

Texas Prescribed Burning Board Minutes

Texas Department of Agriculture

Stephen F. Austin Building, 11th Floor Conference Room

Thursday, August 09, 2018

CALL TO ORDER

Pursuant to a notice posted on July 25, 2018, the Prescribed Burning Board (Board) meeting was called to order at 1:00 P.M. by Chairman Justin Penick. The roll was answered as follows:

Present: James “Rooter” Brite, Rich Gray, Amancio Gutierrez, Justin Penick, Frank Price, Rusty Ray, Dr. William “Bill” Rogers, Dr. Morgan Russell, Chris Schenck, Dale Scott,

Absent: Arnolando Saenz, Larry J. Doherty, Matthew McEwen.

With ten members in attendance and three members absent, a quorum was present.

Guests: Patrick Dudley (TDA), Stephen Dillon (TDA), Heath Starns (AgriLife Research), Mort Kothman (TX A&M), Jeff Adams (USFWS), Ray Hinnant, Mary Epperson, and April Corbrecque.

The Chair opened with welcoming everyone to the meeting and had attendees introduce themselves. The Chair called on Patrick Dudley to swear in incoming board member Chris Schenck as the new representative for Texas Parks and Wildlife. Chris Schenck was sworn in and welcomed to the Board.

APPROVAL OF MINUTES

The Chair laid out the minutes from the previous Board meeting (February 22, 2018) for review. Rooter Brite made a motion to approve the minutes as presented. Dale Scott seconded the motion; the motion prevailed unanimously.

BOARD STRUCTURE and PROCEDURES

The Chair recognized Patrick Dudley with TDA to discuss recommendations regarding the Board's structure and procedures. Dudley recommended the Board formally vote on a Vice-Chair to serve as the Chair's official designee. The Board agreed on creating the position of Vice-Chair. Frank Price made a motion to create the position of Vice-Chair; the motion was seconded by Rooter Brite and passed unanimously. The Chair then opened nominations for Vice-Chair and made a motion to elect Dr. Morgan Russell as Vice-Chair of the Board. The motion was seconded by Rusty Ray and passed unanimously.

Dudley then presented a draft of Board by-laws and recommended the Board adopt by-laws to formalize the Boards procedures regarding officers. The Board supported the idea, but after thorough discussion requested a new draft be developed with the conferred edits, which could come up for a vote at the next meeting. Chris Schenck made a motion to table the discussion regarding Board by-laws until the next meeting. The motion was seconded by Dr. Bill Rogers and passed unanimously.

APPROVAL OF APPLICANTS

The Chair recognized Patrick Dudley to present the Board with any new Certified and Insured Prescribed Burn Manager (CIPBM) and/or 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. Following review of the applicant seeking to become a Lead Burn Instructor, the applicant was approved.

TDA UPDATE

The Chair recognized Patrick Dudley to present the Board with the TDA update. Dudley presented the Board with the attendance report. Dudley also reported back to the Board in response to a question the Board raised at the previous meeting. The Board wanted to know if TDA could include more CIPBM information on the Prescribed Burn website, which due to privacy laws the Department is unable to do. Additionally, Dudley reported he would begin attending more Prescribed Burning Trainings and would be traveling more to increase the Department's visibility among the prescribed burning community.

MEETING DISCUSSION AND ACTION

The Board reviewed comments submitted by the general public regarding the PBB proposed rule draft recommendations for Title 4, Part 13, Chapters 225, 226, 229 and 230 of the Texas Administrative Code being considered. After thorough discussion, Frank Price made a motion to adopt the rules as proposed. The motion was seconded by

Rooter Brite and passed unanimously. The Board conveyed their deepest thanks to those who took the time and effort commenting on the proposed rules and will be vigilant in monitoring the outcome of the rule change.

