Mr. Butch Simpson called the meeting to order at 1:30 p.m.

I. Roll Call

Dan Downs
Seth McClintock
Bill Miller
Butch Simpson
Raphael Valdez
Kip Latham – arrived after roll was called

Others Present:
Dave Jackson, Electrical Inspector
Jay Davis, Assistant Director of Permits and Inspections Division
Jennifer Taylor, City Attorney
Autumn Drickey, Board Secretary

II. Approval of Minutes from October 20, 2017

Motion by Mr. Dan Downs to approve the minutes from the October 20, 2017 meeting. Second by Mr. Seth McClintock.

AYES: Downs, McClintock, Miller, Simpson, Valdez
Motion carried: 5-0, Approved

III. Appointment of Chairman and Secretary

Motion by Mr. Simpson to keep appointments the same. Second by Mr. Raphael Valdez.

AYES: Downs, McClintock, Miller, Simpson, Valdez
Motion carried: 5-0, Approved
Mr. Jason Amato and Mr. David Watermeier, Mr. Amato’s attorney, appeared before the Board in regards to the suspension or revocation of his electrical registration. Mr. Simpson reviewed how the meeting would go. Mr. Watermeier wanted to clarify about the exhibits that Mr. Simpson referenced. Mr. Dave Jackson began by making some opening statements about the case. Mr. Jackson read Omaha Municipal Code section 44-60 into the record.

Mr. Jackson introduced a record of permits pulled by Mr. Amato, including inspection notes for those pulled in 2017 as “Exhibit One.” This exhibit breaks down the inspection request and how they were resolved. Mr. Jackson stated that during 2017 there were 23 permits that were rejected resulting in a 76% rejection rate of all inspections requested by Mr. Amato compared to the city’s overall rejection rate of 40.15% for 2017. Mr. Watermeier asked if the rejection rate was for work that Mr. Amato performed or if the rejection was based on work conducted prior to him performing work. Mr. Jackson stated that the Omaha Municipal Code states that all electrical work done by an electrical contractor be done safely. Mr. Watermeier asked if a homeowner hires a contractor and upon inspection it is identified to be unsafe, is the contractor required to fix those things. Mr. Jackson responded that they are if it is a life safety matter. Mr. Watermeier asked clarifying questions about the inspection process. Mr. Jackson stated that any time the contractor takes on a job they take on additional responsibilities. Mr. Jackson stated that any time the contractor takes on a job they take on additional responsibilities. Mr. Jay Davis gave Mr. Watermeier his color copy of “Exhibit One.” Mr. Watermeier asked if anyone contacted Mr. Amato or Power Crew to find out what job they were specifically hired to do. Mr. Jackson stated that it is the contractor’s responsibility to contact the city about circumstances that might arise.

Mr. Kip Lathrum asked clarifying questions about Mr. Amato’s license type, the company, and who pulled the permits. It was confirmed that Mr. Amato pulled the permits.

Mr. Jackson stated that “Exhibit Two,” photographs of work done at 2215 H St, show dangerous work that existed. Mr. Watermeier stated that this is at a home for someone who does not appear to speak English. Mr. Jackson stated that that is a common thing in that area. Mr. Watermeier asked if anyone contacted Mr. Amato or Power Crew about what work they were hired to do. Mr. Jackson explained the process. Mr. Lathrum asked if line item 49 was for a service repair. Mr. Jackson confirmed. Mr. Watermeier asked if of the work that was rejected, how much was done by Mr. Amato and how much was done previously. Mr. Amato stated that it is clear to the Board that the work that was done in the pictures was done at a time prior to him being hired. Mr. Amato explained the emergency situation that could be enacted to allow for the mast to get back up and for homeowners to get power back on, thus explaining why the photographs are of work conducted years previous.

