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. 19-01-015
   Timothy Tvrdy
   5124 Jackson Street
   Omaha, NE 68106
   REQUEST: Appeal of the Nebraska Humane Society Potentially Dangerous Dog designation effective January 8, 2019.

At the Administrative Board of Appeals meeting held on January 28, 2019, Timothy Tvrdy appeared before the Board. Mark Langan appeared on behalf of the Nebraska Humane Society (NHS).

Mr. Langan submitted documents to the case file (Exhibit 2). He stated that on December 12, 2018, NHS received a call to assist the Omaha Police with a dog bite in the area of 700 South 51st Avenue. Two lose Shetland sheep dogs were observed running lose in that area and returning to Mr. Tvrdy’s home. The bite victim, Bonnie Austin, also arrived on the scene. She stated that she was walking past the home on the sidewalk when the two dogs came out of the yard and bit her on both legs. NHS issued a citation to Mr. Tvrdy for Improper Restraint and Potentially Dangerous Dog declarations were issued for both dogs. Mr. Tvrdy appealed the declarations with NHS on December 27, 2018; however, the appeal was denied based on the fact that someone was injured and because the dogs approached the victim in a menacing fashion while she was walking down the sidewalk. There was no previous history of the dogs prior to this incident. He stated that if there were no other violation after two years, the designation would be removed.

Mr. Tvrdy stated that he was in his home when the incident occurred. He stated that he has a 6’ fence with a latch. He believed that the dogs got out because someone opened the gate. He stated that he had witnessed Ms. Austin on his front porch scolding his dogs for barking at her. He believed that his dogs were provoked and that the applicant was bit because she was trespassing on private property. Ms. Austin denied being on the applicant’s property.

In response to Mr. Tvrdy’s concerns about the dogs being removed from his home and being put to death, Mr. Levy explained that neither of those issues was part of the designation. With regards to the requirements of the designation, Mr. Tvrdy stated that he was not able to get insurance on the dogs since they were considered dangerous.
Bonnie Austin, 116 South 51st Avenue, appeared before the board. She stated that at times she would walk past Mr. Tvrdy’s home approximately four times a day. She stated that the dogs were usually restrained but would always run at her and bark while she was walking down the sidewalk. She stated that the same thing happened on the day of the incident, but this time they ran behind her and bit her.

Mr. Langan explained that the $100,000 insurance policy was not on the dogs but on the residence. Mr. Tvrdy submitted photos of his home to the case file (Exhibit 3).

In response to Mr. Levy, Mr. Langan stated that the ordinance makes no distinction between a person that is bitten on public or private property.

Mr. Tvrdy stated that he objected to the designation because does not believe that his dogs are dangerous.

Mr. Kruse stated that the facts showed that someone was bitten.

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

AYES: Beals, Santo, Kruse, O’Connor, Levy

MOTION CARRIED: 5-0. Appeal denied.

2. 19-01-001
Brian Emmerich, PE
DLR Group
6457 Frances Street, Suite 200
Omaha, NE 68106

REQUEST: Appeal Public Works Department denial of a driveway permit dated 1/9/19.
(RE: Gretna Elementary School #6 – 199th and “X” Streets)

At the Administrative Board of Appeals meeting held on January 28, 2019, Brian Emmerich appeared before the Board. Ryan Haas appeared on behalf of the Public Works Department.

Mr. Haas stated that the proposed site plan shows a driveway off of 199th and X Streets at the east end of the site that would be used for school buses while the driveway off of 201st Street on the west end of the site would be used by parents for student drop off. He stated that it was common on school sites to separate the two vehicular use types. The two driveways were in excess of the one driveway requirement. The streets are all low-speed/low-volume residential streets. He added that another waiver would be required for the driveway on 201st Street that has a proposed width of 35’ to allow a third lane, instead of the required 30’. Public Works had no objections to the site as proposed.

Mr. Emmerich stated that student and bus traffic was separated for safety purposes. He stated that the proposed 35’ width of the driveway would ease exiting of the site.

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

AYES: Beals, Santo, Kruse, O’Connor, Levy

MOTION CARRIED: 5-0. Appeal granted.
3. 19-01-002
Aaron Wiese
Olsson Associates
2111 South 67th Street, Suite 200
Omaha, NE 68106

REQUEST: Appeal Public Works Department denial of a driveway permit dated 1/10/19. (RE: Sterling Ridge Lot 6 – 132nd and Logan Streets)

At the Administrative Board of Appeals meeting held on January 28, 2019, Brian Emmerich appeared before the Board. Ryan Haas appeared on behalf of the Public Works Department.

