

Irrigator Advisory Council Meeting

Minutes

Date: June 26, 2014

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 members 78753

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

Toni Fox, Paul Ward, David Kania, Karen Guz, Rusty Tucker, Marsha Carson, Mark Froehlich, and Jay Hartley were present.

Nora Mullarkey was not present.

Agenda Topic: Consideration of the April 11, 2014 minutes.

Decision: The Council approved the minutes.

Agenda Topic: Hear from individuals wishing to address the Council.

Subtopic: Member of the public, Jana Arent, inquired about the process for criminal background checks.

Discussion:

Ismael Parra, Texas Commission on Environmental Quality (TCEQ), Occupational Licensing, Team Program Supervisor, detailed the process by explaining the Office of Waste has guidelines when processing a background check for an irrigation license. Irrigation licensees are considered “high risk” because of their interactions with the public. All cases are reviewed with public safety in consideration. The review looks for specific types of criminality, such as theft, violence, predation, etc., and how recently the crime was committed. If a determination cannot be made during the review session, the matter may go through executive review. Mr. Parra stated there is also an appeal process. Mr. Parra estimated that last year there were approximately 20,000 license applications, and only seven were denied with one appealed.

Subtopic: Member of the public, Jeff Walls, was concerned with the number of unlicensed individuals. He felt that cities are not enforcing the TCEQ rules in place and that this was to the individuals with licenses detriment.

Discussion: Chairman Paul Ward commented one way to prevent people from breaking the laws was to increase the communication between municipal utility districts (MUDs) and the TCEQ. Mr. Ward stated that many MUDs do not have

knowledge of the current irrigation laws. Council Member Karen Guz agreed that license enforcement is a high priority of TCEQ and the Council.

Council Member Marsha Carson asked whether these issues should be handled at a local level. Tracy Chandler, TCEQ, Field Operations Program Support Section, stated that if the alleged violation is not pursued by the local authority, TCEQ will investigate the alleged violation.

A question was raised as to how to handle a situation where the alleged violation occurred outside of a city's jurisdiction. It was stated that TCEQ has the ability to enforce the TCEQ rules over the entire state, including the areas that may fall outside of any one city's jurisdiction.

Decision: TCEQ will look for opportunities to increase communication with municipalities. A violation of the rules and statutes can be reported anonymously. Individual complaints can be tracked on the TCEQ website.

Agenda Topic: Introduction of Austin Lawn Sprinkler Association Representative.

Subtopic: Chairperson Paul Ward introduced David Brannan, President of the Austin Lawn Sprinkler Association (ALSA).

Agenda Topic: Presentation: Austin Lawn Sprinkler Association.

Discussion: ALSA is a group of licensed irrigation contractors that routinely interact with TCEQ and the City of Austin. They try to educate their members on current information on irrigation. They discuss City of Austin irrigation issues and ask for city officials to come to their meetings in order to explain new policies and standards of both TCEQ and the City of Austin. They want to make their members better irrigators and business people.

Mr. Brannan suggested sometimes MUDs and water districts may not understand the municipal laws or what a "good" irrigation system is.

The City of Austin inspects all permitted irrigation systems. Mr. Brannan stated that this implies that the City of Austin does not inspect non-permitted systems. ALSA encourages members to be proactive and submit complaints to TCEQ about individuals who may not be abiding by the laws. They try to assist TCEQ by providing as much information as they can that may be useful in investigating the incident.

The Council inquired as to whether ALSA was reaching out to MUDs. Mr. Brannan stated that some MUDs seem uninterested in receiving assistance. He suggested that for MUDs it can be difficult to determine who is actually in charge of irrigation. Chairman Ward stated that reaching out to the water section of the MUDs' boards could be a better route.

Mr. Brannan asked what his association could do to try to ensure that individuals are held responsible when violating irrigation rules. He stated there are instances where members of his association submitted complaints, but no enforcement resulted. The penalties for not having a permit in Austin range from \$500-\$1,500. Mr. Brannan was unsure whether this amount was an effective deterrent, but he encouraged irrigators to follow the law.