Mr. Lathrum asked if this is all his inspections, if over 75% of his inspections have this problem. Mr. Amato stated that they have multiple license holders that work under the company, with 65% of the work being consultation, engineering, and maintenance related. Mr. Lathrum asked if Mr. Amato has a PE license. Mr. Amato stated he was not here to address that right now. Mr. Lathrum asked if Mr. Amato is an [inaudible] engineer. Mr. Amato confirmed. Mr. Lathrum asked if he has a PE license. Mr. Amato stated he does not,
but he is authorized by the City of Omaha under his license to do the electrical engineering for the plans they submit. Mr. Lathrum stated he takes exception to that.

Mr. Jackson stated there is not a question if the wire in question was his work, the problem is that the work was not brought up to code or legal, to his knowledge. Mr. Jackson stated that it is Mr. Amato’s responsibility to bring the wiring up to code, not left in a potentially life safety condition. Mr. Amato stated that they make the suggestion to the homeowners. Mr. Watermeier restated what is being discussed, concluding that it is up to the homeowner to make the decision to update. Mr. Jackson stated that it is the contractor's job to update the wiring to current code and if they take the job on or not.

Mr. Jackson entered “Exhibit Three” as an affidavit by Mr. David Anderson that illustrates concerns about work that had been performed on a job by Mr. Amato prior to Mr. Anderson being hired. Mr. Watermeier stated his strenuous objection to the entering of this exhibit and further explained that the rules of evidence would never allow this affidavit to be received and there is no way to verify this information. Mr. Watermeier said that they have not been allowed the opportunity to question Mr. Anderson. Mr. Jackson stated that Mr. Anderson is in the room. Mr. Watermeier continued that the information in the affidavit contains third party information or hearsay. Mr. Jackson explained the inspections that he conducted. Mr. Watermeier asked Mr. Jackson knows if the work done was done by Mr. Amato. Mr. Jackson stated that a permit was pulled and an inspection was not requested. Mr. Dan Downs stated that there was a permit pulled, he needed to put a new panel in. Mr. Downs asked if this was his attempt. Mr. Amato stated that she became delinquent and so a final was not scheduled. Mr. Jackson stated that the work was not in contention. Mr. Amato stated that the job in question the homeowner may have tampered with the work done. Mr. Amato explained that the communication between himself and the homeowner became combattant on her part.

Mr. Lathrum asked if over 75% of his permits are like this. Mr. Amato stated that in many cases he would try to resolve the situation. Mr. Lathrum wants him to explain the 75%. Mr. Watermeier stated that the 75% is not an accurate number because it is not attributable to Mr. Amato’s work. Mr. Jackson clarified that Mr. Don Gerjevic ran a report of all permits that were pulled by Mr. Amato. Mr. Lathrum asked about those permits that say “No Inspections Requested.” Mr. Watermeier stated that they are most likely similar situations where the homeowner gets news that the job is more expensive than planned. Mr. Jackson asked if that was the case, was work started. Mr. Watermeier stated he did not know. Mr. Jackson stated that contractors are encouraged to call the office and cancel the permit, telling the division how much work has been done. Mr. Amato stated that alternatively there are other situations where two contractors butt heads becoming combattive. Mr. Jackson stated that he has been involved in cases where one contractor says something and another says another, but in this case what is being seen is existing work that has not been corrected. Mr. Amato asked if he is then required to take on the financial responsibility to rewire the house. Mr. Jackson stated that it between him and the homeowner, they are just inspectors.

