MEMBERS PRESENT:
David C. Levy, Chairman
Ann O’Connor, Vice Chair
Brian W. Kruse
Blake Peterson, Alternate

MEMBERS NOT PRESENT:
Ryne Bessmer
Ronald Bucher, Alternate

STAFF PRESENT:
Mike Wilwerding, Planning Department
Tim Himes, Law Department
Clinette Ingram, Recording Secretary

Mr. Levy called the meeting to order at 1:00 pm. The Board received as Exhibit 1 the contents of the City's file on each case.

CASES:

1. 19-08-055
   Duste J. Zachry
   2312 North 62nd Street
   Omaha, NE 68104
   REQUEST: Appeal of the Omaha Police Department’s denial of a firearm registration dated 7/30/19.

   At the Administrative Board of Appeals meeting held on August 26, 2019, Duste J. Zachry appeared before the board. Sgt. Dave Volenec appeared on behalf of the Omaha Police Department.

   Sgt. Volenec stated that Ms. Zachry was denied due to a Carrying a Concealed Weapon charge from October 2007. He indicated that there was nothing else on her record.

   Ms. Zachry explained the circumstances surrounding the incident.

   Mr. Kruse moved to GRANT the appeal. Mr. Peterson seconded the motion.

   AYES: Peterson, Kruse, O’Connor, Levy

   MOTION CARRIED: 4-0. Appeal granted.
At the Administrative Board of Appeals meeting held on August 26, 2019, Jermaine D. Bell appeared before the board. Sgt. Dave Volenec appeared on behalf of the Omaha Police Department.

Sgt. Volenec stated that Mr. Bell was denied due to marijuana less than an ounce conviction from September 2016 for which he was fined $300. Mr. Bell stated that he is a barber and he needs a gun for protection. He explained that sometimes he is in the shop alone and he may have large amounts of money on him. He further explained that at the time of the 2016 incident he was in his car when he was stopped and drug paraphernalia was found in the car. He indicated that the paraphernalia belonged to a family member; however, he accepted responsibility for it since it was found in his car. In response to Mr. Kruse, Mr. Bell stated that he does not use marijuana.

Sgt. Volenec explained that, based on the amount of the fine, there was probably some remnants of marijuana found with the paraphernalia in addition to the traffic violations.

Ms. O’Connor moved to GRANT the appeal. Mr. Peterson seconded the motion.

AYES: Peterson, Kruse, O’Connor, Levy

MOTION CARRIED: 4-0. Appeal granted.

At the Administrative Board of Appeals meeting held on August 26, 2019, Katlyn M. Hughes appeared before the board. Sgt. Dave Volenec appeared on behalf of the Omaha Police Department.

Sgt. Volenec stated that Ms. Hughes was denied due to a December 2014 misdemeanor conviction for possession of a controlled substance for which she received two days in jail, a credit for time served and a fine for $315. There was also an arrest and conviction in November 2015 for possession of marijuana less than an ounce on her record.

Ms. Hughes wanted a handgun so that she could protect her family. She explained the details surrounding the 2014 and 2015 incidents that both were the results of traffic stops. She stated that she had not smoked or done any drugs since she had children which was approximately three years. In response to Mr. Peterson, she stated that she had just taken a drug test a couple of days previously for her employment with Delta airlines.

Mr. Kruse moved to DENY the appeal. Ms. O’Connor seconded the motion.

AYES: Peterson, Kruse, O’Connor, Levy

MOTION CARRIED: 4-0. Appeal denied.
4.  
19-07-050 *(Layover from 7/22/19)*  
Timothy A. Lyons  
17536 “U” Street  
Omaha, NE 68135  

At the Administrative Board of Appeals meeting held on August 26, 2019, the applicant failed to appear before the board. Officer Stokes appeared on behalf of the Omaha Police Department.

Ms. Ingram stated that she left two voicemails about the layover after the July 22, 2019 meeting. The applicant was also sent the agenda by mail and email.

Officer Stokes stated that he had visited the residence that day and did not see the truck. He added that he had not received any other complaints about the truck.

After a brief discussion the board decided to vote to deny the appeal.

Mr. Kruse moved to DENY the appeal. Ms. O’Connor seconded the motion.

AYES: Peterson, Kruse, O’Connor, Levy  
MOTION CARRIED: 4-0. Appeal denied.

5.  
19-08-057  
Jeromy E. Nielsen  
754 Leawood Drive  
Omaha, NE 68154  
REQUEST: Appeal of the Omaha Police Department’s Notice of Nuisance dated 7/5/19.  

At the Administrative Board of Appeals meeting held on August 26, 2019, Jeromy E. Nielsen appeared before the board. Officer Stokes appeared on behalf of the Omaha Police Department.

