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. 20-05-024
   Paula B. Wells
   The Wells Resource LLC
   3919 Cuming St.
   Omaha, NE 68131
   (Re: 3906 “L” Street – Alvarez Insurance)

At the Administrative Board of Appeals meeting held on May 18, 2020, Paula Wells appeared before the board on behalf of the property owner. Ryan Haas appeared on behalf of the Public Works Department.

Mr. Haas explained that the only deficiency with this redeveloped site was the offset from “L” Street. The applicant was only able to provide 56’ of the required 60’ distance. Public Works had no other concerns with the site.

Ms. Wells briefly explained the reason for the waiver.

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

AYES: Kuehl, Bucher, Bessmer, Kruse, Levy

MOTION CARRIED: 5-0. Appeal granted.
2.  
20-05-025  
Joe Dethlefs, P.E.  
Thompson, Dreessen & Dorner, Inc.  
10836 Old Mill Rd.  
Omaha, NE 68154  
(Re: 243rd & Chicago Streets – West Shores Commercial)

At the Administrative Board of Appeals meeting held on May 18, 2020, Joe Dethlefs appeared before the board on behalf of the property owner. Ryan Haas appeared on behalf of the Public Works Department.

Mr. Haas stated that the applicant was requesting that a 2-way driveway be allowed to remain near the south end of the site and a second proposed 1-way pair.

Mr. Dethlefs stated that the waiver would allow parking to be located southwest of the building. The other proposed drive would be used mainly as a drop-off/loading zone. It would also be used to access the service area and would allow emergency vehicles to access the back of the building. He explained that if the building was situated further west it would encroach on the fill requirement for the Flood Plain Development Permit. He also explained why other options were not chosen. The site would be used as a wedding venue.

In response to Mr. Levy, Mr. Haas stated that 253rd Street was a local street that served the neighborhood.

Mr. Bucher moved to GRANT the appeal. Mr. Bessmer seconded the motion.

AYES: Kuehl, Bucher, Bessmer, Kruse, Levy

MOTION CARRIED: 5-0. Appeal granted.

3.  
20-05-026  
Lindy Rogers, P.E.  
FYRA Engineering  
12702 Westport Parkway, Suite 300  
Omaha, NE 68138  
(Re: 2625 Jefferson Street – OPS Highland Elementary)

At the Administrative Board of Appeals meeting held on May 18, 2020, Lindy Rogers appeared before the board on behalf of the property owner. Ryan Haas appeared on behalf of the Public Works Department. Mr. Levey abstained from voting on this case.

Mr. Haas explained than an addition was being proposed for northwest side of the existing school. The parking lot was being modified to serve parking in the north lot and to split truck movements onto a new access to the south. A waiver was needed of the 60’ spacing requirement since only 52’ was being provided between the north driveway and Jefferson Street. The 26th Street access would remain; however, a waiver was needed since the access was 35’ instead of the 30’ maximum. The third waiver needed was for the maximum number of driveways from 1 to 3 for this site. He explained that the streets were all low-speed/low-volume. Public Works had no other issues with the site.

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

AYES: Kuehl, Bucher, Bessmer, Kruse

ABSTAIN: Levy

MOTION CARRIED: 4-0-1. Appeal granted.
At the Administrative Board of Appeals meeting held on May 18, 2020, Arturo Nino, Jr. and Hugh Abrahamson (Attorney) appeared before the board. Sgt. Angie Martinez appeared on behalf of the Omaha Police Department.

Sgt. Martinez stated that Mr. Nino’s registration was denied due to an arrest from September 2014 that resulted from a traffic incident where he was eventually charged with possession of a controlled substance. There were no other items that would disqualify him from owning a handgun since that time.

Mr. Abrahamson explained that when the applicant filled out his application he forgot to mention the incident from 2014.

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

AYES: Kuehl, Bucher, Bessmer, Kruse, Levy

MOTION CARRIED: 4-1. Appeal granted.

At the Administrative Board of Appeals meeting held on May 18, 2020, Dantae T. Ray appeared before the board. Sgt. Angie Martinez appeared on behalf of the Omaha Police Department.

Sgt. Martinez stated that Mr. Ray’s registration was denied due to a possession of marijuana conviction from October 2013 for which he received a fine and for a Carrying a Concealed Weapon charge from December 2014 for which he received 90 days in jail.

