

**MECHANICAL, PLUMBING, ELECTRICAL, AND SWIMMING POOL  
BOARD OF APPEALS  
MINUTES**

**November 13, 2007**

Public notice having been posted, a public hearing of the MPE Board was held at 4:00 p.m., Tuesday, April 10, 2007, in the Council Chambers at City Hall, 555 Walnut, Abilene, Texas.

**MPE BOARD MEMBERS PRESENT:** Anthony McColum, Chairman  
Rick Kelley  
James Wheeler  
Jay Wyatt  
Ron Smith  
Terry Williams

**STAFF PRESENT:** David Sartor  
Stanley Smith  
Megan Santee  
Kelley Messer  
Glen Bailey  
Alice Adams

**GUESTS:** Charlie Self  
Frank Perez  
Robert Trevino  
Cary Hallum  
Mikea Glen  
Randy Glen  
Ronnie Carlson  
Dennis Watson  
Bobby Gilbreth  
1 or 2 other visitors, not identified

1. The meeting was called to order by Anthony McColum, Chairman.
2. The next item to come before the Board was the approval of the April 10, 2007 minutes. A motion was made by Ron Smith, and seconded by Terry Williams, to approve the minutes as written. Said motion unanimously passed.
3. The next matter to come before the Board was consideration, with possible action, on changes to the City of Abilene Swimming Pools and Spas Ordinance, Chapter 29.5, Article II, as proposed by the Swimming Pool Ad-Hoc Committee. David Sartor, Building Official, addressed the Board, stating this was a follow-up from the previous meeting in which the Board appointed an Ad-Hoc Committee to review and make a recommendation to the Board, dealing with the issues addressed at the April 10, 2007 meeting. Mr. Sartor said the Ad Hoc Committee had an open public session, then met on several occasions after that and had discussions at length, which resulted in the proposal presented to the Board today. Mr. Sartor

sent over the changes in the proposal, the most significant change being the deletion of any requirement of a swimming pool contractor's license. He said the other change was to codify the guidelines that were originally put in place for non-licensed swimming pool contractors, which were listed in Sec. 29.5-14 of the proposal. He said these guidelines would now be the requirement for all swimming pool contractors. Mr. Sartor said the members of the Ad Hoc Committee were appointed by Anthony McColum, Chairman. The members of the committee were Perry Haynes, Kenneth Rich, Dale Morris and Terry Beal.

Frank Perez, an employee of Southwest Pools, addressed the Board, stating that they had visited with numerous engineers in the City as to what they would charge for designing plans and specifications for in-ground pools and were quoted a cost of \$3,000 to \$20,000. He said the increase for building a swimming pool, if this proposal is adopted, would be at least \$3,000, which would be a 10% increase on a \$30,000 pool. He said this cost would be passed on to the customer, and he feels it is an unnecessary expense for contractors that are currently licensed and experienced.

Dennis Watson, a licensed swimming pool contractor and owner of Southwest Pools, addressed the Board stating he feels highly skilled, experienced and educated pool contractors should be able to continue to build pools without having an architect or engineer draw the plans, and the contractors that are not licensed continue to use plans and specifications designed by an architect or engineer. He said he was very proud of his license; that it was not hard to get, but it was not easy to get. He said that he feels the City should continue requiring a swimming pool contractor to have a license.

Ronnie Carlson, who has a swimming pool contractor license, then addressed the Board, giving names of difference towns in Texas and what they require a person to have to build a swimming pool in their town. He said he feels that Texas will eventually require all swimming pool contractors to have a state license. He said this new proposal takes the experience factor out of being able to get a permit to build a swimming pool. Mr. Carlson went on to say how much he learned when he took the swimming pool exam, and asked the Board not to pass this ordinance as proposed. He said he thinks licensed swimming pool contractors should be allowed to build pools without having architectural or engineered plans, and the people that do not have a license should have to supply plans designed by an architect or engineer.

Bobby Gilbreth, a licensed swimming pool contractor and owner of West Texas Pools, addressed the Board stating he had contacted four local engineers who quoted him a price of \$3,000 to \$10,000 to design and draw up plans for a pool. He said the process in place now is working extremely well for the customer.

Randy Glen, an unlicensed swimming pool contractor, addressed the Board, stating that the process the licensed swimming pool contractors want to change back to is the same that has been in place for years. Mr. Glen said that when he started building pools the licensed swimming pool contractors made the request to this Board to do away with the stipulation that an unlicensed person can build pools as long as they supply plans and specifications

designed by an architect or engineer. Mr. Glen said he feels he has a right to build pools in Abilene and that the licensed swimming pool contractors don't want the competition.

Dennis Watson addressed the Board again and stated that when they originally brought this issue to this Board, they simply wanted to clarify the way the City was accepting the plans and specifications that were designed by an architect or engineer. He asked if the Ad Hoc Committee had looked at various plans and specifications that had been turned in by unlicensed pool contractors, and were they acceptable. Mr. McColum told him they had looked at them and they were acceptable. Mr. Watson said he was not afraid of competition.

After discussion and questions among the Board members and audience, Mikea Glen, wife of Randy Glen, addressed the Board stating they have build a number of pools that required plans and specifications designed by an architect or engineer, and their customers were satisfied and never complained about paying the extra cost. She said she does not believe that having a swimming pool license makes a person an expert at building swimming pools.

