

## TEXAS HISTORICAL COMMISSION

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### AGENDA ANTIQUITIES ADVISORY BOARD MEETING #103 Videoconference Meeting February 2, 2021 8:45 a.m.

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*Pursuant to the Governor's March 16, 2020 suspension of certain provisions of the Texas Open Meetings Act due to the Coronavirus (COVID-19), the February 2, 2020 meeting of the History Programs Committee will be held by videoconference as authorized under Texas Government Code section 551.127. Zoom meeting access link (registration required): <http://bit.ly/feb2021committees> or audio only access via telephone at 1-346-248-7799; Webinar ID 918 0036 1390.*

*Agenda and meeting materials will be available at [www.thc.texas.gov/videoconferences](http://www.thc.texas.gov/videoconferences) after January 27, 2021. The members may discuss and/or take action on any of the items listed in the agenda.*

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1. **Call to Order** – *Chairman Bruseth*
  - A. Board Introductions
  - B. Establish a Quorum
  - C. Recognize and/or excuse absences
  
2. **Approval of Minutes** – *Bruseth (advance handout)*  
Antiquities Advisory Board Meeting # 102 (October 27, 2020, videoconference)
  
3. **Permit Extensions – Discussion and possible action on second permit extension requests:** (item 6.9)
  - A. Josh Haefner for Antiquities Permit #5905, US 69/Loop 49 Lindale Relieve Route CSJ 0190-04-033 Testing, Smith County, Tx
  - B. George Avery for Antiquities Permit #5833, Mayhew Site Re-Location and Monitoring (41AN21 & 22), Nacogdoches County, Tx
  - C. Kevin Stone for Antiquities Permit #7250, Grapevine Springs Park, Dallas County, Tx
  
4. **Discussion and possible action to recommend removal of the State Antiquities Landmark designation on the Texas Confederate Women's Home (School for the Blind Annex) 3710 Cedar Street, Austin, Travis County** – *Woods-Boone*
  
5. **Consider adoption of amendments to the Texas Administrative Code, Title 13, Part 2, Chapter 26, Historic Buildings and Structures, §26.21 regarding Issuance and Restriction of Historic Buildings and Structures Permits with changes to the text as published in the November 13, 2020 issue of the *Texas Register* (45 TexReg 8088-8090)** (item 6.5B) – *Woods-Boone*
  
6. **Reports** – Division Reports/Presentations on recent and current permitted projects – *Jones & Graham*
  
7. **Adjournment** – *Bruseth*  
*NOTICE OF ASSISTANCE AT PUBLIC MEETINGS: Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services such as interpreters for persons who are deaf or hearing impaired, readers, large print or Braille, are requested to contact Laney Fisher at (512) 463-5394 at least four (4) business days prior to the meeting so that appropriate arrangements can be made.*

# MINUTES

**TEXAS HISTORICAL COMMISSION**

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**ANTIQUITIES ADVISORY BOARD MEETING #102**

**Minutes**

Videoconference Meeting

October 27, 2020

9:00 A.M.

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*Note: For the full text of action items, please contact the Texas Historical Commission at P.O. Box 12276, Austin TX 78711 or call 512.463-1858*

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**1. Call to Order**

Chairman Jim Bruseth opened the Antiquities Advisory Board (AAB) meeting on October 27<sup>th</sup>, 2020 at 09:00 am. Bruseth announced that the meeting was being held in conformance with the Texas Open Meetings Act, Texas Government Code, Chapter 551, and notice had been properly posted with the Secretary of State's Office as required.

Bruseth welcomed all the callers to the meeting and introduced himself as the AAB Chair. He asked the members to state if they were present as he called their names. The Chairman announced that Lilia Garcia excused herself from the meeting and that Doug Boyd was absent.

Brad Jones informed the board that Bob Ward requested the weblink to sign onto the Zoom conference call and was therefore waiting to join the conference.

**Members Present**

Laurie Limbacher  
Jon Lohse  
Norman Alston  
Waldo Troell  
Rick Lewis  
Dan Utley  
Bob Ward

**Members Absent**

Lilia Garcia  
Doug Boyd

Bruseth completed the roll call, reviewed the names of the board members, and established a quorum. He forwarded the motion to excuse the absence of Lilia Garcia and Douglas Boyd.

Jon Lohse and Laurie Limbacher moved on the motion.

The board members unanimously passed the motion and it carried.

**2. Approval of Minutes**

Bruseth started by asking if there was a call for changes or corrections to the September minutes. He called on Waldo Troell to bring forward his correction to the minutes.

Troell verbally indicated his correction.

Bruseth clarified that these were the corrections to the AAB Meeting #101 minutes from the September 22, 2020 videoconference. He asked if there were any other corrections or changes to the minutes. Bruseth read the motion and asked a member to move the motion forward.

Dan Utley moved first, and Laurie Limbacher seconded the motion.

Bruseth asked if there would be any further discussion on the minutes.

Laurie Limbacher asked Bruseth if the scribe would modify the minutes.

Bruseth concurred and called the vote. He heard no opposition from the board and the motion carried.