Officer Stokes stated that the Mayor’s Office received a complaint in May about a trailer over 20’ that was parked at the home of the applicant. The Omaha Police Department visited the home and saw a trailer that was parked in the side yard in violation of Section 55-542. He noted that this property has a frontyard and sideyard setback. He submitted pictures to the board (Exhibit 2) which showed that the trailer was parked in the sideyard setback.

Mr. Nielsen stated that the sideyard setback was 14’ from the back of the curb. He mentioned that the home sits on the corner and his driveway is situated on the side of his home. He stated that he had a driveway poured and a retaining wall built to accommodate the camper. In response to Mr. Levy, Mr. Nielsen stated that the camper extended approximately 20’ past the side of the home. Mr. Wilwerding explained that, depending on the zoning of the property, the sideyard setback could be from 15’ to 25’ from the property line. He further explained that the property line is usually 12.5’ from the back of the curb. Mr. Nielsen noted that there were no sidewalks in his neighborhood. In response to Mr. Levy, he stated that the trailer was approximately 26’5” from rear bumper to front hitch. He added that there was about 3’ from the hitch to the front of the trailer.

Mr. Nielsen indicated that the camper did not obstruct the vision of drivers at the four-way stop or of his neighbors when they are pulling out of their driveway. He added that there were no driveways located across the street from his driveway and no one could see the camper from the front of their home since their home faced another direction.
Officer Stokes confirmed that the camper was located far enough from the street that it did not obstruct the view of traffic at the four-way stop.

Mr. Kruse moved to GRANT the appeal. Ms. O’Connor seconded the motion.

AYES: Peterson, Kruse, O’Connor, Levy

MOTION CARRIED: 4-0. Appeal granted.

6. 19-08-058
Gail Beaudry-Heuton
9723 Erskine Street
Omaha, NE 68134

REQUEST: Appeal of the Omaha Police Department’s Notice of Nuisance dated 7/23/19.

At the Administrative Board of Appeals meeting held on August 26, 2019, Gale Beaudry-Heuton appeared before the board. Officer Stokes appeared on behalf of the Omaha Police Department.

Officer Stokes stated that there were constant complaints about a black Oldsmobile and a white Ford van with Iowa plates that were parked and stored at the applicant’s home. When Officer Stokes visited the home the day of the meeting, he saw that the Ford van was parked there (Exhibit 2). He noted that according to State Statute 60-362, all vehicles being stored in Nebraska and operating in the state for more than 30 days are required to be registered in the state and pay City of Omaha Wheel Tax.

Ms. Beaudry-Heuton stated that her husband lives and has a business in Iowa. She explained that she cannot move to Iowa because she has special needs children who cannot be moved to another state. After some discussion the board voted on the case.

Mr. Kruse moved to DENY the appeal. Ms. O’Connor seconded the motion.

AYES: Peterson, Kruse, O’Connor, Levy

MOTION CARRIED: 4-0. Appeal denied.

7. 19-08-059
Reinaldo Torres Cruz
2714 North 81st Street
Omaha, NE 68134

REQUEST: Appeal denial of the Omaha Police Department’s Notice of Nuisance dated 8/1/19.

At the Administrative Board of Appeals meeting held on August 26, 2019, Reinaldo Torres Cruz appeared before the board. Officer Stokes appeared on behalf of the Omaha Police Department.

Officer Stokes stated that the Mayor’s Office received a complaint about a limo and a white truck that were parked on the grass. Officer Stokes stated that he had visited the home the day of the meeting and he saw the vehicles still being parked on the grass and they were not registered (Exhibit 2). He explained that the limo and truck were commercial vehicles and could not be stored on a residential property.

Mr. Cruz claimed that he was given permission by City officials to park the vehicles on his property which he indicated were gravel rock and concrete parking areas. He explained that, in the past he would rent out the limo until he got sick. He planned to sell the limo at auction. He indicated that the concrete pad that the truck was parked on was overgrown with grass so that it was not visible. He stated that the panel truck, which was over 20’, was used as a personal vehicle although it was a commercial truck. Mr. Cruz stated that he would be extending the driveway and would need time to do so. The board stressed to Mr. Cruz that although he claimed that the panel truck was used for commercial purposes, it could not be
stored on the property since it was considered to be a commercial vehicle. Mr. Cruz also stated that the limo was only partially parked on the grass. He was advised that no vehicles could be parked on the grass. In response to Mr. Kruse, Mr. Cruz stated that he would need approximately 60 days to bring the site into compliance.

Mr. Kruse moved to DENY the appeal with 60 days to comply. Mr. Peterson seconded the motion.

AYES: Peterson, Kruse, O’Connor, Levy

MOTION CARRIED: 4-0. Appeal denied with 60 days to comply.

