

Irrigator Advisory Council Meeting

Minutes

Date: November 13, 2014
Time: 9:30 a.m. - 2:30 p.m.
Location: Texas Commission on Environmental Quality, 12100 Park 35 Circle,
Building A, Conference Room 202

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

- I. Roll Call:** Mark Froehlich, Toni Fox (phone), David Kania, Rusty Tucker, Jay Hartley, Nora Mullarkey, Paul Ward, and Karen Guz were present. Marsha Carson was not present.

Texas Commission on Environmental Quality (TCEQ) staff present: Melissa Keller, Andre Clark, Elizabeth Vanderwerken, Nadiah Ahmad, James Hemple, Linda Saladino, Paul Munguia, Ismael Parra, Russell Gardner, Jess Robinson, Kenneth Dykes, and Tracy Chandler.

- II. Agenda Topic:** Consideration of the June 26, 2014, minutes.

Decision: The Council approved the minutes.

- III. Agenda Topic:** Recognition of Karen Guz, Rusty Tucker, and Nora Mullarkey.
There was a presentation of certificates and a short biography for each of the outgoing members by Ms. Melissa Keller and Chairperson Paul Ward.

- IV. Agenda Topic:** Recognition of Honorary Licenses

Ms. Keller and Chairperson Paul Ward recognized the following people with honorary licenses: Ms. Glenda Single (LI2812), Mr. Dewitt Hudson (LI1614), and Mr. George Stevenson (LI42).

Ms. Keller- stated that 2 of the certificates would be handed out January 15, 2015, during the Lone Star Expo in Grapevine, Texas. The 3rd one was mailed to the recipient.

- V. Agenda Topic:** Permitting and Registration Support, Office of Waste, TCEQ

Subtopic: Licensing Report- Mr. Ismael Parra noted that there was a discrepancy with an internal document and the data reported at the last meeting was inaccurate. He provided the correct and updated numbers.

Subtopic: Texas Online Proposal-Update: Linda Saladino, Ismael Parra, TCEQ, Occupational Licensing Section, detailed the process explaining the Office of Waste has guidelines when processing license renewals.

There was a large backlog of renewals which caused a delay of 45 days in the recent past. Currently, there is a 10 day wait time for renewals. Linda Saladino, spoke about the Texas Online Proposal. She stated that there are 90 days for renewal prior to the expiration of a license. If e-mail is provided, the e-mail list will send out a reminder at 90 days to renew, and at 60 days a blue card will be mailed out.

She reminded the Council that Continuing Education Units (CEU) can be earned at any time during the license cycle. That it was best not to wait until the 90 day notification.

In response to a question, she stated that addresses and contact information can be updated at any time through the TCEQ license website. She also stated that information updates cannot be done over the phone; the request must be done in writing.

Subtopic: Additional discussion on adding CEU requirement to newsletters - Ms. Saladino stated that the TCEQ is in the process of requesting the addition of CEU requirements to trade organization newsletters. Information is also available on TCEQ website.

Subtopic: Update on Webinars- Planned course of review similar to manuals?

The Occupational Licensing Section is in the process of sending updated training lesson plans to training providers. When applying for training approval, be sure to send all training documents and add all current information to guidance.

RG-273 is being updated and there are no major changes. A checklist was added to the webinar rules for providers who are eligible for giving webinars.

Ms. Keller, TCEQ, asked what the process is to review the webinars as opposed to books and classroom.

Ms. Linda Saladino explained webinars are different from a classroom scenario. Part of the requirements of webinar training is that there must be interaction; it cannot be just a presentation. Participants must be able to ask questions and all training must check comprehension. It was stated that evaluation tools must be there to check comprehension. Webcasts do not follow this protocol therefore the irrigator is not awarded CEUs for a webcast.

There needs to be a review to see if the presenters are qualified and to ensure that the credentials provided are valid. Some of the providers are already doing this.

It is interesting to note, that Texas is one of the only states that does this type of training. It is probably the only state in this country that has this type of variety.

Subtopic: Training manual review update from IAC: Ms. Saladino stated her internal document is an estimation of how many students are trained by each course and provider. It discussed which courses were of concern based on how many people were taking them. The subcommittee reviewed manuals and material from these courses and received feedback from people about the lesson plans and materials. Current standards dictate that when an application is submitted all materials must be submitted electronically. An e-mail was sent out regarding 30 TAC Chapter 344 rules relating to the reduced pressure principal backflow prevention assembly. All training providers in the room were asked to confirm receipt of the e-mail. Most trainers agreed that the email had been received. It was suggested that an information sheet be sent to the trainers containing the most common problems and violations. In addition it was requested that the providers put in a link to the rules to Chapters 30 and 344, when ordering online courses.