The Board reviewed prescribed burning notification rules under both Environmental Quality and the Prescribed Burning Board of the Texas Administrative Code to determine if there were discrepancies regarding CIPBM notification requirements. After reviewing the rules, rules under Environment Quality dealing with outdoor burning referred back to the Prescribed Burning Board for CIPBM notification requirements. The Board recognized it was the Prescribed Burning Board notification rule that placed an unrealistic burden on CIPBMs during the notification process. After thorough discussion the Board agreed to change the Notification Requirements Prior to Prescribed Burns Rule of Title 4, Part 13, Chapter 228.2 of the Texas Administrative Code. Chapter 228.2 currently requires CIPBMs to obtain written permission prior to burning, from the residents, owners, occupants or operators of structures containing sensitive receptors if they are located within 300 feet of and in the general direction downwind from the prescribed burn. The Board agreed to change the rule requiring CIPBMs to provide written notification, prior to a burn, to the residents, owners, occupants or operators of structures containing sensitive receptors if they are located within 300 feet of and in the general direction downwind from the prescribed burn. Chris Schenck made a motion to change Notification Requirements Prior to Prescribed Burns Rule Chapter 228.2 in Part 13 of Title 4 of the Texas Administrative Code requiring CIPBMs to provide written notification to the residents, owners, occupants or operators of structures containing sensitive receptors if they are located within 300 feet of and in the general direction downwind from the prescribed burn, prior to burning. The motion was seconded by Rooter Brite and passed unanimously. Rooter Brite then made a motion to adopt the rules contingent on the absence of any comments being made during the official comment period. The motion was seconded by Dr. Morgan Russell and passed unanimously.

The Board discussed the selection of a chair for the Standardized Test Committee as presented in Title 4, Part 13, Chapter 230 of the Texas Administrative Code. After discussion, Rooter Brite made a motion that Dr. Morgan Russell serve as Chair of the Committee and the incoming Texas Tech Representative serve as Co-Chair. The motion was seconded by Rusty Ray and passed unanimously.

The Board discussed the need for more verification from applicants when seeking to become Certified and Insured Prescribed Burn Managers and Lead Burn Instructors. The Board agreed the application forms for each should be reviewed and possibly changed to meet the need for further verification. A general consensus of the Board agreed Chris Schenck and Justin Penick would act as a working group to review the

PBB-600 and PBB-601 forms and provide the Board recommendations at the next meeting.

PBB ADVISORY BOARD

Weeks prior to the meeting, the Chair of the Advisory Board, Ray Hinnant, informed Chairman Penick he would be bringing nominees to fill vacant positions within the Advisory Board. Hinnant brought two nominees to be reviewed and approved by the Board; Stephen Fehler, Regional Underwriting Manager for Texas Farm Bureau and Rob Hughes, Executive Director for the Texas Forestry Association. Dr. Morgan Russell made a motion to accept Stephen Fehler as a member of the PBB Advisory Board. The motion was seconded by Rooter Brite and passed unanimously. Dr. Morgan Russell made a motion to accept Rob Hughes as a member of the PBB Advisory Board. The motion was seconded by Rusty Ray and passed unanimously.

Ray Hinnant was recognized to update the Board on the charge given to the Advisory Board at the previous meeting investigating possible discrepancies in Prescribed Burning rules and statutes. Hinnant informed the Board he had started reviewing the rules and statutes and will be holding a meeting before the next PBB meeting. Hinnant will provide an update to the Board at the next meeting with recommendations from the Advisory Board.

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 Wednesday, November 7, 2018 at the Texas State Soil and Water Conservation Board Offices in Temple, Texas at 1:00 p.m., unless conflicts arise.

The Chair then opened the floor for public comment. Heath Starns addressed the Board and requested the Board be cognizant of any changes on the PBB application forms so as to not hinder the application process or do anything to the application process that could possibly deter individuals from applying to become CIPBMs or Lead Burn Instructors. The Board acknowledged Mr. Starns's concerns and assured those in attendance that deterring individuals from applying was not the intention and will be mindful of any potential changes being made.

Amancio Gutierrez informed the Board that TCEQ had received a petition to look into rulemaking to reduce the allowable wind speed required before burning is commenced under General Requirements for Allowable Outdoor Burning Section 111.219 of Title 30, Part 1, Chapter 111, Subchapter B of the Texas Administrative Code. TCEQ will be

hearing this issue on August 22, 2018. Gutierrez said he will keep the Board informed regarding the status of the process.

AJOURNMENT

With no additional business, Chairman Penick entertained a motion to adjourn until November. A motion was made by Chris Schenck and seconded by Dr. Bill Rogers; receiving no objection, the meeting was adjourned at 3:52 p.m.