

Texas Prescribed Burning Board Minutes

Via Conference Call

Thursday, October 29, 2020

CALL TO ORDER

Pursuant to a notice posted on October 20, 2020, 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, Keith Sheedy, Perry Cervantes, Justin Penick, Wayne Pfluger, Charles Tatton, Rusty Ray, Dr. William Rogers, Dr. Morgan Treadwell, Chris Schenck, Dale Smith

Absent: Dr. Nathan Gill

With twelve members in attendance and one member absent, a quorum was present.

Guests: Patrick Dudley (TDA), Stephen Dillon (TDA), Danielle Mitchell (TDA), Thomas Janke (Pheasants Forever, Inc. and Quails Forever), Heath Starnes (TAMU), Andy McCrady (TFS), Jason Raines (Acorn Forestry)

The Chair opened the meeting by welcoming everyone to the conference call.

APPROVAL OF MINUTES

The Chair laid out the minutes from the February 25, 2020 meeting in Lufkin. A motion was made by Wayne Pfluger to accept the minutes as revised the motion was seconded by Charles Tatton and passed unanimously. The Chair then laid out minutes from the June 20, 2020 conference call. A motion was made by Rooter Brite to accept the minutes, the motion was seconded by Wayne Pfluger and passed unanimously.

MEETING DISCUSSION AND ACTION

The Chair recognized Patrick Dudley to swear in Perry Cervantes as the new representative board member for TDA. Dudley swore Perry Cervantes in, and the Chair welcomed Cervantes to the Board. Cervantes is taking Dale Scotts place for TDA.

Chairman Penick laid out for consideration Jeff Drewett as a new CIPBM applicant for approval. Chairman Penick wished to present this application in front of the whole board as it was the first new application submitted. After discussion between all the Board members concerning Mr. Drewett's application, Morgan Treadwell made a motion to deny the application conditionally upon receiving two replacement burn plans that meet Board requirements to finalize the approval process and to seek assistance from his Lead Burn Instructor to complete the application. Chris Schenck seconded the motion, the motion passed unanimously. Chris Schenck offered to reach out to the applicant with Patrick Dudley to explain the Boards decision in denying the application conditionally. The Chair requested a motion from the Board to allow the Chair to accept the application pending the two replacement burn plans. Wayne Pfluger made a motion to allow Chairman Penick to approve the application once the replacement burn plans have been submitted. Rooter Brite seconded the motion and the motion passed unanimously. During discussion Keith Sheedy left the meeting. Quorum was still present. Chairman Penick requested that a roll call vote be called to the previous passed motion. The previous motion passed 8 – 2 in favor of approval if replacement burn plans are submitted and meet the Boards requirements. The Board believes there will be future revisions to the PBB-601 to clarify any subjective language open for interpretation. There were no Lead Burn Instructor applications for review.

Chairman Penick laid out Insurance Availability for discussion. Insurance requirements were set in statute at the inception of the Prescribed Burn Board. There are carriers that are no longer going to carry prescribed burning insurance, leaving a few burners without insurance. There is difficulty in finding the 2 million aggregate. Any insurance limitation changes would have to be put into statute. Insurance companies are changing practices which seems to be one of the reasons for the lack of insurance available. Insurance sees claims as proof of the risk involved with the issuing policies, while the burn industry say its safe. The Board discussed ways insurance could become more available. Reduction of liability in some way would be ideal. Reduction of liability connected to smoke could help with insurance availability. Any changes would be through legislature and not through rule. The Chair posed the question of if a group of people put together a fund to cover liability of burning if it would meet legal specifications. Danielle Mitchell responded that if an insurance pool was created it may cover the requirements by the Board, but may not cover the burners if an incident took place. Legal stated that it would not be the same as self-insured government CIPBMs.

Chairman Penick provided the Board with an update regarding the Sunset Advisory Commission Hearing. The Sunset Commission is having another hearing in order to vote on the report on November 12, 2020. This hearing will not have testimony but would like to have someone as a resource witness. The previous hearing allowed testimony from the Board. Chairman Penick gave testimony at the hearing and presented the Boards case per the recommendations from the Board. The Boards concerns were taken positively by the commission.

Chairman Penick recognized Patrick Dudley to give a legislative update. Dudley reminded the Board that the 87th session will be underway in January and that any changes from industry should be given to the legislature. Dudley also let the Board know that TDA's General Counsel had instructed himself and Stephen Dillon with TDA Legal to look at drafting language to coincide with the Sunset Commissions recommendations. While drafting the language Dudley will also be looking at strengthening the State's prescribed burning policy. The other goal for this legislative session Dudley sited is to get authority to spend the fees brought in by the licensure of CIPBM in order to properly operate the Prescribed Burning Board.

The Chair then opened the floor for public comment. Thomas Janke with Pheasants Forever spoke to the Board and discussed his role within the organization. He informed the Board he will be looking forward to working with the Board in the future in his role and will look at ways to put more fire on the ground in Texas with landowners. Andy McCrady with TFS informed the Board he is getting more requests to provide online CFT classes. McCrady will work to put on a virtual CFT training in November and wanted the Board to be aware of the training. Rich Gray with TFS made a brief update informing the Board that the dispatching centers in East Texas have been consolidated to one dispatch center for prescribed burn notifications in Lufkin and a new call number has been established: 844-476-3473. Keith Sheedy with TCEQ rejoined the meeting and gave the Board a brief TCEQ rule update. TCEQ will be updating their guidance document to be bringing in Prescribed Burning rules in their guidance document. Regarding lowering wind speeds, the TCEQ has this on hold and is looking to put together a stakeholder group to look into this discussion of lowering wind speeds. Dr. Rogers pointed out that one member has missed two meetings in a row. Dudley will look into the why the board member has missed the meeting and will report to the Board at the next meeting regarding the reasoning behind the Board members absence. Having no more public comment, the Board discussed a tentative location and time for February 18th and 19th of 2021 meeting at the King Ranch. Patrick Dudley will reach out to the King Ranch to coordinate a possible meeting. Dudley will contact the Board with any changes concerning the time, date, and location of the meeting.

AJOURNMENT

With no additional business, Chairman Penick entertained a motion to adjourn until the next meeting. Seeing no objection, the meeting was adjourned at 3:54 P.M.