### **3. Discussion and possible action regarding Historic Buildings and Structures permit application #1062 for Reproducing Equipment and Features to install on Battleship Texas BB35, La Porte, Harris County**

Bruseth read the Item #3 description and asked Bess Graham the division director of the Texas Historical Commission's (THC) Architecture Division to provide background on the agenda item.

Bess Graham stated that she was working from the THC's library due to the construction occurring around the El Rose building. She reported that the motion came to the THC from the Battleship Texas Foundation. The foundation requested a permit to replicate missing parts and pieces on the battleship. A specific focus was given to the deck of the ship. Graham stated that small item additions made ships like the Battleship Texas more realistic.

Graham informed the board that the items being added would all be replicated based on the original. She listed a reproduced searchlight foundation, gun mount platforms, barrel storage, and awning supports. Graham informed the board that most of the fabricators would be donating the replicas. She stated that this was the ideal situation for the THC and the foundation. Graham mentioned that her staff saw this as a typical permit with no controversy. The board was informed that the Battleship Texas Foundation was working to restore the ship to the 1945 appearance. The ship served in both World War I and II.

Graham asked if there were any additional questions. She noted that the foundation provided an in-depth report for each replicated item.

Rick Lewis asked if the Battleship Texas continued to hold an active volunteer corp.

Graham responded that she believed so.

Lewis added that the volunteers tended to be retired Navy or military personnel.

Graham replied that this was her experience. Noted that volunteers participated in the cleaning up of existing items and had been supervised by experienced staff.

Lewis recalled that there had always been a wonderful group of volunteers. He said visits to the Battleship included a whole corps of individuals that would be interested in sharing what they were doing. Lewis stated that there was a nice camaraderie surrounding the ship.

Graham responded by saying that she did not know the effect of the pandemic on the Battleship Texas. She believed that they maintained a few volunteers.

Limbacher appreciated reading the detailed report. Noted that the replicate items added a level of texture and experience for visitors. She believed that the restored elements told in a very physical way how the ship was used and occupied. Limbacher said that it would be nice to have this level of detail returned to the visitor and user experience.

Bruseth asked if there were any other questions or comments. He heard no call for comments and announced that Bob Ward had joined the conference. The Chairman read the suggested motion and asked for a member to move the motion forward.

Norman Alston moved first and Limbacher seconded the motion.

Bruseth asked if there was any further discussion and called for a vote. The motion carried without objection.

Ms. Graham thanked the board.

#### **4. Permit Extensions – Discussion and possible action on additional permit extension requests**

Bruseth announced that there was a request for two second permit extensions. The first second extension was requested by Debra Beene for Antiquities Permit # 8209. He called Brad Jones the director of the Archeology Division to provide background information.

Jones thanked Chairman Bruseth and greeted the AAB members. He introduced the project under supervision by Debra Beene. Her request came with the need to complete the curation component of the permit. Jones cited that Beene had failed to complete the permit due to personal illnesses. Jones noted that Ms. Beene had planned on attending the meeting, but that the meeting coincided with her health treatment. Jones and his staff supported the permit extension.

Bruseth thanked Jones and read the motion for the permit extension for #8209. He asked one of the members to move forward on the motion.

Dan Utley moved first, and Rick Lewis seconded the motion.

Bruseth opened the floor to further discussion.

Jon Lohse asked if the board could move this motion forward based on the rules and exceptions that the board had historically made. Questioned the motion due to the absence of the PI and not providing a presentation via call in.

Chairman Bruseth left the decision up to Archaeology Division director Jones.

Jones recommended moving forward on the motion due to Beene's scheduled medical treatments.

Lohse thanked Jones.

Bruseth asked for further discussion, heard none, and called for the vote. No opposition was provided, and the motion carried.

Bruseth moved to the second set of permit extensions. The requests came from Dr. Ann Scott representing Terracon Consultants, Inc. and covered Permits # 7401, 7459, 7532, 7749, and 7801.

Lohse interrupted and recused himself from the vote due to his employment with Terracon Consultants, Inc.

Bruseth accepted Lohse's request and asked Jones to introduce the permit extensions.

Jones noted that both projects were on their second extension request. Originally the permits were held by Dr. David Yelacic. Yelacic has since left Terracon Consultants, Inc. The AAB was informed that Terracon was willing to hold and complete the permits. Dr. Scott accepted the permits and placed herself into default. Jones reported that he reviewed the project progression and believed that Scott would complete the permits. He had no objection to the approval of the extensions.

Jones called on Dr. Scott to provide a brief presentation.

Dr. Scott informed the board that Dr. Yelacic left and that she would take the projects across the finish line. She assured the board that Terracon had the staff and resources to complete the projects.

Chairman Bruseth read the suggested motions to approve the second set of permit extensions. Bruseth asked if a board member wanted to move the motion forward.

Dan Utley moved first and Norman Alston seconded.

Bruseth asked for further discussion, heard none, and called for the vote. He noted for the record that Jon Lohse had recused himself from the vote. No opposition was provided, and the motion carried.