Bobby Gilbreth spoke to the Board, stating that it was not acceptable by the Engineering Board for an engineer just to stamp a set of plans. He said the engineer should draw the plans and then inspect the project until the completion of the job. Mr. Gilbreth said the engineer would be liable for the project through completion of the project.

Carry Hallum, an unlicensed swimming pool contractor and owner of Paradise Pools, then addressed the Board stating she has an architect to study her plans before signing off on them, and it is not unusual for this architect to go to the job site to make sure the pool is being built according to plans.

Frank Perez came again before the Board and wanted to know of these plans just have to be stamped by an architect or engineer, or if they have to be prepared by the architect or engineer. He said the ordinance, as proposed, states that plans and specifications shall be designed by an architect or engineer. Discussion was had regarding this matter. Terry Williams, a Board Member and an Engineer, stated that it is not legal or ethical, according to the State Board of Registration for Engineers, for someone to bring in a prepared set of plans and ask the engineer to stamp them. Mr. Williams said as long as the engineer is in charge of the design and drawing process, it is legal for someone else to prepare the plans, but for someone to bring a set of documents to any engineer that were not prepared under the engineers supervision, and ask the engineer to put his seal on them, is illegal and unethical. Mr. Williams said that engineers are not required to inspect the projects they design; they are paid to design and seal them, and how they are constructed is up to the licensing people. He said the only project the engineer is required to inspect is school projects.

Mr. Williams then asked if any of the members of the Ad Hoc Committee members were present, he would like to know how they came up with this proposal. Anthony McColum, Chairman of the Board, stated that at the initial meeting regarding this issue, it was suggested that the exception to having a swimming pool license that allowed a person to build a swimming pool with plans and specifications that were stamped by an architect or engineer,

was a “loop hole” allowing competitors to participate in pool building in Abilene. He said this was the reason that the matter was sent to committee for review. He asked Perry Haynes, a local engineer who served on the Ad-Hoc Committee to address the Board as to how this proposal was reached. Mr. Haynes said they looked at other cities to see how they handled the permitting of swimming pools, and after reviewing all materials, felt that anyone that was capable of putting together a set of plans and constructing a pool should be allowed to do so, and by removing the licensing restriction, would make it a level playing field. There was discussion as to whether other cities require plans and specifications to be designed by an engineer or architect before obtaining a swimming pool permit, and the general consensus was that they did not.

Bill Hocking, a licensed swimming pool contractor, said he was required to take the test to get his license, and while studying for this test learned a great deal about building swimming pools. He said his license was important to him and he had to go through a great deal to get his license and he was proud of passing the test. He said he felt no one considered the public, and it was the citizens of Abilene that were going to have to pay this additional amount of having an engineer or architect to design plans and specifications for a swimming pool.

Frank Perez spoke to the Board again saying that there were rich people who did not mind paying the additional amount for the swimming pools when the plans and specifications had to be stamped by an architect or engineer, but the people this would hurt is the middle class Abilene citizens who cannot afford this additional amount. There were questions to Mr. Perez from the Board members, inquiring what it took to get swimming pool permits in other cities, and Mr. Perez said that none of them required you to have a license or submit plans and specifications stamped by an architect or engineer. He said that some cities require you to register as a contractor. He said different cities have different required inspections.

Robert Trevino, an employee for Paradise Pools, said that for the safety issue, he thinks an engineers stamp is the way to go. He said he has been building pools for years. He said most of the people who have a license are not even on the job site.

Terry William spoke again, saying that if an engineer is required to design a pool, it would probably take at least two engineers, a structural engineer and an electrical/mechanical/plumbing engineer to prepare these plans and specifications and on a \$20,000 pool, that is a very large expense. He said this is a large expense to put on pool contractors when whatever they were doing before seems to be working here in Abilene. Mr. Williams said he would like everyone on the Board to look at the expense, and to ask themselves what they are gaining with this proposal. He said he personally thinks the old ordinance is working. Mr. Williams said the current swimming pool contractors that are building pools with engineered plans, should be able to continue doing this and the licensed swimming pool contractors should continue doing what they are doing. Mr. Williams said just because people requested a change in the ordinance does mean it has to be changed if the system is working okay. He said he is pleased with the current swimming pool ordinance and was hoping that the Ad Hoc Committee would propose something similar to that. He thinks this

proposal is very expensive and if it is not expensive, then some engineer or architect has violated their ethics in stamping some documents.

Anthony McColum said that when the Ad-Hoc Committee reviewed requirements of 30 cities in Texas, none of them required a swimming pool contractor license. He said the committee was not presented with any safety concerns, it was just brought up that contractors were wanting to level the playing field and do away with architect and engineer options. He said he didn't see how the license has improved or weakened the pool building business.

Mr. Williams said he wasn't finding fault with the Ad Hoc Committee, but he just does not agree with this proposal. He said he felt the swimming pool ordinance is working fine and does not need to be changed. After a lengthy discussion among the Board members and members of the audience, regarding the pros and cons of the proposal, Terry Williams made a motion to not accept the recommendation on changes to the City of Abilene Swimming Pools and Spas Ordinance as proposed by the Ad Hoc Committee. The motion was seconded by Jay Wyatt and unanimously passed. The proposed changes were not accepted.

4. Upon motion made and seconded, the meeting adjourned.

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Anthony McColum, Chairman

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Alice Adams, Acting Secretary