Mr. Haas stated that a bank will be built on the site that will consist of drive-thru windows, full-service lanes and an ATM lane. He explained that the two driveways on the site had been approved by City Council in the Sterling Ridge Mixed-Use Development Agreement which supersedes any application of the driveway regulations. A waiver was needed for bank drive-thru stacking. The applicant was able to meet the 100’ but not 200’. Public Works supported the waiver. He mentioned that the City was in the process of creating complete street guidelines that would result in a change of stacking requirements for banks.

In response to Mr. Levy, Mr. Heideman stated that there was more than 100’ of stacking per lane.

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

AYES: Beals, Santo, Kruse, O'Connor, Levy
MOTION CARRIED: 5-0. Appeal granted.

4. 19-01-003
Richard J. Webb
10337 Newport Avenue
Omaha, NE 68122

REQUEST: Appeal of the Omaha Police Department’s denial of a firearm registration dated 12/5/18

At the Administrative Board of Appeals meeting held on January 28, 2019, Richard J. Webb appeared before the Board. Lt. David Sedlacek appeared on behalf of the Omaha Police Department.

Lt. Sedlacek stated that on December 5, 2018, Mr. Webb attempted to register a firearm but was denied due to a Carrying a Concealed Weapon conviction from October 30, 2008 for which he received one day in jail. The conviction was the result of a traffic stop where officers located a handgun that belonged to Mr. Webb.

Mr. Webb explained the details surround the traffic stop. He mentioned all of his personal, academic and career accomplishments since the conviction. He explained that the gun would be used at a gun range for recreational purposes.

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

AYES: Beals, Santo, Kruse, O'Connor, Levy
MOTION CARRIED: 5-0. Appeal granted.
5. 
19-01-004
Armand R. Rauhauser
311 North 31st Avenue
Omaha, NE 68131
REQUEST: Appeal of the Omaha Police Department’s denial of a firearm registration dated 12/4/18.

At the Administrative Board of Appeals meeting held on January 28, 2019, the applicant did not appear before the Board. Lt. David Sedlacek appeared on behalf of the Omaha Police Department.

Ms. Ingram stated that she had spoken with the applicant who stated that he was not aware that he needed to show up for the appeal. He explained that he had a class the day of the meeting, but would make it. The board decided to give the applicant time to appear and hear the case later in the meeting. The applicant did not show.

Lt. Sedlacek stated that on December 4, 2018, Mr. Rauhauser was denied a firearm registration due to a marijuana less than one ounce conviction from December 2015 for which he was fined $300. The applicant was at a party and fled to the roof of the home when police showed up. When he was found later he had a scale in his possession with marijuana residue on it and a baggies of marijuana in his pockets.

Mr. Beals moved to DENY the appeal. Mr. Kruse seconded the motion.

AYES: Beals, Santo, Kruse, O’Connor, Levy

MOTION CARRIED: 5-0. Appeal denied.

6. 
19-01-005
Dakota E. Johnson
3109 South 44th Avenue
Omaha, NE 68105
REQUEST: Appeal of the Omaha Police Department’s denial of a firearm registration dated 12/20/18.

At the Administrative Board of Appeals meeting held on January 28, 2019, Dakota Johnson appeared before the Board. Lt. David Sedlacek appeared on behalf of the Omaha Police Department.

Lt. Sedlacek stated that on December 20, 2018, Ms. Johnson was denied a firearm registration due to two marijuana less than an ounce convictions from April 2009 and April 2015 for which she was fined $300 for each conviction. He was also concerned about an overdose incident from 2018. He mentioned that there were DUI’s from 2007 and 2011, a MIP in 2010, an Open Container conviction in 2011 and drug paraphernalia in 2015.

Ms. Johnson explained that she used marijuana to treat melanoma cancer and that she is in remission and no longer uses drugs. She stated that she had taken gun safety classes and wanted the gun to protect her family.

In response to Mr. Levy, Ms. Johnson stated that she never used marijuana in her car. She explained that it smelled of marijuana because she had it in the car.

Mr. Kruse moved to DENY the appeal. Mr. Beals seconded the motion.

AYES: Beals, Santo, Kruse, O’Connor, Levy

MOTION CARRIED: 5-0. Appeal denied.
7.
19-01-006
Nicholas K. Ruff
5445 South 86th Court
Apt. 7
Omaha, NE 68127

REQUEST: Appeal of the Omaha Police Department’s denial of a firearm registration dated 12/28/18.