**5. After-the-fact Permits - Discussion and possible action on two after-the-fact permits, Beaumont 2 Project and the Texas LNG Lateral Project (Antiquities Permit # 9521), for archeological survey projects undertaken by ERM on state lands without an Antiquities Code permit**

Chairman Bruseth called for the discussion of two after-the-fact permits held by ERM. Bruseth asked Jones to provide further information on the permit violations.

Jones thanked Bruseth. He announced that the two permit violations were brought forward to the AAB to determine if they wished to censure ERM. Jones explained that ERM failed to obtain antiquities permits for projects undertaken on state lands. Both projects occurred in the past year and were caught by THC reviewers. Jones stated that Edward Schneider the Principal Investigator of both permits (who has since left ERM), ERM, and their cultural resource manager William Stanyard had been responsive.

Jones informed the board that the Texas Antiquities Code permitted the AAB to censure the work of a company who had two permit violations in one year. Each permit violation could be censured up to 6 months for a total of 12 months. He pointed out that censure was not a requirement, but that the AAB could choose to apply the rule.

Jones opened the floor to ERM archaeologist William Stanyard who had taken responsibility for both permits.

William Stanyard thanked the board for his opportunity to present. He announced that the permit violations were unintentional. Stanyard noted that Edward Schneider had left the company. He informed the board that Schneider had asked his teams if any federal or state land had to be crossed. The project teams informed Schneider that there was no state land to be crossed. The board was informed that Schneider did not know that the City of Beaumont and the Port Authority of Brownsville were subject to antiquities permits.

Stanyard noted that he had worked in the Texas for many years and that he led the ERM cultural resources group. He admitted that he should have followed up with Schneider to confirm that state land also meant public land. ERM asked for after-the-fact permits to correct Schneider's misunderstanding. Stanyard announced that he would review all future projects to guarantee the use of permits. Mr. Stanyard further announced that he would transfer the open permits to his name.

Jones thanked Mr. Stanyard.

Bruseth asked Jones if this concluded his information.

Jones replied that it did unless the board had further questions.

Stanyard asked for the approval to proceed with his permits and noted that he had always been in good standing.

Bruseth asked all participants of the meeting to mute their voices if they were not actively talking.

Bruseth read the motions for Item 5 and asked the board members to make a decision.

Lohse inquired about applying an amended motion.

Bruseth announced that Lohse could amend a motion.

Lohse wanted to move forward on Motion 1 but suggested an amendment. He called on ERM to be censured for one month.

Dan Utley moved.

Bruseth asked for further discussion.

Limbacher stated that she had trouble unmuting herself. She wanted to understand if the board had any recourse if ERM continued to present issues after receiving a one-month censure. Limbacher asked if the board could call for further censuring.

Bruseth called on Jones.

Jones did not believe so. He announced that ERM would be brought back to meet with the AAB.

Limbacher thanked Jones.

Bruseth asked for additional discussion.

Lohse wondered if ERM had reported the violation or if the review staff found the violation.

Jones mentioned that the THC staff had found the violation.

Stanyard mentioned that the permit violations may have been announced before the review staff started their process. He noted that he was not sure about this.

Jones believed that it came up during the submission of the report.

Stanyard noted that Edward Schneider reviewed his projects after the violation notification and immediately moved to address the shortcomings. He was unsure if this had occurred prior to the report review.

Jones informed Stanyard that the review correspondence took place at the same time as the review of the draft report.

Bruseth asked for additional questions.

Limbacher highlighted her lack of familiarity with archaeology. She read the description of the background in the AAB packet and found that the issue is specific to areas crossing state lands. Limbacher believed there to be confusion on whether public lands were considered state lands. She noted that she did not fully understand the issue. Called for clarification.

Stanyard noted that this is where Mr. Schneider was confused as well. Schneider would ask his clients if there was state or federal land but not if there was public or municipal land.

Jones stated that under the Antiquities Code of Texas any subdivision of the state regardless of how it is constituted is subject to the Antiquities Code.

Limbacher asked if this was considered state land.

Lohse shared that the wording listed the State of Texas or a political subdivision thereof. He noted that many clients did not recognize that a political subdivision was state land. Lohse added that these questions had to be asked from a basis of knowledge and understanding of the code language and implications.

Limbacher agreed that this had always been her understanding of the code. She mentioned that she understood that public land was subject to the Antiquities Code. Limbacher noted that she did not see it possible to be confused on this.

Lohse stated that it could become confusing at times.

Stanyard reaffirmed that ERM had a strong record with their principal investigators and that once they became aware of the problem, they moved to rectify the situation.

Lohse mentioned that he appreciated that.

Bruseth called for further comments, heard none, and moved to call the vote. The motion passed without opposition to censure ERM for one month.

**6. AAB Appointment Transfer** – Consider approval to transfer the appointment of Council of Texas Archeologists (CTA) member position from past-CTA President Jon Lohse to current CTA President Todd Ahlman.

Bruseth thanked Lohse for serving on the Antiquities Advisory Board for 4 years. He stated that the board and the THC appreciated Lohse's work. Bruseth announced that Lohse provided great comments and that he had been a good member of the AAB. Chairman Bruseth stated that the incumbent Todd Ahlman would follow Lohse's lead.