8. 19-08-060
Carol A. Petriw
6224 South 91st Avenue
Omaha, NE 68127

REQUEST: Appeal denial of the Omaha Police Department’s Notice of Nuisance dated 7/31/19.

At the Administrative Board of Appeals meeting held on August 26, 2019, the applicant failed to appear before the board. Officer Stokes appeared on behalf of the Omaha Police Department.

Ms. Ingram indicated that she had spoken with the applicant and had also mailed a certified copy of the agenda to the home. Ms. Petriw stated that she would be at the meeting.

Officer Stokes stated that a complaint had been received through the Mayor’s Office about a camper that was over 20’ and parked in the frontyard setback for several months. He stated that he had visited the home the day of the meeting and saw that the camper was still parked at the home (Exhibit 2).

After some discussion, the board decided to vote to deny the case with some time to comply.

Mr. Kruse moved to DENY the appeal with 60 days to comply. Mr. Peterson seconded the motion.

AYES: Peterson, Kruse, Levy

NAYES: O’Connor

MOTION CARRIED: 3-1. Appeal denied with 60 days to comply.

9. 19-08-061
Blade A. Graham
5803 Frederick Street
Omaha, NE 68106

REQUEST: Appeal denial of the Omaha Police Department’s denial of a Taxicab Driver’s Permit dated 7/23/19.

At the Administrative Board of Appeals meeting held on August 26, 2019, Blade A. Graham appeared before the board. Sgt. Dave Volenec appeared on behalf of the Omaha Police Department.

Sgt. Volenec stated that Mr. Graham’s denial was based on an incident from May 2019 where officers were called to check on the well-being of a suicidal individual. They made contact with Mr. Graham who was intoxicated and who told the officers that he could not remember the last time he had been sober. Mr. Graham was placed into emergency protective custody for a period of time. There were no charges filed.

Mr. Graham stated that Sgt. Volenec’s statements were true and that he had been drinking heavily for almost 10 years. He stated that he had quit drinking as of May 26, 2019. He explained that he lost his job as a result of his drinking and he wanted the opportunity to take care of his family.
In response to Ms. O’Connor, Mr. Graham stated that he had been attending AA meetings nightly and that he was in Lasting Hope Recovery Center for 3 days to detox and was discharged.

Mr. Levy asked Mr. Graham what other support he had to help him remain sober. Mr. Graham stated that his fiancée provided support for him and he didn’t want to let her or their children down. He added that he was also seeing a therapist and a psychiatrist and was on medication that prevented him from drinking. He explained that he wanted to drive a cab because he liked to drive, he enjoyed being in the service industry and he would be able to use the car as his personal vehicle when not working. In response to Mr. Kruse, Mr. Graham stated that he had tried to get employment with Omaha zTrip but the application was on hold due to his background check and pending the results of the meeting.

Michael Jusevich, another ABA applicant, wanted to speak on behalf of the applicant. Mr. Jusevich stated that if a passenger smelled liquor on a driver the driver would be fired. He added that there were also cameras and microphones in cabs.

Mr. Kruz stated the he was hesitant to support the request due to the recent nature of the incident in question. Mr. Levy stated that he believed that Mr. Graham was sincere and he didn’t want to deny him the opportunity to support his family; however, he questioned what could happen if the appeal were granted and the applicant returned to drinking.

Mr. Peterson moved to GRANT the appeal. Mr. Levy seconded the motion.

AYES: Peterson, Levy
NAYES: Kruse, O’Connor
MOTION FAILED DUE TO LACK OF A MAJORITY: 2-2.

Mr. Levy explained that the board could vote to deny the appeal or the case could be laid over until the September 23rd meeting when there would probably be five members available to hear the case.

Mr. Peterson moved to LAYOVER until the September 23, 2019 meeting. Mr. Kruse seconded the motion.

AYES: Peterson, Kruse, Levy
NAYES: O’Connor
MOTION CARRIED: 3-1.

10.
19-08-062
Michael J. Jusevich
3501 Jefferson Street
Omaha, NE 68107
REQUEST: Appeal denial of the Omaha Police Department’s denial of a Taxicab Driver’s Permit dated 7/30/19.

At the Administrative Board of Appeals meeting held on August 26, 2019, Michael J. Jusevich appeared before the board. Sgt. Dave Volenec appeared on behalf of the Omaha Police Department.

Sgt. Volenec stated that Mr. Jusevich’s denial was based on a traffic offense from the state of New Mexico. In March 2014 a Failure to Appear warrant was issued for the applicant. The other two items on his record were a speeding conviction from 1991 and a failure to vaccinate conviction from 1996. Sgt. Volenec admitted that he was good friends with Mr. Jusevich. He asked if the board would consider laying the case over for 30 – 60 days to give the applicant time to fix any issues he had with the state of New Mexico.
Mr. Jusevich stated that approximately 4 – 5 years ago he had been issued a permit to drive a taxicab. He was not aware that the New Mexico incident would prevent him from obtaining a permit.

