as reported by Mr. Patzer. The Board is waiting to receive the Department of Consumer Affairs' Event Calendar, and will be contacting the Contractor's State Licensing Board regarding its consumer outreach events.
- Web Site Survey – The approved survey is currently at the Department of Consumer Affairs for posting on the website.
- Continuing Education Ad Hoc Advisory Committee – This was reported with a committee update, agenda item VIII.
- Wood Destroying Pest / Organisms (WDO) Internet On-Line Filing – The Department originally agreed the Board could implement web-based filing as long as it ran on a separate network, but then did not approve the feasibility study. The Department is now agreeable to the project if the program runs on DCA's network. A new feasibility study must now be prepared.
- Review of Laws and Regulations – This was originally appointed to staff, but staff has found it difficult to complete the review. Staff recommended the review be done at committee level, which would also allow a broad prospective.

- Computer Based Testing – A legislative amendment will be necessary to cover the cost of implementing computer-based testing. An analysis of what will be needed to cover the total cost will be presented at the next Board Meeting. Moving forward on this is additionally impeded because the Board is unable to implement the Applicant Tracking System (ATS), which is critical in computer-based testing. The Department will entertain Boards' accessing applicant tracking in a year.

Mr. Trongo stated he would form a committee to review the laws and regulations.

XII. BOARD MEETING CALENDAR

The next Board Meeting will be held October 10 and 11, 2002 in Long Beach on the Queen Mary. The following meeting will be held January 9 and 10, 2003 in San Diego.

XIII. PUBLIC COMMENTS FOR ITEMS NOT ON THE AGENDA

Larry Musgrove, Western Exterminators, requested the Board consider allowing a longer time period to file termite reports.

This issue will be placed on the agenda for discussion at the next Board Meeting.

Dave Franklin, Roy L. Burge, Inc., asked if the new Field Representative Branch 3 exams were out yet.

He was informed the examinations are not yet complete.

Dave Franklin, Roy L. Burge, Inc., asked how far along the Wood Destroying Report Form was.

He was informed board staff is still preparing the rulemaking file.

Dave Franklin, Roy L. Burge, Inc., asked if there was any way to get the committee reports posted on the web site.

He was informed that approved minutes could be posted but the legality of posting unapproved minutes would have to be researched.

Mr. Trongo adjourned the meeting for lunch at 11:47 AM.

The meeting resumed at 1:10 PM.

XIV. FALSE AND MISLEADING ADVERTISING PRESENTATION

The False and Misleading Advertising Presentation was made to the Board Members by Deputy Attorney General, Robert Eisman.

XV. 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.

Mr. Trongo adjourned the meeting at 2:55 PM.

KEN TRONGO, President

KELLI OKUMA, Registrar

DATE