At the Administrative Board of Appeals meeting held on January 28, 2019, Nicholas Ruff appeared before the Board. Lt. David Sedlacek appeared on behalf of the Omaha Police Department.

Lt. Sedlacek stated that on December 28, 2018, Mr. Ruff was denied a firearm registration due to possession of a hallucinogenic drug conviction from March 2016 for which he was fined $200. He stated that the case occurred in Kansas.

Mr. Levy explained to the applicant that the ordinance has a 10-year time limit for marijuana convictions and that the board will on occasion grant an appeal if the applicant is close to the end of the 10 years with other supporting circumstances. He noted that Mr. Ruff’s conviction was just a few years old.

Mr. Beals moved to DENY the appeal. Mr. Kruse seconded the motion.

AYES: Beals, Santo, Kruse, O’Connor, Levy

MOTION CARRIED: 5-0. Appeal denied.

8.
19-01-007
Herschel E. Palmer
13423 Frances Street
Omaha, NE 68144


At the Administrative Board of Appeals meeting held on January 28, 2019, Herschel Palmer appeared before the Board. Officer James Stokes appeared on behalf of the Omaha Police Department.

Officer Stokes stated that a complaint was received from the Mayor’s Office in October 2018 about an unlicensed trailer that was over the 20’ limit at the applicant’s address. Mr. Palmer told Officer Stokes that he needed more time to move the items to a different location. Officer Stokes stated that when he visited the site the day of the meeting, all of the items were gone.

Mr. Palmer stated that the trailer in question was registered but the license plate was not on it. He stated that, although the trailer was currently not on the property, it would be brought back in the future to be loaded and removed. He believed that he was not violating the ordinance because the box length is 17.5’ without the hitch. He also mentioned that he planned to move out of Omaha probably in June.

Officer Stokes explained that the 20’ includes everything on the truck. He added that the trailer could be brought back for a 24-hour period to for loading and unloading.

Mr. Kruse moved to DENY with 6 months to comply. The motion died for lack of a second.

Mr. Beals moved to DENY with 90 days to comply. Mr. Santo seconded the motion.

AYES: Beals, Santo, O’Connor, Levy

NAYES: Kruse

MOTION CARRIED: 4-1. Appeal denied.
At the Administrative Board of Appeals meeting held on January 28, 2019, the applicant did not appear before the Board. Officer James Stokes appeared on behalf of the Omaha Police Department.

Ms. Ingram stated that she had spoken with the applicant who believed that her supporting paperwork was enough to prove that she intended to fix her garage door. Ms. Whitcomb had indicated that she would not be able to show up for the meeting because she had to work.

Officer Stokes stated that a complaint had been received from the Mayor’s Hotline in November 2018. The officer who visited the home found two, un-plated BMW’s parked off of paved surfaces. One of the cars appeared non-operational. When Officer Stokes visited the home the day of the meeting he found one vehicle parked on the pavement and two parked off of the pavement. All three vehicles were not registered. He submitted pictures (Exhibit B) that showed that one of the cars was missing a headlight and front grill.

Mr. Beals moved to DENY with 30 days to comply. Mr. Santo seconded the motion.

AYES: Beals, Santo, Kruse, O’Connor, Levy

MOTION CARRIED: 5-0. Appeal denied.

At the Administrative Board of Appeals meeting held on January 28, 2019, the applicant did not appear before the Board. Officer James Stokes appeared on behalf of the Omaha Police Department.

Ms. Ingram stated that she talked to someone who had called on behalf of the applicant. The caller explained that the applicant believed that when she submitted the appeal, she was paying a ticket. The caller also stated that the vehicle had been removed.

Officer Stokes stated that a complaint had been received at the Mayor’s Hotline in July 2018 about a black Camaro that was parking on the front lawn. An officer visited the home and issued a Notice of Nuisance. Officer Stokes submitted photos of the site (Exhibit B) that showed that the vehicle was now legally parked on the street.

Mr. Beals moved to DENY the appeal. Mr. Kruse seconded the motion.

AYES: Beals, Santo, Kruse, O’Connor, Levy

MOTION CARRIED: 5-0. Appeal denied.
11.  
19-01-010  
John Hawkins  
4427 Sprague Street  
Omaha, NE 68111  

REQUEST: Appeal of the Omaha Police Department  
Notice of Nuisance dated 12/27/18.

At the Administrative Board of Appeals meeting held on January 28, 2019, John Hawkins appeared before the Board. Officer James Stokes appeared on behalf of the Omaha Police Department.

