

IRRIGATOR ADVISORY COUNCIL (IAC)
Meeting Minutes
FEBRUARY 17, 2011
12100 Park 35 Circle, Building C, Room 131E
9:30 a.m. to 2:30 p.m.

Chairman Bell called the meeting to order at 9:32 a.m.

Attendees:

- Council Members: David Bell, Emilio Escobar, Toni Fox, Mark Froehlich, Karen Guz, Deville Hubbard, David Kania, Nora Mullarkey.
- TCEQ Staff: Richard Allen, Rudy Calderon, Michael De La Cruz , Candy Garrett, Joseph Hildenbrand, Jim Reed, Linda Saladino, Salal Tahiri, Terry Thompson, Melissa Keller, Graham Waak
- Visitors: Marsha Carson, Frank Chalouopka, Wayne Gibbs, Jerry Lewis, Todd Magatagan, Robert Mann, Jeff Walls.

I. Introduction of IAC members with terms beginning February 1, 2011

Chairman Bell introduced the new council members, Mr. Kania, Mr. Froehlich and Ms. Fox. The new council members introduced themselves to the public and gave a brief biography.

II. Consider and approve minutes from the November 18, 2010 meeting

The council approved the minutes from the November 18, 2010 meeting with the exception of item number 16. This item will on the June 16, 2011 IAC meeting to be considered.

III. Receive, Discuss and Act on Staff Reports. (Office of Compliance and Enforcement)

- Outreach: Ms. Garrett discussed the outreach of various events that staff had attended since the previous Council meetings and provided a list of upcoming events.
- Enforcement Activities: Mr. Allen discussed various enforcement activities and responded to questions about the enforcement process.

IV. Hear from individuals wishing to address the Council

Mr. Chalouopka thanked the council for their service. Mr. Lewis welcomed the new members to the council and thanked them for their service. Mr. Mann stated that the penalty amounts should be higher for unlicensed individuals.

- Ms. Guz stated that the penalty amounts should be higher.
- Mr. Froehlich and Ms. Mullarkey both stated that there should be more outreach to homeowner associations and building and property managers.
Mr. Walls stated that TCEQ should enforce against building and property managers for using unlicensed individuals.

V. Receive, Discuss and Act on Staff Reports on Enforcement (Office of Compliance and Enforcement and Office of Legal Services)

Mr. De La Cruz presented information on the enforcement process and the significance of the enforcement initiation criteria. Mr. De La Cruz described the penalty policy referenced in Regulatory Guidance (RG) 253: http://www.tceq.texas.gov/publications/rg/rg-253/penpol_pdf.html. Mr. De La Cruz stated that the Enforcement Division maintains consistency among the programs that TCEQ regulates.

Mr. Calderon presented information about the litigation process at TCEQ, including the hearing and the agreed order process.

Mr. Calderon stated that litigation attorneys review the case files, penalties, violations cited and ensure that the regulated entity is given proper notice. Mr. Calderon also described the default order process. Evidence must be detailed to ensure that the case is sufficient to pursue. Mr. Calderon stated that there is a 20% enhancement on agreed order cases and a 25% enhancement on default order cases. The entire litigation process can take from nine to twelve months. Mr. Calderon stated that he encounters two or three hearings a year.

Mr. Magatagan commented that the enforcement penalties should be raised for irrigators. Ms. Guz stated that it is important for enforcement to be occurring at the local level.

VI. Break

VII. Receive, Discuss and Act on Staff Reports (Office of Permitting and Registration) Licensing, Training, Testing, and Renewals

Mr. Thompson commented on activities that were occurring in the Permitting and Registration Support Division. Mr. Thompson provided the following statistics on testing and passing rates for the landscape irrigator, landscape technician, and the landscape inspector:

Landscape Irrigation Technician (English):
48% passing rate, 61 licenses issued

Landscape Irrigation Technician (Spanish):
18.5% passing rate, 37 licenses issued

Landscape Irrigation Inspector:

6 applications, 6 examinations, 4 passed, 67% passing rate, 2 licenses issued

Landscape Irrigator:

268 new applications, 213 new licenses issued

980 renewals requested, 959 renewal licenses issued

430 examinations, 317 passed, 73.7% passing rate

Total current licenses-7062

Mr. Thompson stated that computer based testing (CBT) was not available in Spanish. Mr. Thompson stated that CBT is available in English for the Landscape Inspector and Landscape Technician, but not for the Landscape Irrigator examinations.