Public discussion:

The chairperson stated that he would be happy to share materials with all the providers telling them that there are certain materials the Irrigation Advisory Council (IAC) would like the providers to include. The IAC would like the information of most common violations and problems to be discussed in class since there are many people who are unaware of the policies.

Mr. Paul Kaisers, City of Austin, stated that the training does not include law or policy and he would like 30 minutes dedicated to talking about the law. Ms. Nora Mullarkey stated that the guidance rules make adding this portion easier since the course talks about conservation in general. The TCEQ legal department has a book on water conservation. It was suggested that a copy of the document be obtained and used as a reference.

VI. Agenda Topic: Water Supply Division, Office of Water, TCEQ

Subtopic- Update from Backflow and Cross - Connection Control: Mr. Kenneth Dykes spoke in lieu of Mr. Al Fuentes. The onsite subcommittee meeting is including the top of on-site sewage facilities (OSSF). The

discussion will include the requirements for OSSF and what is grandfathered in and what is not.

Two past presentations (Mansfield and Arlington) were discussed relating to Landscape Irrigation backflows. The City of Mansfield and the City of Arlington have collected data on failure rates, with similar statistics of 15-20 percent each year. College Station conducted a similar study in 2007 which showed similar results of an 18 to 24 percent failure rate per year. After 6 years of collecting data, it was determined that there is close to 100% failure rate.

The question was then posed as to what was the problem. The list included debris, damaged parts, missing backflow preventers, and incorrectly installed backflow preventers. Mr. Dykes responded to the question of how often a system should be tested, by saying without testing it is impossible to know if something is wrong. Many homeowners feel that there is a push to spend a substantial amount of money on inspections without understanding the necessity and the potential health risks.

Mr. Rusty Tucker questioned why the TCEQ is not requiring annual testing on backflow devices? Mr. Dykes' response was that the TCEQ is requiring annual testing on backflow prevention assemblies used in situations that may pose a high health hazard. It was stated that the TCEQ does not require annual testing of backflow prevention assemblies used on lawn irrigation systems that do not pose a high health hazard. Mr. Tucker then stated everyone in the State of Texas should be testing this (backflow prevention assemblies) annually as per plumbing codes.

Mr. Dykes stated the reason that the paragraph found in RG-206 which states that lawn irrigation systems do not have to have a Customer Service Inspection (CSI) is being removed. If plumbing codes are not being followed, then it is necessary to conduct a CSI on lawn irrigation systems to determine the degree of hazard and require the appropriate backflow assembly and frequency of testing.

Cities are required to follow the plumbing codes. Some cities do not follow the plumbing code or remove portions of the code.

Mr. Kenneth Dykes then stated that the city is required to do annual testing unless they choose not to adopt this portion of the plumbing code in their plumbing ordinance.

VII. Agenda Topic: Enforcement and Legislative Committee Reports and Updates

Discussion: Mr. Jess Robinson updated the Council on the Litigation cases. Mr. Robinson stated there are not a lot of irrigation cases. He postulated that it could be that cases are more easily settled earlier in the process, than in the past.

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

Discussion: Councilman Paul Ward asked are there a lot of cases that are from other states besides Texas? Mr. Robinson stated that the rules do encompass those that are licensed and that he was unable to answer if any of the cases came from irrigators outside the state.

Ms. Tracy Chandler stated that the Licensed Irrigation Program (LIP) does see quite a few unlicensed individuals. She stated that there is no indication in the files that suggest that these people are from out of state. There is nothing to substantiate that un-licensed irrigators are moving into the state. Ms. Tammy Swor then asked if LIP knew the percentage of complaints that go to litigation. Ms. Swor said that there is public interest in how many citations, violations, and incidents are received. Ms. Keller stated that violations are settled through LIP, rather than sent to Enforcement. Litigation sees a very small portion of what is settled because most violations do not make it as far as litigation. Tracy reiterated that most irrigator violations are category B in the TCEQ Enforcement Initiation Criteria. Majority of violators are issued a Notice of Violation (NOV), then the respondents are given 30 days to correct the violation.

Mr. James Garvin, New Braunfels Utilities, a member of the public, stated that often times the city is letting these things go through and if there was a check list then it would be easier to enforce the rules.

Mr. Garvin then stated that there is a problem with landscape irrigators not designing systems correctly. He stated that when builders put in the irrigation systems often times the builders fail to give the design to homeowners. Ms. Guz stated that there are builders who can be convinced to ensure that the work is done correctly. Some builders just accept the lowest bids and often times the work is then done haphazardly. Ms. Keller then stated that it is possible and a good idea to do outreach to the builders and local governments, to remind them that it is important to ensure that plans and designs are compliant with TCEQ standards.