Mr. Watermeier stated that the bottom line is that there are times when the amount of work required changes mid-job and then something happens. Mr. Lathrum asked if 75% of customers do this. Mr. Amato explained their process. Mr. Downs stated that is the problem, when contractors give a proposal to the homeowner they know exactly what work will be done, it does not sound like that is what happens. Mr. Amato stated that they do that, but there are procedures that are done first, such as diagnosing the problem. Mr. Amato stated that they try on every job to get to the breaker box, once they get access they write a checklist of things to look at, then show the checklist to the homeowner in addition to the work that they were called out to do. Mr. Amato shared his checklist with Mr. Downs. Mr. Amato explained that they try to work with the homeowners, but sometimes they try to pull the plug mid-job. Mr. Amato explained how they train their employees to be able to discuss the issues with the homeowners. Mr. Amato stated that they have a second licensed Journeyman come out and do a quality control check after the work is done. Mr. Downs asked why he would take out the permit if the customer has not approved them to do the work. Mr. Amato stated that they have the intention to do the work. Mr. Downs stated that there is no question about whether they did the work. Mr. Amato stated that if there is not a final inspection that they are trying to
button it up. Mr. Raphael Valdez asked if Mr. Amato did the work. Mr. Amato stated he did not do the work, but it could be someone who works for him. Mr. Valdez asked if a second Journeyman went out to the location to check the work. Mr. Amato stated that they withhold the final inspection to ensure the work is done. Mr. Downs restated that they pulled the permit and are responsible for it. Mr. Downs stated that the work at that location permit pulled January 10th, either was done with a temporary connection or done themselves and if OPPD goes by it is not done correctly, which is a major life safety issue.

Mr. Downs believes that they have a pretty serious problem. Mr. Downs stated that he went on the Power Crew website that states that Apprentices are allowed to be in trucks alone. Mr. Amato stated that the apprentices have a Journeyman with them at all times. Mr. Watermeier stated that the issue is not what is advertised, but the work at hand. Mr. Watermeier stated that there may be issues, however what we are looking at today is what was read into the record. Mr. Watermeier acknowledged that there may be issues with business practices and so on, but that he does not agree that they are safety issues. Mr. Watermeier asked if there is any evidence that what Mr. Amato is saying about Apprentices is untrue. Mr. Downs stated that is not what the literature says.

Mr. Lathrum stated that Mr. Amato does not seem recalcitrant, does not seem willing to change business practice wise, a lot of these homes are in low-income areas, has a 75% dissatisfaction rate and does not appear to be open to suggestions of change. Mr. Lathrum stated he has problems with Mr. Amato claiming that he is a licensed engineer which is a serious violation. Mr. Watermeier stated that it appears to him that Mr. Amato came in good-faith, but is trying to help people in regards to their electrical issues. Mr. Lathrum stated that Mr. Amato is not calling the city to let them know what is happening with open permits. Mr. Watermeier stated that they could correct all those that have issues by having Mr. Amato communicate with the city or go back and fix the work. Mr. Lathrum stated the problem is Mr. Amato seems hesitant to acknowledge a problem. Mr. Amato stated that had Mr. Gerjevic told him that he could get out of the permits he would have. Mr. Lathrum stated that had Mr. Amato gone in, gotten a work proposal, and be paid before permits are pulled, then this is not a problem. Mr. Watermeier suggests Mr. Amato goes through the rejections and comes up with a plan. Mr. Lathrum stated he believes will be marked as “not my problem.” Mr. Watermeier suggested that Mr. Amato would not do that, but might change his business practices. Mr. Amato agrees that going forward he can make changes. Mr. Jackson stated that even in cancelling the job, a contractor is still responsible for making sure things are left in a safe manner.

