

MINUTES OF THE
SPECIAL MEETING OF THE
STRUCTURAL PEST CONTROL BOARD
JANUARY 10, 2003

The meeting was held on Friday, January 10, 2003, at the San Diego State Building, 1350 Front Street, San Diego, California, commencing at 9:08 AM with the following members constituting a quorum:

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

Board member Bill Morris was not present

Board staff present:

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

Departmental staff present:

Donald Chang, Legal Counsel

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

I. ROLL CALL

Ms. Saylor read the roll call.

Mr. Roth announced a change in the order of business. Agenda Item II would be heard when the representative from the Department of Consumer Affairs arrived.

III. TERMITE BAIT SYSTEM PRESENTATION – DRS. VERNARD LEWIS AND MICHAEL HAVERTY

Drs. Vernard Lewis and Michael Haverty, research entomologists, gave a presentation to the Board members on subterranean termite biology and how termite bait stations are designed to work based on the biology of the termite.

IV. REGISTRAR'S REPORT

Mr. Patzer reported on the following:

- The False and Misleading Advertising presentation was given at five PCOC Districts: Palm Springs, Los Angeles, Shasta, Bay Area and San Fernando / San Mateo.
- He participated in Hearing Officer training at the San Diego County Agricultural Commissioner's Office.
- Three days of board specialist's training was held in December. Deputy Attorney General Robert Eisman instructed the specialists in the area of effective investigative report writing.
- The Board had requested at Strategic Planning that a tracking system be developed that would show which sections licensees violate the most and the outcome of investigations. A quarterly report is being prepared for the board meeting in April.

Ms. Saylor reported on the following:

- Licensing statistics and survey results were reviewed with the Board members.
- 100 letters were sent out to licensees who renewed this past June as part of the continuing education audits. 700 more letters will be sent.
- The new Wood Destroying Pests and Organisms Inspection Report and Standard Notice of Work Completed and Not Completed forms were both approved by the Office of Administrative Law on December 16, 2002. The regulation will become effective January 16, 2003, and required use of new forms is July 1, 2003.
- The Governor's Budget, not yet released, is expected to include additional reductions in positions and spending authority.

John Van Hooser requested the Board extend the required use date of the revised Wood Destroying Pests and Organisms Inspection Report form and the revised Notice of Work Completed and Not Completed form from July 1, 2003, to January 1, 2004. He cited computer programming issues as justification for the extension. Mr. Roth requested this matter be placed on the April board meeting agenda.

Ms. Melton questioned whether a committee should be appointed to address uniformity in completing the revised forms. Mr. Trongo moved and Mr. Traum seconded to appoint a

committee to review the Wood Destroying Pests and Organisms Inspection Report and Standard Notice of Work Completed and Not Completed forms for the purpose of determining if it would be advisable to have guidelines on completing the body of the reports. Mr. Traum withdrew his second to the motion.

Mr. Traum moved and Mr. Sesay seconded to direct the Rules and Regulations Committee to consider whether guidelines are needed to complete the revised forms and if guidelines are necessary, to draft proposed regulations. Passed unanimously.

Harvey Logan announced that the Pest Control Operator's of California would appoint a committee to develop a format for completing the revised forms and distribute that format to the industry.

Ms. Okuma reported on the following:

- California is host state for the conference of the Association of Structural Pest Control Regulatory Officials this year, which will be held August 25, 26, and 27, 2003, in Sacramento.
- The rulemaking file for the amendments to 1991(a)(8), and the adoption of 1993.2 and 1993.3 were submitted to the Department of Consumer Affairs on January 9, 2003. After approval by the department, the file will be sent to the Office of Administrative Law.

II. DEPARTMENT OF CONSUMER AFFAIRS' RECOMMENDED MINIMUM STANDARDS FOR CONSUMER COMPLAINT DISCLOSURE / AMENDMENT OF BOARD PROCEDURES NOS. E-10 AND E-11

James Goldstene, Executive Officer, Bureau of Barbering & Cosmetology, reviewed with the Board the Department of Consumer Affairs' recently adopted Recommended Minimum Standards for Consumer Complaint Disclosure policy.

Mr. Thurmond moved and Mr. Roth seconded to modify the Board's policies and procedures to the extent necessary to conform with the recommended policy standards of the Department of Consumer Affairs' Consumer Complaint Disclosure. Passed by majority (Aye – Melton, Roth, Sesay, Thurmond, Traum. No - Trongo).

Mr. Roth moved and Mr. Thurmond seconded to direct staff to draft the modified Board's policies and procedures as a proposed regulation. Passed by majority (Aye – Melton, Roth, Sesay, Thurmond, Traum. Abstain - Trongo).

V. APPROVAL OF OCTOBER 10 AND 11, 2002 BOARD MEETING MINUTES

Ms. Saylor reported a correction to page six of the draft minutes, correcting the section reference to include the number one. Mr. Roth moved to approve the minutes of the meeting of October 10 and 11, 2002, as amended. Passed unanimously.