Bruseth announced that the transition was not controversial. He read the motion and asked a member to move the motion forward.

Dan Utley moved first, and Rick Lewis seconded.

Bruseth called for discussion.

Utley added that he hated to lose Lohse. Lohse had been a steady member and had provided his knowledge on key votes. Utley noted that the board was fortunate to gain Todd Ahlman.

Lohse noted that it had been a privilege to represent the professional community and the AAB over the last four years. He appreciated the camaraderie and the hard work. Lohse said that the last four years had been a shining moment and that he appreciated the collegiality of the group.

Chairman Bruseth thanked Lohse and opened the vote. The chairman heard no opposition and the motion carried to replace Jon Lohse with Todd Ahlman.

**7. Consider approval of filing authorization of proposed amendments** - to the Texas Administrative Code, Title 13, Part 2, Chapter 26, Subchapter D §26.21 regarding Issuance and Restriction of Historic Buildings and Structures Permits, for first publication in the *Texas Register*

Chairman Bruseth asked Ms. Graham to provide background information on the proposed amendments on the issuance and restriction of Historic Building and Structure permits.

Graham announced that her staff had given the Texas Antiquities Code's administrative rules a hard look. They clarified that permit applications could be submitted to both the AAB and the Commission. She noted that in the past applications could only be directed to the AAB.

Ms. Graham and the architecture staff added an allowance to the timeframe and deadline for permit extensions. Graham announced that the timeframe for permit submission had been extended from 15 to a minimum of 30 days. She noted that the change was beneficial because Commission meetings only occurred every few months.

Graham announced that the rule change provided a notice to applicants that their submission had been handed off and could take 60 days to be heard. She noted that the Architecture Division removed a provision that listed that a permit would be automatically issued after 60 days. She proceeded to ask the board if they had questions.

Mark Wolfe stated that Ms. Graham had covered the changes to the administrative code.

Bruseth read the motion and asked a member of the board to move forward.

Limbacher moved and Alston seconded.

Bruseth called for discussion, heard none, and called the vote. The motion carried without opposition.

Commissioner Limbacher stated that these clarifications were good.

Graham noted that these clarifications were only for Historic Building and Structure permit applications.

## **8. State Antiquities Landmark (SAL) nomination information**

Bruseth read the State Antiquities Landmark (SAL) nomination information for the La Jita archeological sites. He believed that archeologist Tiffany Osburn would provide information on the SAL.

Jones mentioned that it had been his intention to present the topic briefly and that Tiffany would answer questions if the board had any.

Jones explained that the La Jita site was a significant site from the Early Archaic to Late Pre-Historic periods. Jones drew attention to the trinomials and explained that originally the site had been 41UV21 and explained that the site had been expanded to encompass 41UV21 and 41UV25 as one large site. Jones went on to explain that the site was owned by the Girl Scouts of America and that they pledged to protect and develop the site into an educational center.

Jones believed that protecting and bringing recognition to the site would be a good step. The board learned that the Girl Scouts had moved forward with preservation and that they had been assisted by SWCA. Both parties had worked together to develop educational programs and to investigate the site. Jones notified the members that the board had received an extensive packet on the site.

Jones informed the board that the site had been looted in the past. The SAL nomination would provide additional legal protection and recognize the importance of the site in the regional archeological chronology.

Bruseth thanked Jones for his presentation and announced the three possible motions. He called on the members to move forward one motion.

Limbacher moved first on Motion A to approve the nomination of the site.

Lohse seconded the motion.

Bob Ward stated that he could not think of a better place to have an educational archeological site. He believed that the motion would be a win and that he did not see a better way.

Limbacher thanked Bob Ward.

Ward asked about the details of Motion C.

Bruseth answered that the idea was to give the board a vote for all potential outcomes. The options included incomplete, disapproval, or approval.

Lewis noted that the report seemed extensive and well documented. He noted that he did not get to see enough of these reports throughout the year. Lewis asked Jones if the report stacked up well.

Jones concurred that the nomination was excellent. He reported that the site had levels of significance to the archeological community and that it would be a great opportunity.

Lewis stated that it was heartbreaking that pot hunters left their screens in the woods. He believed that any protection that could be provided to the site would be critical.

Bruseth asked if there was any additional discussion.

Tiffany Osburn noted that the site was a perfect example of why the Texas Historical Commission had SAL nominations on private land. Nominations provide landowners the opportunity to be stewards for archeological resources.

Bruseth thanked Osburn. The chairman called for further discussion, heard none, and called for the Item 8A vote.

The motion carried without opposition and the SAL nomination moved forward.

Bruseth read the State Antiquities Landmark nomination for the Shackleford Creek archeological site. The chairman asked Jones to provide further detail.

Jones mentioned that the site was owned by the Archeological Conservancy and was a Late Caddo site. The SAL nomination came out of regulatory review project and was requested as part of the completion of the project. Jones noted that the site was located within a housing subdivision.

Bruseth thanked Jones and read the three possible motions for the nomination of the Shackleford Creek site. He asked one of the board members to move forward a motion.