Officer Stokes stated that a complaint was received through the Mayor’s Hotline in October 2018 about junk cars that were parked all over the applicant’s property. An officer visited the site and found several violations that included: a trailer with no plates, a camping trailer with no plates and a Buick with no plates. Officer Stokes visited the home and took pictures the day of the meeting (Exhibit B). He stated that he also saw a boat and a vehicle that were parked off of the pavement. There was also some litter that was not contained and a car that was parked over the sidewalk.

Mr. Hawkins stated that he had plated the two trailers and would remove the trash from the site. He indicated that the plates for the car would be purchased soon. He explained that he would need some time to remove the boat because of the snow.

In response to Mr. Kruse, Mr. Hawkins stated that 90 days would be enough time to bring all of the issues into compliance.

Mr. Kruse moved to DENY with 90 days to comply subject to the applicant removing the trash as soon as possible. Mr. Beals seconded the motion.

AYES: Beals, Santo, Kruse, O’Connor, Levy  
MOTION CARRIED: 5-0. Appeal denied.

12.  
19-01-011  
Sheridan Shears  
2120 Miami Street  
Omaha, NE 68110  

REQUEST: Appeal of the Omaha Police Department  
Notice of Nuisance dated 12/27/18.

At the Administrative Board of Appeals meeting held on January 28, 2019, Sheridan Shears appeared before the Board. Officer James Stokes appeared on behalf of the Omaha Police Department.

Officer Stokes stated that a complaint with photos was received through the Mayor’s Hotline in August 2018 about a white Dodge Ram 1500 with Kansas plates that was parked behind an apartment complex with the right front tire off and on a jack stand. Officer Stokes stated that he visited the location the day of the meeting and found the truck in the same condition as it was when the Notice of Nuisance was issued (Exhibit B). He explained that, because of the safety issue, the owner should have been given a 24-hour notice to repair the tire, and if it was not repaired during that time it should have been towed. He also mentioned that the vehicle had been in the state over 30 days without obtaining Nebraska plates and paying the City of Omaha Wheel Tax.

Ms. Shears stated that she came to Omaha to help her daughter. Her vehicle was wrecked while in Omaha but she could not repair it because of her health issues. She indicated that she had not been able to get anyone to help her with the tire. She showed that she had registration from Kansas and explained that she plans to go back in the future. Mr. Levy explained that the truck needs to be licensed in Nebraska since it has been here for over 30 days. Ms. Shears stated that she would need more time.
Tanya Cooper, President – OIC Neighborhood Association, appeared before the board. She stated that she is the person who filed the complaint about the truck. Ms. Cooper presented images of the truck at various times of the year (Exhibit C) to show how long the truck had been sitting. She stated that she originally filed a complaint about the truck in June 2018 and visited the Mayor’s Office in August after she saw that the truck had not moved. She explained that there have been issues with the landlord who owns several properties in that area. The truck sat behind a property that had recently been demolished. She indicated that she reported the same conditions to the Mayor’s Hotline in November and January. Ms. Cooper stated that she received numerous complaints about the condition in the neighborhood and felt that action needed to be taken.

Mr. Kruse moved to DENY with 2 weeks to comply. Mr. Beals seconded the motion.

Mr. Levy believed that the safety issue with the tire might need to be taken care of sooner than 2 weeks; however, he felt that more than 2 weeks would be needed to get the car registered and plated in Nebraska. He stated that the motion should be amended to state that the tire should be repaired within 72 hours with 30 days to have the care registered and plated.

Mr. Kruse AMENDED his motion to Deny with 72 hours to repair the tire. The vehicle must be registered in the State of Nebraska within 30 days. Mr. Beals AMENDED his second.

AYES: Beals, Santo, Kruse, O’Connor, Levy

NAYES: O’Connor

MOTION CARRIED: 5-0. Appeal denied.

13.
19-01-012
Trevor A. Holmstedt
3127 Grebe Street
Omaha, NE 68112

REQUEST: Appeal of the Omaha Police Department Notice of Nuisance dated 12/27/18.

At the Administrative Board of Appeals meeting held on January 28, 2019, Trevor Holmstedt appeared before the Board. Officer James Stokes appeared on behalf of the Omaha Police Department.

Officer Stokes stated that a complaint was received through the Mayor’s Hotline in July 2018 for a property with 5 un-plated vehicles and 2 boats with no plates. He visited the site the day of the meeting and found a boat and vehicles that were under tarps that were not parked on paved surfaces (Exhibit B). He also found an older vehicle with no motor or plates and a Camaro with no plates.