VI. APPOINTMENT OF DEPARTMENT OF PESTICIDE REGULATION REPRESENTATIVE BOB ELLIOTT TO RESEARCH ADVISORY PANEL

Mr. Roth reported that the Department of Pesticide Regulation (DPR) representative on the Research Advisory Panel, Robert Hobsa, retired from state service.

Mr. Trongo moved and Ms. Melton seconded to adopt the recommendation from the Department of Pesticide Regulation that DPR representative Bob Elliott be appointed to replace Robert Hobsa on the Research Advisory Panel. Passed unanimously.

VII. APPROVAL OF REQUEST FOR PROPOSALS FOR RESEARCH GRANT

Ms. Saylor reviewed with the Board members the Research Grant - Request for Proposal prepared by Forest Products Laboratory.

Mr. Traum moved and Ms. Melton seconded to approve the Request for Proposal and Attachments contingent upon Forest Product Laboratory making identified corrections to the submitted Proposal. Passed unanimously.

VIII. CONTINUING EDUCATION COMMITTEE REPORT

Doug Carver, Chair, gave an update on the October 24, 2002, and December 5, 2002, Continuing Education Committee meetings. The next committee meeting is scheduled for January 29, 2003, and the committee will make its final presentation with recommendations to the Board at the conclusion of the committee's mandate.

IX. LAWS AND REGULATIONS COMMITTEE REPORT AND RECOMMENDATIONS

Mr. Roth, on behalf of the Board, thanked all the committee members for their long and hard hours and for going beyond the call of duty in their effort to update the laws and regulations. It was a complex matter and the results illustrated their hard work.

Larry Musgrove, Chair, presented to the Board members the proposed amendments as recommended by the Laws and Regulations Committee.

Mr. Roth moved to table the matter pending legal review.

Mr. Chang suggested that he and Mr. Eisman review the revisions suggested by the Laws and Regulations Committee and report back to the Board at a future meeting.

Mr. Roth withdrew his motion.

The meeting recessed at 12:15 PM.

The meeting reconvened at 1:35 PM.

X. TECHNICAL TERMITE BAIT COMMITTEE REPORT AND RECOMMENDATION TO ADOPT CONSUMER ADVISORY STATEMENT

Tom Murray, Chair, reported on the Technical Termite Bait Committee meetings of December 11, 2002, and January 10, 2003, which included the committee's recommendation to include the following consumer advisory statement on Wood Destroying Pest Organism Inspection Reports for each recommendation made to install a termite bait station:

"CONSUMER ADVISORY:" Be sure your termite company has explained its obligations as to frequency of inspections, system performance and warranties, if any, before you sign the contract.

Mr. Trongo moved and Mr. Traum seconded to accept the committee report. Passed unanimously.

The committee was directed to continue working on the consumer protection issues regarding termite bait stations and to report back to the Board at the July board meeting with all its recommendations.

XI. APPROVAL OF STRATEGIC PLAN AND ACTION PLAN

Ms. Okuma presented the final submission of the strategic plan which includes the action plan deliverables.

Mr. Roth requested that the strategic planning meeting for next year be scheduled for two full days, rather than a day and a half.

Mr. Roth asked that a typographical error on page six be corrected.

Mr. Traum moved and Mr. Trongo seconded to approve the strategic plan and action plan as corrected. Passed unanimously.

XII. PROPOSED LEGISLATIVE AMENDMENT TO CHANGE TITLE OF REGISTRAR TO EXECUTIVE OFFICER

Mr. Roth explained that during strategic planning a recommendation was made to change the title of "registrar" to "executive officer" through a legislative amendment.

Mr. Roth moved and Mr. Thurmond seconded to change the title of registrar to executive officer through legislative amendment. Passed unanimously.

XIII. PROPOSAL TO AMEND SECTION 1914 – APPROVAL OF COMPANY REGISTRATION NAMESTYLE

Mr. Chang reported that section 1914 authorizes the Board to disapprove name styles that are confusingly similar to that of another registered company, a governmental agency or a trade association. Staff has had difficulty administering the regulation, with the Board being the final determiner. Lacking a statutory mandate, he recommended the Board discontinue disapproving name styles that are confusingly similar to that of another registered company.

Mr. Traum moved and Mr. Trongo seconded to notice for public hearing the amendment of California Code of Regulations Section 1914 as follows:

§1914. Name Style--Company Registration.

No company registration certificate shall be issued in a fictitious name which the board determines to be confusingly similar to the name of another registered company, or which is likely to be confused with that of a governmental agency or trade association. No company registration shall be issued in the same name or in a name style which the board determines is confusingly similar to the name of a firm whose company registration has been suspended or revoked unless a period of at least one year has elapsed from the effective date of the suspension or revocation.

It shall be grounds for disciplinary action for a registered company to use the telephone number and/or name style of a firm whose company registration has been suspended or revoked, without the prior written approval of the board.

Passed unanimously.

