

Irrigator Advisory Council (IAC) Meeting

Minutes

Date: February 12, 2015
Time: 9:30 a.m. – 2:30 p.m.
Location: Texas Commission on Environmental Quality, 12100 Park 35 Circle,
Building B, Conference Room 201A, Austin, Texas 78753

Chairperson: Paul Ward called the meeting to order at 9:30 a.m.

- I. Roll Call:** Toni Fox, Paul Ward, David Kania, Brooke Furrh, Philip Hathaway, Gary Miles, Mark Froehlich were present. Jay Hartley and Marsha Carson were not present.

Texas Commission on Environmental Quality (TCEQ) staff present: Melissa Keller, Andre Clark, Elizabeth Vanderwerken, Nadiah Ahmad, James Hemple, Paul Munguia, Russell Gardner, Jess Robinson, Beryl Thatcher, Jaya Zyman, Ivan Messer and Michael De La Cruz were present.

- II. Agenda Topic:** Consideration of the November 13, 2014 Minutes
Motion made by Vice-Chairperson David Kania and seconded by Council Member Toni Fox. Decision: The Council approved the minutes.

- III. Agenda Topic:** Introduction of Gary Miles, Philip Hathaway, and Brooke Furrh

Each of the new members introduced themselves and gave a short biography.

- IV. Agenda Topic:** Recognition of Honorary License and Presentation Honoring Delancey Spain

Ms. Melissa Keller and Chairperson Paul Ward recognized Ms. Delancey Spain (LI0000792) with an honorary license. (LI0000792, October 11, 1980-February 11, 2015)

A short slideshow honoring Ms. Spain was presented by attendee, Mr. Jerry Lewis.

Mr. Lewis stated the certificate would be awarded to Ms. Spain at her residence.

V. Agenda Topic: TCEQ Office of Compliance and Enforcement, Program Support Section-Purpose of the IAC

Ms. Keller gave a presentation over the purpose of the IAC.

VI. Agenda Topic: TCEQ Office of Waste, Permitting and Registration Support Division

Subtopic: Licensing Report- Mr. Ivan Messer gave a brief report on the number of license renewals. (Attachment "A")

Ms. Keller added that the number of irrigation licenses had remained steady compared to the past year. Council Member Toni Fox asked if the number of individuals who pass the tests had decreased. Mr. Messer replied the pass rate had remained steady. Chairperson Ward asked if the individuals obtaining licenses were of a younger age group compared to the past year and stated it would be interesting to look into.

Mr. Ivan Messer introduced Jaya Zyman the new Division Director of the Office of Waste, Permitting and Registration Support Division.

VII. Agenda Topic: TCEQ Office of Water, Water Supply Division-Update from Backflow and Cross-Connection Control

Ms. Keller stated the Water Supply Division could not attend and had provided a handout with feedback on the agenda items that was prepared by Al Fuentes. (Attachment "B") Ms. Keller stated there is a Cross Connection Subcommittee meeting March 4, 2015. Ms. Keller stated present staff could not answer questions regarding the provided material, but staff could take note of questions and relay to the Water Supply Division Staff to answer during the next IAC meeting.

VIII. Agenda Topic: Legislative Committee Reports and Updates

Vice-Chairperson Kania stated that there are no updates at this time. Ms. Keller stated the only update is the new purposed bill that would affect the backflow tester certifications.

IX. Agenda Topic: TCEQ Office of Legal Services, Litigation Division and TCEQ Office of Compliance and Enforcement, Enforcement Division

Subtopic: What percent of complaints make it to litigation- Mr. Jess Robinson, TCEQ Litigation Division, stated that the Litigation Division deals with all media. Mr. Robinson stated litigation receives few irrigation cases. He explained this is due to the number of stages in the Enforcement Process

there are many opportunities to comply. Mr. Robinson stated when someone settles with TCEQ, the Enforcement Division works with them on the Agreed Order.