In response to Mr. Levy, Sgt. Volenec confirmed that if the applicant cleared the matter with New Mexico he may not need to appear before the board. There was some discussion about prior taxicab permits that had been issued to Mr. Jusevich with no issues. In response to Mr. Levy, Mr. Himes stated that if the appeal were denied, the applicant would be able to reapply for a permit after he had taken care of any outstanding issues with New Mexico.

Mr. Kruse moved to DENY the appeal. Ms. O’Connor seconded the motion.

AYES: Peterson, Kruse, O’Connor

NAYES: Levy

MOTION CARRIED: 3-1. Appeal denied.

11.
19-08-064
Patricia L. Turner
2878 Titus Avenue
Omaha, NE 68112

REQUEST: Appeal of the City of Omaha Park Maintenance violation of the Weed & Litter Ordinance dated 7/5/19.

Ms. Ingram stated that she was advised by the Park Department that the work order had been closed since August 7, 2019 and there was no reason for the applicant to appeal. Ms. Ingram informed Ms. Turner that an appeal was not necessary and she agreed to withdraw her appeal.

Mr. Kruse moved to accept the WITHDRAWAL of the appeal. Mr. Peterson seconded the motion.

AYES: Peterson, Kruse, O’Connor, Levy

MOTION CARRIED: 4-0. Case withdrawn at the request of the applicant.

12.
19-08-065
Dawson & Karle Olnes
1279 South 165th Street
Omaha, NE 68130

REQUEST: Appeal of Nebraska Humane Society Potentially Dangerous Dog designation dated 7/9/19.

At the Administrative Board of Appeals meeting held on August 26, 2019, Dawson Olnes appeared before the board. Mark Langan appeared on behalf of the Nebraska Humane Society.

Mr. Langan stated that on June 17, 2019, NHS received a call to assist the Omaha Police Department with a dog bite. NHS spoke to an 18 year old female who was at a home across from the applicant. While she was in the front yard of the home, two German Shepherds ran up to her in aggressive fashion and while she was trying to get into the home she was bitten on the buttocks area by one of the dogs. She was not sure which dog bit her. When NHS made it to the scene they determined that the dogs, Simba and Nala, belonged to Mr. Olnes. Mr. Olnes stated that the dogs were running loose and he was looking for them. The dogs were found after about half an hour. Mr. Dawson was issued a citation for Improper Restraint and was also issued a Potentially Dangerous Dog declaration.

There was a witness, Colleen Syracuse that stated to NHS that the dogs had been acting aggressively near her fence line and trying to get at her two dogs. Ms. Syracuse also stated that she saw the dogs run into a home and were forced out by movers.
NHS held a hearing on June 27, 2019 and the appeal was denied due to the actions of the dog that included an injury that had been inflicted on a human being.

Mr. Olnes stated that he was appealing because there was no proof of the incident and no one knew which of the dogs bit the young lady. He believed that his dogs were acting aggressively towards animal control officers because they were cornered. He stated that he returned the male German shepherd to his original owner in Oklahoma. He questioned why the neighbor would wait three weeks to report that his dogs were acting aggressively towards her dogs and he also denied that scared dogs would run into someone’s house or car. He believed that the case was based only on hearsay.

There was some discussion about the timing of the events of the case and the charges against the applicant.

In response to Mr. Levy, Mr. Olnes stated that his dog was not spayed, he had no liability insurance and he had not attended any responsible pet ownership or dog behavior classes. He stated that, although he did not muzzle his dog, he did keep her on a harness 100% of the time.

Mr. Langan stated that Mr. Olnes took no responsibility for the situation at the NHS hearing or the current ABA hearing and he suggested that the appeal be denied. He also suggested that both dogs be denied just in case the male dog was sent back to Omaha. Mr. Olnes believed that he had taken responsibility and that his main issue was that no one knew which dog bit the young lady. He believed it could possibly have been the male dog that he no longer owned.

Ms. O’Connor moved to DENY the appeal. Mr. Kruse seconded the motion.

AYES: Kruse, O’Connor, Levy

NAYES: Peterson

MOTION CARRIED: 3-1. Appeal denied for both dogs (Simba and Nala).

MINUTES:

Mr. Kruse moved to APPROVE the July 22, 2019 meeting minutes. Ms. O’Connor seconded the motion.

AYES: Kruse, O’Connor, Levy

ABSTAIN: Peterson

APPROVED 3-0-1.

ADJOURN:

It was the consensus of the board the ADJOURN the meeting at 2:38 p.m.