XIV. PROPOSED AMENDMENT TO BOARD PROCEDURE G-3 – DELETE REFERENCE TO BOARD LIAISON EXECUTIVE COMMITTEE

Ms. Okuma reported that a recommendation had been made at the October board meeting to remove the fourth paragraph from Board Procedure No. G-3, which established an

executive committee of Board members to serve as liaison between the Board and staff, as it was considered outdated.

Ms. Melton moved and Mr. Traum seconded to strike the fourth paragraph from Board Procedure No. G-3. Passed unanimously.

XV. PROPOSED AMENDMENT OF BOARD PROCEDURE G-4 – ELECTION OF OFFICERS

Mr. Roth reported on the proposal to amend Board Procedure No. G-4, stating that the amendment would allow the president-elect a three-month period in order to prepare for assuming office, as well as an opportunity to work closely with the existing president during that period. The amendment would also enable the president-elect to attend the annual meeting of the Association of Structural Pest Control Regulatory Officials in order for the president-elect to gather information regarding the industry on a national level.

Mr. Roth moved and Mr. Sesay seconded to amend Board Procedure G-4 – Election of Officers as follows:

Elections for the offices of president and vice president shall be conducted at the meeting preceding the October board meeting. The president and vice president shall assume duties at the board meeting following the October board meeting. At least one of the offices of president and vice president must be held by a public member.

Passed unanimously.

XVI. PROPOSED ADOPTION OF BOARD PROCEDURE – DUTIES OF BOARD PRESIDENT

Ms. Okuma presented a document entitled “Duties of the President & Vice President” for consideration to be adopted as a Board procedure.

Mr. Roth moved and Ms. Melton seconded to adopt the following as a Board procedure:

President

1. The president shall chair all meetings of the board.
2. The president or any three members of the board may call meetings at any time.
3. If a member is unable to attend, he / she must contact the board president and the registrar / executive officer to advise them of his / her inability to attend.

4. The president will use Robert's Rules of Order when conducting the meetings, except to the extent where it conflicts with state law (Bagley-Keene Open Meeting Act).
5. The president shall establish standing and special committees as the board deems necessary or appropriate. The president shall make the appointment of members to these committees.
6. The president will represent the board in all communications relating to any board action or policy. The president may designate another board member to represent him / her if necessary.
7. The president will approve or disapprove travel by members of the board, not including regularly scheduled board meetings, such approval not to be unreasonably withheld.
8. The president shall have the responsibilities usually vested in or customarily incident to the office of president and otherwise prescribed by law.
9. The president elect shall serve as the board delegate to ASPCRO; if he or she cannot attend, the president, or his or her designee, shall serve as the board delegate to ASPCRO.
10. The president shall supervise the activities of the registrar / executive officer.
11. In intervals between meetings of the board, the president shall have authority to make decisions respecting emergency matters.
12. The president shall sign decisions and rulings of the board on behalf of the board, and minutes after approved by the board.
13. The president shall serve as liaison between the board and the Deputy Director of Board Relations.

Vice President

1. If the president is temporarily unable or unwilling to perform his or her duties as president, the vice president shall perform all of the duties of the president, and when so acting shall have all the powers of, and be subject to all the restrictions upon, the president.

Passed unanimously.

XVII. BOARD MEETING CALENDER

The board meeting following the April meeting will be held July 18 and 19, 2003, in Sacramento.

XVIII. PUBLIC COMMENTS FOR ITEMS NOT ON THE AGENDA

Ken Gordon stated Home Depot advertises alternative-to-wood shelf products made of compressed wheat straw. He questioned the impact of inspecting and reporting of alternative wood products. Mr. Roth informed Mr. Gordon that Mr. Patzer would review the matter.

Lance Steffen, PC Extensions, commented regarding the changes to the WDO Forms. He stated that PC Extensions had submitted a format back in October 2001, at which time they had been asked to wait until the form was approved before addressing PC Extension's issues. Mr. Chang stated that a meeting would soon be arranged with all the software providers in order to review all requirements.

Randy Steffen, PC Extensions, commented that the July 1, 2003, implementation date allowed only a short amount of time within which to upgrade the computer programs of their customers to the current form as most licensees had not seen the form unless they were a PCOC member.

Bill Gillespie, Research Endeavors, asked what disposition had been made of Mr. Bill Morris' memo regarding having a public Board member on each committee. Mr. Roth responded that he, as president, was very interested in having public Board members participate on different committees and if the public member's schedules permitted, he would be making appointments. He then asked Bill Gillespie to forward the names of any members of the public who wished to serve on a committee.

Mr. Roth announced that in years past the Board had not performed the Pledge of Allegiance, but as the people seemed to want to continue the practice, he would re-institute it and asked staff to purchase a flag that could be taken with them to each meeting.

XIX. CLOSED SESSION

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

Mr. Roth adjourned the meeting at 2:37 PM.



MICHAEL ROTH, President



KELLI OKUMA, Registrar

4/4/03

DATE