Lohse moved forward on approving the motion for nomination.

Ward seconded the motion.

Bruseth opened the discussion and explained that the nomination was complete. He believed that it was a great example of a project happening under Section 106 of the National Historic Preservation Act. Bruseth explained that the site was discovered during a developmental project and ended up preserved and donated to the Archeological Conservancy. He noted that the outcome of the Section 106 consultation had been admirable, and that the SAL nomination would further protect the site.

Lohse noted that he gathered in Jones's review that the SAL nomination would protect the site from looting. He added that the looting would be inevitable based on the amount of looting that occurred in that part of the state. Lohse concurred that any protection or conservation method available to the site deserved serious consideration.

Lewis pursued clarification on archeological sites found in housing developments and the risk that they face. He considered the pros and cons of appropriating signage to make the public aware of the archeological site. Lewis noted that fencing would draw more attention and that the neighborhood would likely be opposed to this idea. He mentioned that the National Park Service had been aggressive on using video surveillance. The board member mentioned that the vulnerability of the site would be a real dilemma.

Bruseth addressed Lewis and explained that archeological sites left in the open often fared well. He called on Jones and Maggie Moore from the archeological division to add comments.

Jones stated that Lewis hit the topic on the nail on the difficulty of protecting resources. He explained that the site would be marked, and that risk would be involved with an identified site. Jones went on to explain that the public would be surprised by the number of archeological sites they crossed daily.

Moore informed the board that the site was fenced and that outreach efforts for protection had been passed on to the Homeowner's Association (HOA). She believed that the HOA had agreed to keep an eye on the site. The United States Army Corps of Engineers made the final decision to have the fence built.

Limbacher contributed that her general understanding was that sites were unmarked and that the pending site was in the middle of activity. She joked that a covenant be added to the subdivision's rules noting that an archeologist should live across the street from the site.

Bruseth called for further discussion, heard none, and called for the Item 8B vote. The motion to nominate the Shackleford Creek Site for SAL designation carried without opposition.

## **9. Reports – Division Reports/Presentations on recent and current permitted projects**

Bruseth called for Jones to provide a report on the Archeology Division.

Jones announced that he would provide a brief report in the interest of time. He announced that in the fourth quarter of the year the Archeology Division had issued 107 permits. Primarily the permits consisted of intensive surveys and one exhumation permit. Jones reported that the division had nominated the same number of permits in the first quarter of 2020.

Jones provided PowerPoint slides to the board members and compared the number of permits issued in 2020 with those in 2019. Jones noted that he was not surprised by the fact that the THC had issued more permits in 2019. He suggested that the pandemic influenced the lower permit count. Arlo McKee from the

Archeology Division provided Jones with a GIS map that plotted the locations of ongoing archeological projects throughout the state. Jones noted that most projects occurred around urban centers.

Jones concluded his presentation by showcasing a chart that listed all 2020 permits. The subtotal amounted to 483.

Bruseth called on Ms. Graham to present the Architecture Division's report for the fourth quarter.

Graham issued 7 permits, held 2 expired permits, and congratulated her staff for closing 10 permits. She noted that many of the permits issued were for rehabilitation. Graham explained that there was a correlation between the number of permits issued and the state of the grant programs. Courthouse and Texas Preservation Trust Fund projects tended to provide a jump in permit issuance. PowerPoint slides showcased that there was a 56% decrease compared to the fourth quarter of 2019.

Graham highlighted the Boecker Log Structure in Fayette County. She commended the non-profit group that maintains the structure on their efforts to raise money for preservation.

Graham concluded her presentation by presenting her year-end numbers. The Architecture Division issued 27 permits as opposed to 40 in 2019. She noted that she was unsure of how the pandemic impacted their numbers in the fourth quarter. Graham did announce that the third quarter activity had been impacted by the pandemic. The first quarter had provided the bulk number of permits.

Bruseth thanked Graham and called for the conclusion of the division reports.

## **10. Adjournment**

Bruseth thanked the members for their discussion and asked for the motion to adjourn.

Norman Alston moved on the motion.

Bruseth adjourned the Antiquities Advisory Board meeting #102.

## Item 3

## TEXAS HISTORICAL COMMISSION

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Item 6.9.A  
Texas Historical Commission  
Quarterly Meeting  
February 3, 2021

### **Consider approval of the proposed 2-year extension on Antiquities Permit 5905 for principal investigator Josh Haefner, TRC Solutions**

#### **Background:**

On 12/3/2020, Josh Haefner, currently principal investigator (PI) for TRC Solutions, requested a second extension for Antiquities Permit 5905, a Testing permit for sites 144SM388, 41SM393-395 as part of the US69/Loop 49 Lindale Relief Route Project (CSJ 0190-04-033) in Smith County. At the time of the original 5-year extension in February 2016, Josh Haefner, then a PI for Hicks & Co., reported needing additional time to complete the curation of the project. In the current application Mr. Haefner states 90% completion of the curation with only principal investigator finalization and delivery to Center for Archeological Studies outstanding. Citing unanticipated delays due to COVID-19, he is requesting the second extension to have time to complete these tasks and to transfer the permit to a new PI at Hicks and Company, Brandon Young, in order to close the permit.