Mr. Ray stated that he was appealing because he did not have any felonies or anything violent on his record. He indicated that the weapon charge was dropped to an Illegal Transportation of a Firearm charge. He stated that he did not remember the marijuana charge from 2013.

Mr. Ray explained why he was in possession of a firearm in 2014. He stated that he wanted to legally own a firearm to protect his family.

Mr. Levy was concerned about the details surrounding the 2014 incident.

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

AYES: Kuehl, Bucher, Bessmer, Kruse, Levy

MOTION CARRIED: 5-0. Appeal denied.
6.
20-05-028
Alonzo Harris
3819 Polk St.
Omaha, NE 68107
REQUEST: Appeal of the Omaha Police Department’s denial of a firearm registration dated March 9, 2020.

At the Administrative Board of Appeals meeting held on May 18, 2020, Alonzo Harris appeared before the board. Sgt. Angie Martinez appeared on behalf of the Omaha Police Department.

Sgt. Martinez stated that Mr. Harris was fined with possession of marijuana in 2015. There also was an Emergency Protective Custody Report from August 2013 and a Board of Mental Health Order in February 2019 which resulted in the applicant being admitted for help.

Mr. Harris stated that he had obtained his CDL and wanted to do over the road driving. He wanted the handgun for protection while on his job.

In response to Mr. Kruse, Mr. Harris explained the circumstances surrounding the incidents. In response to Mr. Levy, Mr. Harris stated that although he does take medication, he had never been positively diagnosed with a mental illness. There was some discussion about the Board of Mental Health Order.

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

AYES: Kuehl, Bucher, Bessmer, Kruse, Levy
MOTION CARRIED: 5-0. Appeal denied.

7.
20-05-029
Andrew J. Watke
11114 Cottonwood Plz. #J9
Omaha, NE 68164

At the Administrative Board of Appeals meeting held on May 18, 2020, Andrew Watke appeared before the board. Sgt. Angie Martinez appeared on behalf of the Omaha Police Department.

Sgt. Martinez stated that Mr. Watke was stopped by the State Patrol in July 2014 and was charged with possession of marijuana.

Mr. Watke stated that he had not gotten into any trouble since that time. He wanted the gun to protect his home and for target shooting.

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

AYES: Kuehl, Bucher, Bessmer, Kruse, Levy
MOTION CARRIED: 5-0. Appeal granted.
8.  
20-05-030  
Dylan J. Beene  
4318 S. 17th St.  
Omaha, NE 68107  


At the Administrative Board of Appeals meeting held on May 18, 2020, Dylan J. Beene appeared before the board. Sgt. Angie Martinez appeared on behalf of the Omaha Police Department.

Sgt. Martinez stated that in March 2012 when Mr. Beene was stopped by police, fireworks and a container of K2 was found in his vehicle for which he was fined $300. In April 2014 he was pulled over by law enforcement in Dodge County and a weapon and marijuana was found in his vehicle. He was given 7 days in jail, 1 year probation and a fine.

Mr. Beene stated that he hadn’t been in any trouble since his son was born and he wanted to be able to protect his family. He explained that when he went to register his firearm he was denied and his previous registration was revoked. He further explained that the weapon he was found with were brass knuckles.

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

AYES: Kuehl, Bucher, Bessmer, Kruse, Levy  
MOTION CARRIED: 5-0. Appeal granted.

9.  
20-05-031  
Eugene S. Waites  
7810 Blondo St. #109  
Omaha, NE 68134  

REQUEST: Appeal of the Omaha Police Department’s denial of a firearm registration dated April 10, 2020.

At the Administrative Board of Appeals meeting held on May 18, 2020, Eugene S. Waites appeared before the board. Sgt. Angie Martinez appeared on behalf of the Omaha Police Department.

Sgt. Martinez stated that in November 2017 the applicant was pulled over in a traffic stop and officers found marijuana in his vehicle. He plead guilty and received a fine. He was pulled over again in May 2018 and received a citation and a fine for marijuana that was found in the vehicle.

Mr. Waites stated that he was appealing the marijuana tickets. Mr. Levy explained that the board could only grant him an appeal to register his firearm. In response to Mr. Kruse, Mr. Waites stated that he no longer used marijuana. In response to Mr. Levy, he explained that using marijuana was not worth it since he paid large fines on both occasions.

Mr. Kruse was concerned about the recent nature of both incidents.