Subtopic: Number of cases that make it to Enforcement or Litigation- Ms. Keller demonstrated how to search on the TCEQ public website for “Orders Issued.” Ms. Keller stated that the TCEQ can pull together numbers comparing the number of incidents received to the number of litigation cases.

Audience member, Ms. Tammy Swor, representative of the Texas Turf Irrigation Association (TTIA), asked if the City is notified of any unlicensed individuals conducting irrigation services in their area. Ms. Keller replied only if the city is the complainant or if the investigator needs more information.

Vice-Chairperson Kania asked when a city should refer the complaint. Ms. Keller stated this would be addressed in the Enforcement Report discussion of this meeting.

X. Agenda Topic: TCEQ Office of Compliance and Enforcement, Program Support Section

Subtopic: Introduction- Ms. Melissa Keller introduced the Office of Compliance and Enforcement, Program Support Section, Section Manager, Beryl Thatcher. Ms. Melissa Keller stated that Ms. Tracy Chandler had left the section.

Subtopic: Enforcement Report - Ms. Melissa Keller delivered the Enforcement Report for Fiscal Year 2015 as follows:

- Approved Investigation: 130
- Investigations in Progress: 22
- Open Incidents: 12
- Investigations Resolving Violations (RNOVs): 35
- Investigations Resulting in Enforcement (NOEs): 25
- NOEs Accepted by the Enforcement Division (including Field Citations): 18
- Investigations Resulting in Other Actions: 15

Ms. Keller explained the process of Notice of Violations, Field Citations, and Notice of Enforcements. Mr. Michael De La Cruz, TCEQ Enforcement Division, stated there were 25 cases referred to Enforcement and two Field Citations within the past fiscal year. Mr. De La Cruz stated most respondents would try to settle.

Chairperson Ward asked if most cases referred to Enforcement involved unlicensed individuals. Ms. Keller explained that most cases were not regarding unlicensed individuals. Ms. Swor, TTIA, asked what the investigation process was for unlicensed individuals. Ms. Keller stated that Field Citations are a common approach. Ms. Keller stated if the respondent does not settle with a Field Citation, the investigation is referred to the Enforcement Division for attempted settlement using an Agreed Order with a potentially higher penalty.

Ms. Keller stated that lately the most common violations are: advertising without a license; not having the TCEQ statement on the irrigator's documents; not submitting documents to TCEQ within 10 business days; not maintaining documentation for three years; not having the irrigator's seal on documentation; plan violations; requirements under completion of the irrigation system. Ms. Keller stated that other violations we get are for minimum design violations. These violations are for location, type and size of components. Irrigators are not meeting the design requirements and the homeowners are starting to see that their systems are not being installed correctly. These complaints have increased the past few years. Ms. Keller stated approximately half of complaints are sent in by the homeowner.

Ms. Keller stated a new proposed bill would affect the rule on backflow tester certifications, and she and Russell Gardner, Section Manager of TCEQ Occupational Licensing, will give an update on the status of the bill in the next IAC meeting in May. Council Member Kania asked who the sponsor of the bill was. Ms. Keller stated Mr. Schaefer is the sponsor of this new bill.

Subtopic: Outreach and Education Update- Ms. Keller supplied a list of outreach events the TCEQ Landscape Irrigation Program will participate in during Fiscal Year 2015 (September 2014-August 2015). (See Attachment "C")

XI. Agenda Topic: Update from a local landscape irrigation association

The City of San Antonio was invited to attend the IAC meeting but was unable to attend. Chairperson Ward recommended inviting representatives from associations or municipalities to speak during IAC meetings. Council Member Mark Froehlich stated he has a few suggestions and will meet later with the Council regarding them.

Ms. Swor, on behalf of the TTIA, extended an invitation to the IAC to attend the next Texas Turf Irrigation Association meeting in Houston. Chairperson Ward accepted the invitation on behalf of the IAC.