Mr. Holmstedt stated that he could not park the vehicles on paved surfaces at the time because of weather conditions. He explained that he attempted to move them but got stuck because of the mud. He stated that many of the vehicles had already been removed, the Camaro was in the process of being sold and he needed more time to store the older car. He requested 90 days to remove the other vehicles on the property.

In response to Mr. Levy, Mr. Holmstedt stated that if weather conditions improved before the 90 days he would bring the property into compliance sooner.

Mr. Beals moved to DENY with 90 days to comply. Mr. Kruse seconded the motion.

AYES: Beals, Santo, Kruse, O’Connor, Levy

MOTION CARRIED: 5-0. Appeal denied.
14.
19-01-013
Glen Delezene
1915 South 28th Street
Omaha, NE 68105
REQUEST: Appeal of the Omaha Police Department’s denial of a Taxicab Driver’s Permit dated 12/31/18.

At the Administrative Board of Appeals meeting held on January 28, 2019, the applicant did not appear before the Board. Lt. David Sedlacek appeared on behalf of the Omaha Police Department.

Ms. Ingram stated that she had spoken with the applicant on January 24th and also received confirmation that he received notice of the meeting.

Lt. Sedlacek stated that on December 31, 2018, Mr. Delezene applied for a Taxicab Driver’s Permit but was denied due to two pending Possession of a Controlled Substance convictions that both occurred during the previous year. Lt. Sedlacek discussed the details of those cases. On one of the occasions he was found with a crack pipe, a marijuana pipe, a bag of marijuana and cocaine. On the other occasion he was found to be in possession of meth. Mr. Delezene plead to one case and was charged on January 19th for Possession of a Controlled Substance. The other case was dropped.

Due to the severity of the charges and noting that the applicant had been contacted by phone and mail about the meeting, the board decided to vote on the case instead of laying it over.

Mr. Kruse moved to DENY. Mr. Beals seconded the motion.

AYES: Beals, Santo, Kruse, O’Connor, Levy

MOTION CARRIED: 5-0. Appeal denied.

15.
19-01-014
Mark Otto
12608 South 218th Avenue
Gretna, NE 68028
REQUEST: Appeal denial of Third Grade Stationary Engineer certificate dated 12/18/18.

At the Administrative Board of Appeals meeting held on January 28, 2019, Mark Otto appeared before the Board. Tom Phipps, Chief Mechanical Inspector, appeared on behalf of the Permits and Inspections.

Mr. Phipps stated that on December 17, 2018, Mr. Otto contacted Permits and Inspections because he had not received the renewal notice for his license. Mr. Phipps informed Mr. Otto that he had not paid for his 2017 or 2018 license. In response to Mr. Levy, Mr. Phipps stated that there were never any complaints against Mr. Otto’s license.

Mr. Otto stated he had not receive renewals the last couple of years. He explained that in the past his company has reimbursed him for his license but he failed to check on it.

Mr. Kruse moved to GRANT the appeal subject to the applicant paying the licensing fees for 2017, 2018 and 2019. Mr. Beals seconded the motion.

AYES: Beals, Santo, Kruse, O’Connor, Levy

MOTION CARRIED: 5-0. Appeal denied.
MINUTES:

Mr. Santo moved to APPROVE the minutes for the December 17, 2018 meeting. Ms. O’Connor seconded the motion.

AYES: Beals, Santo, Kruse, O’Connor, Levy

MOTION CARRIED: 5-0.

ELECTION OF OFFICERS:

Mr. Kruse moved to ELECT Mr. Levy as Chair and Ms. O’Connor as Vice-Chair of the board for 2019. Mr. Beals seconded the motion.

AYES: Beals, Santo, Kruse, O’Connor, Levy

MOTION CARRIED: 5-0.

DISCUSSION:

Mr. Levy mentioned that he and Ms. O’Connor had been recently re-appointed to the board. His term will expire February 2022, Ms. O’Connor’s will expire December 2021 and Mr. Kruse’s term will expire September 2021. Mr. Santo stated that his appointment had ended but he was not seeking re-appointment with the Administrative Board of Appeals. He wanted the opportunity to serve on other boards Mr. Beals stated that his term expired in May 2019 and that he also would not be seeking a re-appointment due to his work/travel schedule.

ADJOURN:

It was the consensus of the board the ADJOURN the meeting at 2:43 p.m.