The Council Members discussed situations where unlicensed individuals perform irrigation work without a permit. Mr. Brannan suggested that there are individuals that avoid penalties or will pay the penalties continuously. The Council Members discussed whether the penalty for not obtaining a permit was high enough.

Decision: The Council expressed concern that some irrigators may not have an understanding of the rules. Licensed Irrigators need to understand the benefits of obtaining a permit so that the law is better followed. An increase in communication with the MUDs could be beneficial to ensuring that the MUDs have a better understanding of what is considered a violation.

Agenda Topic: Introduction of City of Austin Commercial Plumbing and Mechanical Inspection Supervisor, Mr. Trebor Brown

Subtopic: Chairperson Paul Ward introduced Trebor Brown.

Agenda Topic: Discussion of a Case Study from the City of Austin Irrigation Program

Discussion: Trebor Brown updated the Council on the City of Austin's major staff change. Mr. Brown stated the City of Austin defines irrigation as plumbing under the permitting ordinance. For their ordinance, the City of Austin took the baseline requirements of the State and added a couple of amendments. Mr. Brown also commented that Austin has separate irrigation permits for commercial and residential establishments.

Mr. Brown detailed the differences in permits for commercial and residential establishments. Mr. Brown stated residential establishments are fairly simple with regard to inspection. An inspector will go to the residential site and look for spillage and check pressure. The inspection requires an onsite plan. The inspector will coordinate with the irrigator the time and date of the inspection. There are also condo inspectors within the residential side. With respect to the commercial side, permitting is split into two departments, plumbing and irrigation. However, inspectors will inspect both environments. A permit is issued only after the property is inspected.

The Council asked if there is uniformity in irrigation plans. Mr. Brown stated with both residential and commercial properties the functionality of the plan is up to the specific designer. There are no specific requirements for pipes or pressurization. Council Members stated the plans are public records and there should be specific details on designs. The designers of the plans should not utilize pencil drawings. Council Members asked if there is uniformity in backflow testing. Mr. Brown stated the City of Austin requires a permit holder to file paperwork concerning backflow testing with Austin Water pursuant to TCEQ rules.

In response to questions about how many inspections the City of Austin conducts and how many inspectors the City of Austin has; Mr. Brown stated that with 100 inspectors, the City of Austin is doing approximately 5,000 inspections a week with a near 90% completion rate of the inspections. The inspectors check most of the permit requirements (mechanical, plumbing, irrigation, etc.) on the same visit. However, it is unlikely for an inspector to check electricity. Checking most

of the permit requirements on the same site visit allows for an efficient inspection process and minimizes delays. Council Members were complimentary of the protocol of the inspections and asked for written information detailing the City of Austin's plumbing and mechanical operations.

Decision: Mr. Brown provided a presentation detailing the process of the City of Austin's plumbing and mechanical inspections.

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

Subtopic: Licensing Report – Ismael Parra, Occupational Licensing, Team Program Supervisor

Discussion: Ismael Parra presented the third quarter results for licensing. Council Member Jay Hartley had questions about his license so he asked Mr. Parra to summarize the licensing renewal process.

Council Member Hartley suggested the review session should not be more than 45 days because the online process can only be processed 60 days in advance. Mr. Parra stated the online renewal process cannot occur more than 90 days in advance of the license expiration. Mr. Parra stated that some renewals are processed in less than 45 days. The most time consuming aspect of the renewal is the background check. Mr. Parra also suggested the Continuing Education Units (CEU) could cause a delay. Individuals are able to earn their CEUs at any point during their three year license period. Mr. Parra stated that educational outreach on this issue could be beneficial.

A public member stated they had done their CEUs a year in advance and had timely submitted their renewal application. However, the renewal took longer than 45 days. They suggested that having the CEUs done early was not beneficial in their case. The individual also requested that the website be able to accept applications for renewal more than 60 days in advance. Linda Saladino said the system is available to process renewals 90 days prior to the expiration and was not aware of what other issues occurred at that time that did not allow individuals to complete the renewal process online. Since she does not process renewal applications, she would have to confirm the 90 days.