Title 13, Part 2, Chapter 26, Subchapter C Rule 26.14 (g)(2) states that “upon review and recommendations by the Antiquities Advisory Board, the commission may by a majority vote of its members , approve or disapprove an additional extension of the expiration date of an Antiquities Permit beyond the single extension that the AD staff of the commission is authorized to issue under subsection (c) of this section and this paragraph, provided that the following conditions are met:

- (A) the principal investigator (PI), and/or the investigative firm listed under an Antiquities Permit must complete and submit a Second Extension Application Form to the commission, and give an oral presentation before the Antiquities Advisory Board justifying why a second permit expiration-date extension is warranted; and
- (B) the justification for the second extension must show that the extension is needed due to circumstances beyond the control of the PI. Examples include but are not limited to: funding problems, death of the PI, and artifact curation problems.

A second permit extension for an additional 2 years has been requested by Josh Haefner. If approved, the new permit deadline will be February 28, 2023.

#### **Suggested Motion:**

Move that the Commission approve the granting of Josh Haefner a second 2-year extension for Antiquities Permit 5905.

## TEXAS HISTORICAL COMMISSION

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Item 6.9.B  
Texas Historical Commission  
Quarterly Meeting  
February 3, 2021

### **Consider approval of the proposed 2-year extension on Antiquities Permit 5833 for principal investigator Dr. George Avery, Stephen F. Austin State University**

#### **Background:**

On 12/22/2020, Dr. George Avery, Principal Investigator (PI) for Stephen F. Austin State University, requested a second extension for Antiquities Permit 5833, a Survey and Monitoring permit for the Mayhew Site Re-Location and Monitoring (41NA21 & 22). The project was initiated as a collaborative volunteer effort between Dr. Avery and Texas Archeological Stewardship Network Stewards Tom Middlebrook and Morris Jackson. At the time of the original 4-year extension in October 2016, George Avery reported needing additional time to complete the project due to ongoing analysis and report production. In the current application, Dr. Avery reports that most analyses are complete, and the report production is entering the final stages. The justification for requesting an extension on the permit are that the volunteer analyses have taken longer than initially anticipated, but extensive progress has been made and the current time requested should be sufficient to complete the report. A copy of the current draft report was provided to the THC for review and as confirmation of the current project status.

Title 13, Part 2, Chapter 26, Subchapter C Rule 26.14 (g)(2) states that “upon review and recommendations by the Antiquities Advisory Board, the commission may by a majority vote of its members, approve or disapprove an additional extension of the expiration date of an Antiquities Permit beyond the single extension that the AD staff of the commission is authorized to issue under subsection (c) of this section and this paragraph, provided that the following conditions are met:

(A) the principal investigator (PI), and/or the investigative firm listed under an Antiquities Permit must complete and submit a Second Extension Application Form to the commission, and give an oral presentation before the Antiquities Advisory Board justifying why a second permit expiration-date extension is warranted; and

(B) the justification for the second extension must show that the extension is needed due to circumstances beyond the control of the PI. Examples include but are not limited to: funding problems, death of the PI, and artifact curation problems.

A second permit extension for an additional 2 years has been requested by Dr. George Avery. If approved, the new permit deadline will be December 9, 2022.

#### **Suggested Motion:**

Move that the Commission approve the granting of Dr. George Avery a second 2-year extension for Antiquities Permit 5833.

## TEXAS HISTORICAL COMMISSION

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Item 6.9.C  
Texas Historical Commission  
Quarterly Meeting  
February 3, 2021

### **Consider approval of the proposed 2-year extension on Antiquities Permit 7520 for principal investigator Kevin Stone, Integrated Environmental Solutions, LLC**

#### **Background:**

On 12/7/2020, Kevin Stone, Principal Investigator (PI) for Integrated Environmental Solutions, LLC., requested a second extension for Antiquities Permit 7520 an intensive archeological survey permit for Grapevine Springs Park, Dallas County, TX. At the time of the original 2-year extension in November 2019, Mr. Stone reported needing additional time to complete the project due to possible project area expansion that would require additional investigations, as well as ongoing report production and curation tasks. In the current application, Mr. Stone presents as justification for requesting an extension the need to incorporate final architectural designs into the final permit report, per the conditions of the no adverse effect determination by the THC on December 4, 2020. Currently, Mr. Stone does not have a firm timetable for when the information will be available and requests the second extension to be removed from default.

Title 13, Part 2, Chapter 26, Subchapter C Rule 26.14(g)(2) states that “upon review and recommendations by the Antiquities Advisory Board, the commission may by a majority vote of its members, approve or disapprove an additional extension of the expiration date of an Antiquities Permit beyond the single extension that the AD staff of the commission is authorized to issue under subsection (c) of this section and this paragraph, provided that the following conditions are met:

- (A) the principal investigator (PI), and/or the investigative firm listed under an Antiquities Permit must complete and submit a Second Extension Application Form to the commission, and give an oral presentation before the Antiquities Advisory Board justifying why a second permit expiration-date extension is warranted; and
- (B) the justification for the second extension must show that the extension is needed due to circumstances beyond the control of the PI. Examples include but are not limited to: funding problems, death of the PI, and artifact curation problems.

