

Texas Prescribed Burning Board Minutes

Texas Department of Agriculture

Stephen F. Austin Building, 11th Floor Conference Room

Thursday, February 22, 2018

CALL TO ORDER

Pursuant to a notice posted on February 07, 2018, the Prescribed Burning Board (Board) meeting was called to order at 1:10 P.M. by Chairman Justin Penick. The roll was answered as follows:

Present: James “Rooter” Brite, Rich Gray, Amancio Gutierrez, Justin Penick, William “Bill” Rogers, Dr. Morgan Russell, Dale Scott, Dr. Robin Verble.

Absent: Arnoldo Saenz, Larry J. Doherty, Justin Dreibelbis, Frank Price, Rusty Ray.

With eight members in attendance and five members absent, a quorum was present.

Guests: Chris Gee (TDA), Patrick Dudley (TDA), Stephen Dillon (TDA), Andy McCrady (TFS), Heath Starns (AgriLife Research), Gabe Golson (AgriLife Research), Rider Combs (AgriLife Research), Lucien Ball (City of Austin), Chris Schenck (TPWD), Ray Hinnant, and Brian Treadwell.

The Chair opened with welcoming everyone to the meeting and had attendees introduce themselves.

APPROVAL OF MINUTES

The Chair laid out the minutes from the previous Board meeting (September 21, 2017) for review. Brite made a motion to approve the minutes as presented with corrections. Russell seconded the motion; the motion prevailed unanimously.

APPROVAL OF APPLICANTS

The Chair recognized Patrick Dudley with TDA to present the Board with any new Certified and Insured Prescribed Burn Manager (CIPBM) and Lead Burn Instructor applications being considered. Following review of the applicants seeking CIPBM licenses from the Board, each were approved individually contingent upon insurance confirmation. Applicant Andrew Bivins was approved contingent upon receiving a new PBB-602 with the proper ecoregion indicated. All applicants for Lead Burn Instructor were approved by the Board. A discussion by the Board focusing on the current application “self-certification or honor” process took place and will be part of the agenda for the next meeting.

TDA UPDATE

The Chair called on Patrick Dudley for the TDA update. Dudley gave an attendance report to the Board members present. Verble made a motion to not excuse the absent Board members at the present meeting. Chairman Penick seconded the motion, the motion passed unanimously.

Dudley provided a historical report on the CIPBMs. The report detailed how many burn managers have been licensed since the formation of the Prescribed Burning Program, 146 to date. There are currently 69 commercial and private active accounts, plus 16 pending applications. There are 17 Lead Burn Instructors with two applications pending as of the meeting.

MEETING DISCUSSION AND ACTION

The Chair recognized Patrick Dudley to discuss Board structure. Dudley advised due to nature of the Board, and to establish the presiding officer’s designee as stated in Chapter 153 of the Natural Resources Code, it be advised to have at least two additional officers on the Board in case the Chair is unavailable. In addition, Dudley suggested the Board consider developing by-laws outlining the duties of the officers as well as a possible succession plan. The Board responded positively to the suggestions and directed Dudley to bring a draft of by-laws to the next meeting for review, including suggestions for the types of officers. The Board will look at selecting additional officers at the next meeting.

The Chair recognized Dudley to discuss the 2019 legislative session with the Board. Dudley indicated if the Board had any directives to TDA regarding statutory cleanup for the prescribed burning program, they should be prepared to have directives finalized before the 2018 November pre-file date. Chairman Penick recognized this would be a good opportunity to look into possible discrepancies between rules and statutes and suggested the Prescribed Burning Advisory Board be in charge of investigating possible

discrepancies. A motion was made by Russell and seconded by Rogers to direct the Advisory Board to investigate potential discrepancies in both administrative rules and legislative statutes concerning prescribed burning that may need to be changed during the 2019 legislative session. The motion passed unanimously. The Advisory Board will begin work and report back to the Board at the next meeting.

The Chair recognized Stephen Dillon with TDA to discuss appropriate insurance policy deductibles and TDAs approval process. After brief discussion, the Chair made a motion to allow TDA to continue the policy of accepting insurance policies with \$5,000 deductibles without asking for proof of financial stability, and to request confirmation of financial stability for insurance policies with deductibles over \$5,000. Brite seconded the motion. The motion passed unanimously.

A question was posed by the Chair asking if there was a responsibility for the Board to provide rule or statute change information (or similar information) to prescribed burn managers, and if so, to what extent. After thorough discussion the Board determined its responsibility is to have the information available, however it is the responsibility of the individual burn manager's to acquire said insight and updates through Continuing Fire Training and other public resources. Furthermore, the Board noted, there is an existing responsibility for Lead Burn Instructors to obtain and disseminate this information through classes and educational activities. As part of this conversation, the Board asked TDA to determine whether or not the agency could post burn manager email addresses on the department's website for purposes of sending new or updated information out. The question will be addressed by TDA, and an answer brought back for the next meeting.

The Chair laid out the PBB Proposed Rule Draft Recommendations for Title 4, Part 13, Chapters 225, 226, 229 and 230 of the Texas Administrative Code being considered and recognized Dudley and the Board Liaison, Dr. Morgan Russell, to provide further insight. The Board deliberated the rule draft and further reviewed recommendations and concerns shared previously by some Lead Burn Instructors. A motion was made by Brite to maintain 32 hours with in the rule. Upon council from TDA to review the entire rule draft, make changes where necessary, and adopt a proposal for rule change to be posted on the Texas Register for comment, the motion was withdrawn.

During review of the proposed draft, Brite excused himself from the meeting. With a quorum still present, the Board continued review of the proposed rule draft. After completing the review of the proposed rule draft and further debate regarding Chapter 230, *Lead Burn Instructor Requirements*, Verble moved to have the minimum number of curriculum hours for a prescribed burn school in the rule draft be changed from "24 to 32 hours" to 32 hours. Gray seconded the motion. By a show of hands the motion failed 2 for and 5 against. Russell moved to have the minimum number of curriculum

hours for a prescribed burn school in the rule draft be changed from “24 to 32 hours” to 24 hours. Gray seconded the motion. The motion passed 6 for and 1 against. Dale Scott then made a motion to accept the draft rules for publication in the Texas Register with changes. Russell seconded the motion. The motion passed unanimously.

The Board discussed other business raised during the meeting to be placed on the next agenda. Dudley will contact members of the Board prior to the next meeting to determine additional agenda items. The Board came to a consensus the next meeting should be held Thursday, August 2, 2018 at the Stephen F. Austin Building in Austin at 1:00 p.m., unless conflicts arise.

The Chair then opened the floor for public comment. Chris Shneck spoke to how important the Prescribed Burning Board is in Texas, the importance for burning to succeed within the state of Texas, and the industry cannot afford any failures.

AJOURNMENT

With no additional business, Chairman Penick entertained a motion to adjourn until August. A motion was made and seconded; receiving no objection, the meeting was adjourned at 5:07 p.m.