Mr. Jackson stated that “Exhibit Five” was sent via email to Mr. Amato on November 17, 2017, that illustrated the policies of the city since 2011. Mr. Amato stated that he did not receive the copy in November but that he does not disagree with it. Mr. Lathrum asked if it is in the code. Mr. Jackson stated that it is not but that it describes the expectation of contractors by the city. Mr. Lathrum asked if it was available to contractors. Mr. Jackson stated it is not. Mr. Jackson described some of the policies. Mr. Jackson stated that it is not in question about the work, but once a permit is pulled, the contractor is responsible for bringing it up to code. Mr. Amato stated he had a thing worked out with Mr. Dennis [Small] about sending an inspector out prior to doing any work on the property to reassure the homeowners for a re-inspection fee and Mr. Gerjevic called the [Power Crew] office saying that they cannot do that. Mr. Amato stated that he had worked with inspectors to continue to do this. Mr. Lathrum asked if Mr. Amato performs the work. Mr. Amato says no, but he has others who work under him and he pulls the permits and is the only one with an Electrical Contractor license. Mr. Lathrum asked how many people are in his company. Mr. Amato stated eight (8). Mr. Simpson asked how long he has worked in Omaha and had his business. Mr. Amato stated he has worked in Omaha for twenty-two (22) years. Mr. Simpson asked how long he has had his own business. Mr. Amato stated since 2005. Mr. Simpson asked if after thirteen (13) years of being in business he did not know that he could cancel the permits. Mr. Amato stated that he had communication with Mr. Small to get things inspected. Mr. Jackson stated that does not sound like Mr. Small, in fact Mr. Small did not allow them to go out and inspect without a permit. Mr. Lathrum asked how many are Journeyman. Mr. Amato stated three (3). Mr. Lathrum asked if they were registered with the City of Omaha. Mr. Amato confirmed by nodding his head in the affirmative. Mr. Lathrum asked if the company was part of a larger group. Mr. Amato stated not currently. Mr. Lathrum asked if there were any side companies. Mr. Amato stated no. Mr. Watermeier stated
that this is Mr. Amato’s livelihood. Mr. Simpson stated that the Board can only revoke or suspend his registration, no deals can be made. Mr. Watermeier stated that there is nothing he has seen in the code that would prevent them from re-filing at a later date. Mr. Watermeier stated that this could be a resurrected at a later time but how will Mr. Amato get to fix the problems without a registration. Mr. Jackson stated that they would go into a complaint that would then fall back on the homeowners to be fixed within a certain amount of time.

Mr. Bill Miller asked what would happen to open permits according to the Omaha Municipal Code. Mr. Jackson reread Omaha Municipal Code Section 44-60 into the record. Mr. Watermeier stated that he would like a moment with his client, but urged the Board to look at the language of the code to determine if Mr. Amato is “willfully negligent.” Mr. Lathrum stated that his problem is that the homes in question are in low income areas and he would want some assurances that he is not defrauding these people.

Ms. Jennifer Taylor asked if the Board has any other questions about options. Mr. Simpson asked what the options are. Ms. Taylor stated that they could revoke, suspend, or lay it over for a month.

There is discussion while Mr. Watermeier and Mr. Amato consult in the hallway.

Mr. Watermeier and Mr. Amato returned to the room. Mr. Watermeier stated that after consulting with his client, that Mr. Amato will complete the work in sixty (60) days unless a homeowner will not allow him to come back to fix the work in which case Mr. Amato will notify the city. Mr. Watermeier stated that Mr. Amato is willing to change his business practices as well to get the money up-front and then pull the permit.

Motion by Mr. Simpson to lay over this case to the March meeting to check on the progress. Second by Mr. Lathrum.

AYES: Lathrum, McClintock, Miller, Simpson, Valdez
NAYES: Downs
Motion carried: 5-1, Approved

Mr. Lathrum confirmed that it was clear that Mr. Amato needed to attend the March 16, 2018 meeting. Mr. Watermeier confirmed.

V. Discussion

There is no discussion.

VI. Adjournment at 2:52 p.m.

Motion by Mr. Simpson to adjourn. Second by Mr. Lathrum.

AYES: Downs, Lathrum, McClintock, Miller, Simpson, Valdez
Motion carried: 6-0, Adjourned at 2:52 p.m.

*Applicant must be present at meeting.*

A full, continually current agenda is available for public inspection in Room 1110 of the Omaha/Douglas Civic Center during normal business hours. The Omaha Electrical Board reserves the right to modify the agenda at the public meeting. If alternative (tape) to the agenda is needed, please advise Don Gerjewic. A 72-hour notice is required.