XII. Agenda Topic: Receive, discuss, and act on other items of interest to the Council

Subtopic: Standards for irrigation plans- Audience member, Mr. James Garvin of New Braunfels Utilities (NBU), approached the Council with a concern about design plans accepted by some cities. Mr. Garvin stated that irrigation installation plans submitted to some cities to obtain a permit do not meet the TCEQ minimum requirements. He stated this is primarily due to city staff reviewing the plans not having training regarding plan requirements. Mr. Garvin stated this is causing irrigation systems to be installed improperly and not to TCEQ minimum standards. Chairperson Ward recommended sending a checklist which includes the plan requirements to assist the city staff reviewing applications and plans. Mr. Garvin stated the cities do not require completed plans for approval on permit applications. Council Member Brooke Furrh inquired for discussion how individuals were obtaining a license without know how to create proper irrigation plans. Audience member, Mr. Lewis, training provider, stated individuals are taught minimum standards for creating irrigation plans.

Council Member Kania suggested the affidavit for individuals “parking” their irrigator’s license for an irrigation inspector’s license need to be reworded. He stated people do not want to sign the affidavit because it says, “surrender.”

XIII. Agenda Topic: Individuals wishing to address the Council

Audience member, Austin Smith, stated TCEQ should require cities to enforce and be more active in regulating irrigation rules. He explained many cities have ordinances, but they are not enforcing them. He said irrigators are not concerned with meeting required standards because municipalities are not enforcing them. Chairperson Ward recommended uniformity in city requirements across regions and would like to look into how to achieve this. Chairperson Ward asked Ms. Swor if the Texas Turf Irrigation Association organization could provide assistance in finding a way to create uniformity. Council Member Kania asked is there anything TCEQ can do to get the municipalities to enforce the rules. Ms. Keller explained action against municipalities is not possible with way the rules are written.

Ms. Swor, TTIA, stated she met with Ms. Keller and Ms. Tracy Chandler, TCEQ, at a previous TTIA meeting and thinks that educating the consumer would be beneficial. Mr. Brooke Furrh suggested looking into an incentive program that would allow irrigation companies to display their high compliance ratings so that irrigation staff will perform better for the customers.

Audience member, Ms. Caryn Watz, stated that she appreciates the Enforcement program at TCEQ enforcing the irrigation laws. Audience member, Ms. Patty Sipe, stated she encourages the IAC staff to look into outreach programs with TCEQ. Mr. Garvin invited the IAC and TCEQ to the American Backflow Preventer Association, Cross Connection Meetings in San Marcos.

Mr. Doug Goodwin stated there was a presentation the City of Mansfield over a study of water samples taken from backflow prevention containment and a presentation from the City of College Station over percentages of failed Backflow Prevention Assemblies at a past TCEQ Cross-Connection Control meeting and recommended requesting them to present at the next IAC meeting.

XIV. Agenda Topic: Structure and Planning

Subtopic: Selection of the next meeting dates- The dates of the IAC meetings for the remaining of the year were chosen by the TCEQ and IAC. The meetings were scheduled for May 7, 2015, August 20, 2015, and November 19, 2015.

Subtopic: Discussion of items for inclusion in the next agenda- Chairperson Ward stated that Council Member Froehlich would find the local irrigation association speaker for the next IAC meeting on May 7, 2015. Council Member Froehlich suggested a representative from the Woodlands Joint Powers Agency.

The new IAC members were assigned committee positions as follows:

- Brooke Furrh- Rules and IAC Administrative Committee
- Philip Hathaway (Chair)- Education, Training, and Licensing Committee
- Gary Miles- Enforcement, Planning, and Legislative Committee

XV. Agenda Topic: Adjournment

The Chairperson asked for a motion to adjourn. Vice-Chairperson Kania made the motion and Council Member Toni Fox seconded the motion.

The meeting was adjourned on February 12, 2015 at 2:00 p.m.