Mr. Ward stated that their needs to be a better relationship with city officials, builders, and irrigators. Cities need to give builders a better understanding of what is necessary. It is important to let the builders know that the law and rules must be followed or the project is going to be delayed. It is important to get inspectors and municipalities onboard in order to ensure that there is a best practice standard in order to have uniformity thorough out the state. At this time cities are beginning to copy each other. The hope is that through this interaction uniformity can be achieved. San Antonio and Austin are giving the TCEQ their processes so that so that a standard can be created.

A member of the public asked what is the oversight if the irrigation inspector is not doing what the rules require? Mr. Ward stated the intent of the letter (survey) that went out to municipalities was to understand what the municipalities think about the process. Cities are required to investigate complaints that are filed.

Ms. Guz stated that the cities do not have a checklist that says what the rules mean. The City of San Antonio may state that installations are being checked, but the inspections conducted are not as rigorous.

Ms. Mallarkey stated that to her understanding there is nothing that says that a city will be penalized if the choice is made to not enforce the rules. A member of the public stated that there are standards for the inspectors' duties, but not for the city to enforce the action. Mr. Ward stated a good checklist is and the green RG-466 suggests that the city ensures all items in the checklist provided are present. A member of the public then stated that most cities do not check hydraulics on plans. The cities make sure that plan and paperwork are present. The system may not ever work but the cities are still approving the design.

A member of the public stated that a Licensed Irrigator is hired to make sure that there is oversight. The inspector is not going to review designs. If the inspector is required to approve designs that will slow approvals; because, there are multiple solutions to a problem.

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

Subtopic: Introduction and Staff Updates: Ms. Melissa Keller of Program Support introduced herself and gave a short biography. She stated that the section has been re-organized.

Subtopic: Enforcement Report: Ms. Keller is working on outreach and with the Houston-Gulf Coast Irrigation Association (HG CIA) and Lone Star Irrigation Association. She stated that it has been a very busy year so far. LIP has completed 37 investigations, 8 Notices of Violation (NOV) Category B violations. Respondents with NOV's have 30 days to correct the violation. 24 investigations had a determination of either no violation or resolved violation. There were 5 Notice of Enforcements (NOE).

Ms. Keller then discussed the importance of evidence. If someone is filing a complaint, TCEQ needs as much information as possible. It is important to have the affidavit filled out. If TCEQ does not have the information necessary then time will be spent looking for supporting evidence. Everyone connected to the investigation will be informed of the results. Some of the complaints received by the investigators are submitted without any supporting information; therefore it is not possible to investigate. LIP maintains the confidentiality and identity of the complainants. If a complaint is submitted anonymously it is difficult to

investigate the incident because the complainant cannot be contacted for additional information.

Mr. Ward stated that cities have called him unsure what action to take. The cities are finding that the majority of the irrigators know the rules but LIP is still receiving complaints on people who are not complying. The reason this is being investigated is that there are a few who are not displaying the license on trucks and advertisements. Irrigators and contractors who are getting citations are complaining that cities are enforcing the rules unfairly. In reality, the cities are actually following the TCEQ rules.

A member of the public requested information on what percentage of the complainants is not licensed? Ms. Keller replied that 10-12 percent of the population is not licensed. If an irrigator performs irrigation services without a license, they are then referred to Enforcement.

Ms. Keller then stated that the commission issued orders can be located on the TCEQ public website. She demonstrated how the public is able to search names and can find out if a person is licensed or in violation.

Subtopic: Survey Results and Update on Local Landscape Irrigation Programs: Elizabeth Vanderwerken gave a presentation on the results of the local ordinance survey.

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

Item X will be followed up on the next meeting. The Chairperson stated that the cities need to get together and talk and suggested an association be recommended.

He recommended that the cities that are not successful should get together with others to talk about the problems that are being faced.

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

Mr. Ward stated that the committee meeting really hit on the need to follow the rules. There needs to be a way to check on the first look at the plans, as well as a need to get uniformity on the projects check. This will help expedite the permits and process and increase the chance that the projects are installed correctly.

XII. Agenda Topic: Individuals wishing to address the Council

Ms. Guz told the Council about a construction developer that is very strict with code enforcement. This specific developer has an in-house inspector (not a licensed inspector) to ensure that everything is correct. The

developer is very good at maintaining standards. They have someone who works for them and inspects the properties. As the developer, they force irrigators to follow a certain set of standards. These are the developer's internal regulations. If an irrigator chooses not to comply, then that specific company is not allowed to work with the developer.

XIII. Agenda Topic: Structure and Planning

It has been discussed, that in future meetings there could be a discussion with cities and irrigation industry associations. It would be useful for city building officials to attend as it is important to keep them informed.

The date of the next meeting was selected as February 12, 2015.

XIV. Agenda Topic: Adjournment

The Chairperson set out a motion to adjourn and Ms. Guz seconded the motion.

The meeting was adjourned on November 13, 2014 at 1:00 p.m.