Linda Saladino, Training Team Work Leader, stated it was difficult to make changes to the online application because the web application is run by Texas Online. Ms. Saladino also stated that if the application had to go through an additional level of review regarding criminal history compliance, then the current license would not expire so that the individual would be able to continue conducting business until a resolution was reached.

Decision: Council Member Karen Guz proposed that the Council make a resolution to request the Texas Online application be changed. The proposal was for the Council to make a request to Texas Online to change the application start time to 90 days instead 60 days (if it indeed wasn't allowed already). This change would allow irrigators to submit the renewal earlier. This change would also

change the renewal process to match with the renewal reminder card that comes 90 days prior to the expiration date of an irrigator's license.

A Council Member made a motion for the Council to make the request for a change in the online application process to start 90 days instead of 60 days before the license expires. The motioned was seconded. It was noted that a determination was needed as whether an extension of the online application would conflict with any law. The Council voted unanimously in favor of the motion.

Subtopic: Invitation for Input to RG-373: Approval of Training for Occupational Licensing

Discussion:

Linda Saladino let the council know that recent rule revisions would necessitate making some additions to the regulatory guidance (RG-373) used to approve training. A draft guidance to approve webinar training was created and will be included in the RG-373.

There were several potential issues discussed with distance training. A few public individuals speculated that distance training might be a little more difficult compared to live classes. There were some comments that it might not be entirely practical.

A member of the public commented that they were having trouble having their CEUs approved. The individual stated that they thought industry-related associations had less criteria to obtain approval of conferences versus classroom providers. Ms. Saladino stated there were different criteria for approval based on the mode of training. A member of the public asked about the industry-related associations that provide CEUs during a conference and whether or not the provided lunch with a presentation by a vendor was a conflict of interest. Ms. Saladino clarified that as long as staying through lunch is optional for the students, the training does not include any sales pitch, and the lunch does not go toward CEU hours, then it is allowed.

Decision: Ms. Saladino requested the RG-373 be reviewed and feedback be provided regarding any clarifications.

Agenda Topic: Water Supply Division, Office of Water, TCEQ, Cross Connection Control Program Overview, including discussion of the Customer Service Inspection (CSI) Form.

Subtopic: The Cross Connection Control Program

Discussion: Alfonso Fuentes, Program Coordinator, stated that TCEQ regulations require public water suppliers to protect their distribution systems from backflow through cross-connections. Implementing a Cross-Connection Control Program is the method the public water suppliers use to comply with these regulations. A program requires an authority to be established which allows the public water supplier to require Customer Service Inspections, backflow preventers, testing of

the backflow preventers and enforcement. Backflow prevention assemblies are required to be tested annually when installed to protect the potable water supply from a health hazard.

Subtopic: Customer service inspections

Discussion: Customer service inspections serve to identify cross-connections and lead in the plumbing. They can be conducted by Plumbing Inspectors, Licensed Plumbers with a Water Supply Protection Specialist endorsement on their license and Licensed Customer Service Inspectors. There are three occasions when a public water supply can require a customer service inspection: new construction, when there has been a modification in the plumbing at a site or when the public water supply has reason to believe there is a contamination hazard on-site. The customer service inspection certificate must be retained by the public water supply for a minimum of ten years.

Agenda Topic¹: Enforcement and Legislative Committees Reports and Updates

Discussion: Vice-Chair David Kania did not have any updates for this topic.

Agenda Topic: Field Operations Program Support Section, Office of Compliance and Enforcement, TCEQ

Subtopic: Introduction

Discussion: Tracy Chandler introduced investigators Elizabeth Vanderwerken and Andre Clark, TCEQ employee James Hemple and intern Frank Lenoir.

Subtopic: Update on Nominations

Discussion: Ms. Chandler presented the current status of the IAC nominations. Current nominations will be for three new Council Members. One member will be a public member who is not a licensed irrigator, while the other two members will be licensed irrigators. The public member and the public member's spouse cannot be licensed or employed in the field of irrigation. The new Council members' terms will start on February 1, 2015 and last for six years. Council members will meet in Austin for one day, three times a year. There are currently three public member nominations and 34 licensed irrigator nominations. The members selected by the Commissioners can attend the next meeting to see how the process will work. Public nominations were more difficult to obtain, because many potential public member nominees do not meet the requirements.