WaterSense Certification

Mr. Thompson stated that the Water Sense Certification Program is moving forward. Mr. Thompson stated that meetings have been held with the Division Director and with the General Law Division. Additionally, Mr. Thompson stated that a presentation will be given to the Director of Permitting and Registration Support Division. Mr. Thompson stated that he would provide an update on the Water Sense Certification Program at the June IAC meeting.

Mr. Thompson discussed the following bills that may affect the Occupational Licensing Section:

- **HB 177-(Jackson)** The bill proposes to amend the Texas Occupations Code (TOC), by adding Chapter 60 which would require an applicant for an occupational license to establish eligibility to work in the United States.
- **HB 197-(Solomons)** The bill proposes to amend the TOC, by adding Chapter 60 which would require a licensed person the occupation after providing documentation to the licensing authority showing that the license holder is authorized to work in the United States.
- **HB 623-(Bonnen)** The bill proposes to amend the TOC, by adding Chapter 60 which would require an applicant for an occupational license to establish eligibility for employment in the United States. This requirement would apply to new and renewal licenses if employment eligibility has not been established.
- **HB 965-(Callegari)** The bill would amend Section 37.008 of the Water Code, to require TCEQ to accept internet based continuing education programs for occupational licenses issued by the TCEQ.

- HB 1275-(Harless) The bill would amend the Labor Code by adding Chapter 53 which would require the suspension of the license of any employer that knowingly employs an individual that is not lawfully present in the United States.
- SB 301-(Wentworth). This bill would add chapter 60 of the TOC which would require a person filing a complaint against a license holder to submit an affidavit with the complaint stating that the facts alleged in the complaint are true.

Water Conservation Content in Classes for CEU credit

The topic was discussed as part of the Continuing Education Topic.

Legislation

There were no actions requiring discussion by the Council.

a) Continuing Education Topics for the Landscape Irrigation Program

Ms. Saladino provided the council members with a draft of acceptable topics for continuing education. Ms. Saladino explained the draft document to the council members. Ms. Saladino recognized the efforts of the Council members in developing the list and asked for additional comments.

VIII. Lunch

IX. Receive, Discuss, and Act on Committee Reports

a) Rules

This committee had nothing to report

b) Education

This committee had nothing to report

c) Water Conservation

Ms. Guz and Ms. Mullarkey are working on a best management plan to address water conservation.

d) Legislation

This committee had nothing to report

e) Consideration of future committee assignments and work products

Mr. Hubbard stated that his interests would be in Texas Administrative Code (TAC) §344.65 regarding purple pipe. Mr. Hubbard stated he would like research on why the rule was written and how is the issue addressed on the national level. Ms. Guz stated

that there should be responsibility for educating the public regarding purple pipe. Ms. Guz stated that in San Antonio there are rules in their ordinances concerning how to handle the use of purple pipes. Ms. Guz was also concerned that TCEQ was requiring that existing irrigation systems that use reclaimed water to be retrofitted with purple pipe.

Several IAC members expressed interest in best management practices, water conservation, training and education, and enforcement.

X. Receive, Discuss and Act on Other Items of Interest to IAC

Chairman Bell stated that he would like to have feedback on having three committees which would be program area specific addressing the program areas: (1) program support, (2) enforcement, and (3) education, examinations and licenses. Additionally, Mr. Bell stated that he would like research to be conducted on how plumbers are penalized and the penalty amounts.

Chairman Bell recognized Mr. Hubbard for his service to the IAC as Chairman and Vice Chairman.

a) Determine IAC member concerns/interests for 2011 business

IAC members expressed their concerns/interests for 2011 under item IX (e).

XI. Adjourn

Chairman Bell adjourned the meeting at 2:30 p.m.