A second permit extension for an additional 2 years has been requested by Kevin Stone. If approved, the new permit deadline will be January 15, 2023.

#### **Suggested Motion:**

Move that the Commission approve the granting of Kevin Stone a second 2-year extension for Antiquities Permit 7520.

## Item 5

## TEXAS HISTORICAL COMMISSION

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Item 6.5B  
Texas Historical Commission  
February Quarterly Meeting  
February 3, 2021

**Consider adoption of amendment to the Texas Administrative Code, Title 13, Part 2, Chapter 26, Subchapter D, Section 26.21, regarding Issuance and Restriction of Historic Buildings and Structures Permits as published in the November 13, 2020 issue of the *Texas Register* (45TexReg 8088-8090)**

### **Background:**

The Texas Historical Commission proposes adoption of an amendment to Title 13 of the Texas Administrative Code, Part 2, Chapter 26, Subchapter D, Section 26.21. These changes clarify the process when a permit review requires action from the members of the Commission.

The amendment clarifies that Historic Building and Structure permit applications may be sent to both the Antiquities Advisory Board (AAB) and the Commission. In addition, the amendment lengthens the amount of time the Commission must receive the application prior to review. Specifying that permits may be subject to review by the AAB and the Commission following review by staff, will clarify the process. Lengthening the timeframe will coincide with internal deadlines and help ensure packets are complete when sent to the AAB and Commission.

Two comments from individuals were received regarding adoption of an amendment to Section 26.21, however neither directly addressed the proposed revisions, but instead addressed the proposed adoption of Section 26.28. Therefore, no changes to the text are recommended.

The final publication will take place after adoption by the Commission.

### **Suggested motion:**

Move to adopt the amendment to the Texas Administrative Code, Title 13, Part 2, Chapter 26, Subchapter D, Section 26.21, Issuance and Restriction of Historic Buildings and Structures Permits as published in the November 13, 2020 issue of the *Texas Register* (45TexReg 8088-8090)

## TEXAS HISTORICAL COMMISSION

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### Item 6.5B

Texas Historical Commission  
February Quarterly Meeting  
February 3, 2021

### ADOPTION PREAMBLE

The Texas Historical Commission (Commission) adopts an amendment to Title 13 of the Texas Administrative Code, Part 2, Chapter 26, Subchapter D, Section 26.21 relating to State Antiquities Landmarks. The rule is adopted without changes to the proposed text published in the November 13, 2020 issue of the *Texas Register* (45 TexReg 8088-8089)

These changes will clarify the process when a permit review requires action from the members of the Commission. The amendment clarifies that Historic Building and Structure permit applications may be sent to both the Antiquities Advisory Board (AAB) and the Commission. In addition, the amendment lengthens the amount of time the Commission must receive the application prior to review. In addition, specifying that permits may be subject to review by the AAB and the Commission following review by staff will clarify the process. Lengthening the timeframe will coincide with internal deadlines and help ensure packets are complete when sent to the AAB and Commission.

Two comments from Alan Holman and Robert Jones were received regarding adoption of an amendment to Section 26, however neither directly addressed the proposed revisions to Section 26.21, but instead addressed the proposed adoption of Section 26.28. Therefore, the Commission has no response to these comments, nor does it make any changes to the amendments as proposed.

These amendments are adopted under the authority of Texas Government Code §442.005(q), which provides the Commission with the authority to promulgate rules to reasonably affect the purposes of the Commission. The amendments are also adopted under Texas Natural Resources Code §191.054, which authorizes the Commission to issue permits for the survey and discovery, excavation, demolition, or restoration of, or the conduct of scientific or educational studies at, in, or on landmarks. The Commission interprets the authority in these provisions as an allowance to adopt rules to guide the permit application and issuance process.

The Commission hereby certifies that the section as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's authority.

No other statutes, articles, or codes are affected by this amendment. Amendment to Section 26.21 is adopted as appears below:

<b>TITLE 13</b>	<b>CULTURAL RESOURCES</b>
<b>PART 2</b>	<b>TEXAS HISTORICAL COMMISSION</b>
<b>CHAPTER 26</b>	<b>PRACTICE AND PROCEDURE</b>
<b>SUBCHAPTER D</b>	<b>HISTORIC BUILDINGS AND STRUCTURES</b>

**RULE §26.21****Issuance and Restriction of Historic Buildings and Structures Permits**

(a) Issuance of permit. The commission shall review the permit application submitted pursuant to §26.20 of this title (relating to Application for Historic Buildings and Structures Permits) and may issue the permit, issue the permit with special conditions, request additional information for review, request a revised scope of work, or deny the permit application.

(1) Review by commission staff. Within 30 days of the receipt of a permit application, staff shall notify the applicant in writing that the permit application is complete and accepted for filing or that the permit application is incomplete and specify the additional information required for review, such as additional drawings, construction details, or product information. The commission will issue or deny the permit within 60 days of the receipt of a complete permit application, unless additional time is required for review by the Antiquities Advisory Board and/or The Commission under paragraph (2) of this subsection. Permits are issued by the commission and must be signed by the executive director, the director of the Division of Architecture, or a designated representative.