Subtopic: Enforcement Report, Survey Results and Update on Local Landscape Irrigation Programs.

Discussion: Elizabeth Vanderwerken and Tracy Chandler both reported that this past fiscal year there have been 73 incidents with 83 ongoing investigations. The

investigators have been reaching out to municipalities to assist with investigations. TCEQ's jurisdiction is not limited; however they are working to increase communication with municipalities to help gather evidence in cases.

Ms. Chandler and Ms. Vanderwerken gave an update on the survey results the Council asked TCEQ to distribute. The survey was sent out to cities with populations of 20,000 people or more, and only 12 surveys had been returned to date. There are plans to follow up with cities that have not sent their survey responses back.

Council Member Karen Guz stated the lack of response from large cities could be attributed to the cities likely not having a database with the type of information requested. Another possible reason for the lack of survey response could be that the cities and MUDs may have been unsure of whom to give the survey. Furthermore, some of the smaller MUDs may not have an irrigation department.

Ms. Chandler stated that the TCEQ will review the survey results to try to determine if cities are not issuing citations and, if so, what reasons are provided.

Decision: Cities can help irrigation investigations by providing evidence related to the case. Increasing communications between investigators and MUDs would be beneficial. TCEQ will follow up the cities that have not yet responded to the surveys.

Agenda Topic: Litigation Division, Office of Legal Service, TCEQ and Enforcement Division, Office of Compliance and Enforcement, TCEQ

Discussion: Tracy Chandler introduced Jess Robinson and Jacqueline Boutwell (Litigation Division) and Michael De La Cruz (Enforcement Division). Mr. Robinson summarized the basic procedures of his office. Mr. Robinson's group looks primarily for photographic evidence. In the Litigation Division, they do not have investigators and rely primarily on evidence submitted to them.

Mr. Robinson stated that in order for a license to be suspended, all evidence needed to first be considered. The Litigation Division reviews the severity of the crimes as it relates to that individual's character, and how severe the crime is in terms of irrigation. If a revocation is to occur, the individual whose license has been revoked would have the choice to appeal or settle. Mr. Robinson and Ms. Boutwell then discussed under what circumstances a license could be revoked.

Agenda Topic: Update on Building Officials Association of Texas (BOAT) meeting

Discussion: Chairperson Paul Ward stated that BOAT has invited the IAC to speak at their annual "Get Connected" conference. The conference will take place on August 7, 2014. The time slot is from 1:15-1:45. The meeting will take place at the Granbury Resort Conference Center in Granbury, Texas. The speaker will be public member Jerry Lewis.

Agenda Topic: Receive, discuss, and act on other items of interest to the council

Subtopic: Customers using Non-Licensed Irrigators.

Discussion: One of the members of the public suggested addressing the customers of non-licensed irrigators could be a potential solution to non-licensed irrigators. Council Member Karen Guz noted irrigation work done improperly can lead to higher utility bills. Council Member Guz stated if irrigation customers knew the repercussions of hiring an unlicensed irrigator, there might be more incentive to hiring a licensed irrigator.

A member of the public with Texas Turf Irrigation Association (TTIA) stated they plan to place a flyer in their newsletter about licensed irrigators. The flyer would contain information on how to find a licensed irrigator and the benefits of hiring a licensed irrigator.

Agenda Topic: Structure and Planning

Subtopic: Confirmation of the Next Meeting Date

Decision: Meeting confirmed for November 13, 2014 at 9:30-2:30, Building A, 2nd Floor, Conference Room 202.

Subtopic: Discussion of Items for Inclusion in the Next Agenda

Discussion: Council Member Karen Guz suggested that a professional association should come and speak to the IAC about their relationship with public individuals. Ms. Guz recommended a professional association from San Antonio. A member of the public recommended a professional association from the Panhandle.