(2) Review by the Antiquities Advisory Board. The executive director may choose to submit the permit application to the Antiquities Advisory Board for its consideration and potential recommendation to the Commission for permitting. Permits that are denied by commission staff may be appealed by the applicant to the Antiquities Advisory Board. The board shall review such applications at its next scheduled meeting, provided it shall have a minimum of ~~45~~ 30 days to prepare for such review. Recommendations of the board shall be taken to the next scheduled meeting of the commission by the chair of the board or by one of the other commissioners who serve on the board for action thereon.

(3) The deadlines in this section may be extended for good cause. In the event a deadline is extended, the commission shall provide notice of the extension and the good cause to the applicant in writing. The applicant may complain directly to the executive director if the staff exceeds the established period for processing permits and may request a timely resolution of any dispute arising from the delay.

(4) Failure to respond. If no response has been made by the commission within 60 days of receipt of any permit application, the permit shall be considered to be granted.

(b) Terms and conditions. When a permit is issued, it will contain all standard and special terms and conditions governing the project work.

(c) Permit period. No permit will be issued for less than six months, nor more than ten years, but may be issued for any length of time within those limits as deemed necessary by the commission in consultation with the applicant and project architect.

(d) Transferal of permits. No permit issued by the commission will be assigned by the permittee in whole or in part to any other institution, museum, corporation, organization, or individual without the consent of the commission.

(e) Permit expiration. The expiration date is specified in each permit and is the date by which all project work must be complete, including submission of the required completion report and fulfillment of all terms and conditions of the permit. It is the responsibility of the permittee, project architect, and professional firm to meet any and all permit terms and conditions prior to the expiration date listed on the permit.

(1) Expiration notification. The permittee and project architect will be notified 60 days in advance of permit expiration.

(2) Expiration extension. The permittee or project architect must provide a written request to the commission if an extension of the final due date for completion of the permit is desired. The request must detail the reason(s) an extension is necessary and state when completion of the permit requirements is expected. The Division of Architecture (DoA) of the commission will review the extension request to determine whether an extension is warranted. Permit extensions will be issued by letter and may extend the permit completion due date once for no less six months and no more than ten years as deemed appropriate. Permit extensions requested for preparation of the completion report, following substantial completion of the permitted work, will be issued for no greater than nine months, unless authorized by the Antiquities Advisory Board. If an additional extension is subsequently requested, the DoA may issue the extension or request that the Antiquities Advisory Board review the request and make a recommendation to the commission regarding further extension. The commission may, by a majority vote of its members, approve or disapprove an additional extension of the final due date of an Antiquities Permit, provided that the following conditions are met:

(A) the permittee, project architect, and/or the professional firm listed on the permit must provide written documentation to the Antiquities Advisory Board and give an oral presentation justifying why an additional permit due-date extension is warranted; and

(B) justification for the additional extension must show that the extension is needed due to circumstances beyond the control of the permittee, project architect, or professional firm. Examples include, but are not limited to: funding problems or death of the project architect.

(f) Expiration responsibilities. Professional firms must ensure that a project architect is assigned to a permit at all times, until all obligations under the permit have been fulfilled, regardless of whether the permit is active or has expired. Expired permits are considered to be in default and will be reported to the Antiquities Advisory Board. Commission staff or the board may request that the permittee, project architect, and/or professional firm appear and give an oral presentation regarding the need for an extension pursuant to subsection (e)(2) of this section, or the board may pursue other remedies as allowed under §26.24 of this title (relating to Compliance with Rules for Historic Buildings and Structures Permits).

(g) Permit amendments. Proposed changes in the terms and conditions of the permit must be approved by the commission's executive director, the director of the DoA, or their designated representative. This includes changes in the permitted project plans and specifications that could affect the integrity of the structure, building, or site.

(h) Permit hold or cancellation. The commission may place on hold or cancel a Historic Buildings and Structures Permit pursuant to §26.24 of this title under the following circumstances:

(1) the death of the project architect;

(2) failure of the permit applicant to fully fund the permitted project work;

(3) project work undertaken does not comply with the terms, conditions and approved project documents under the permit; and/or

(4) violation of §26.24 of this title.

(i) Institutions of higher education. If an institution of higher education notifies the commission that it protests the terms of a permit granted to an institution of higher education under this

section, the matter becomes a contested case under the provisions of the Administrative Procedure Act, Texas Government Code §2001.051, et seq. The institution of higher education must notify the commission of its protest within 30 days of its receipt of notice of the terms of the permit to initiate a contested case. The hearing officer and the commission will follow the procedures and take into account the criteria listed in Texas Natural Resources Code, §191.021(c). Weighing these criteria against the criteria specified in §26.20(b) of this title (relating to Standards for the Treatment of Historic Properties), the commission shall include a requirement in a permit only if the record before the committee establishes by clear and convincing evidence that such inclusion would be in the public interest.