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

AYES: Bessmer, Kruse, Levy  
NAYES: Kuehl, Bucher  
MOTION CARRIED: 3-2.
20-05-032
Trenquel L. Wilson
6844 S. 27th St.
Omaha, NE 68107
REQUEST: Appeal of the Omaha Police Department’s denial of a firearm registration dated March 12, 2020.

At the Administrative Board of Appeals meeting held on May 18, 2020, Trenquel L. Wilson appeared before the board. Sgt. Angie Martinez appeared on behalf of the Omaha Police Department.

Sgt. Martinez stated that in September 2013 the applicant was participating in a fight on Omaha Housing Authority property which he was banned from at that time. He was arrested for trespassing and possession of marijuana which was found on him when he was searched. He was fined and received four days in jail.

Mr. Wilson stated that he was appealing so that he could legally own a firearm to protect his family. He explained that he was not aware that he was banned and barred from OHA at the time of the incident.

Mr. Bucher moved to GRANT the appeal. Mr. Bessmer seconded the motion.

AYES: Kuehl, Bucher, Bessmer, Kruse, Levy

MOTION CARRIED: 5-0. Appeal granted.

10-05-033
George Burtin III
5033 S. 93rd Cir.
Omaha, NE 68127
REQUEST: Appeal of the Omaha Police Department’s revocation of a firearm registration dated April 6, 2020.

At the Administrative Board of Appeals meeting held on May 18, 2020, George Burtin III appeared before the board. Sgt. Angie Martinez appeared on behalf of the Omaha Police Department.

Sgt. Martinez stated that Mr. Burtin’s firearms were revoked due to a current Protection Order that was issued to him March 4, 2020. The Protection Order will expire February 24, 2021.

Mr. Burtin stated that he did not get a chance to protest the Protection Order because he works full-time. He explained that he was served at work, he put the papers in his car and his son misplaced them. He indicated that due to Covid-19 he was only working from 8 a.m. to 6:30 p.m. and staying home as requested by the authorities.

In response to Mr. Levy, Mr. Burtin stated that he appealed the order but was denied because too much time had passed. He explained that he was told that he could not receive a court date unless it was an emergency. He believed he was denied unfairly since he was following guidelines that were put in place due to the Covid19 pandemic.

In response to Mr. Levy, Mr. Burtin explained that situation that caused the Protection Order. A neighbor, who he also stated was a friend of his, was at his girlfriend’s house doing work late in the evening which he objected to. He explained that as he approached the neighbor, he backed away. He stated that he helped his girlfriend with her car and he left. He went to the home of the friend’s wife to let her know what was going on but she wasn’t home. He stated that did not threaten anyone as was stated in the Protection Order. He indicated that his record did not show him to be the person that was described in the Protection Order, which he stated was based on lies.

Mr. Kruse asked why the applicant didn’t appeal the order when he initially served. He repeated that he worked every day and was unaware that a Protection Order had been issued until he received the letter informing him that his gun registration had been revoked. He explained that he did not have the
opportunity to read the papers when he received them over his lunch break. Mr. Kruse noted that the applicant did have the opportunity to review the papers, he just didn’t take the time to do so.

Sgt. Martinez stated that a lot of Protection Orders are dropped if the person who files it requests that it be dropped. Mr. Burtin stated that he had already attempted to do so.

Mr. Levy suggested that the case be laid over to see if he could work out the Protection Order. Mr. Kruse suggested that the applicant could have someone else speak to the person who filed the order to see if it could be dropped. Mr. Bucher added that the board heard Mr. Burtin’s side of the story but didn’t know what was in the Protection Order that made the judge decide to issue it. He added that he was not inclined to disagree with what the court decided to do. He agreed with Mr. Levy that the applicant had the choice to take the layover or take a chance that his request be denied.

Mr. Kruse moved to LAYOVER until the June 22, 2020 meeting. Mr. Bucher seconded the motion.

AYES: Kuehl, Bucher, Bessmer, Kruse, Levy

MOTION CARRIED: 5-0.

12.

20-05-034

Ismail I. Zabihullah
1009 Jones #226
Omaha, NE 68102

REQUEST: Appeal of the Omaha Police Department’s denial of a firearm registration dated April 22, 2020.

At the Administrative Board of Appeals meeting held on May 18, 2020, Ismail I. Zabihullah appeared before the board. Sgt. Angie Martinez appeared on behalf of the Omaha Police Department.

Sgt. Martinez stated that the applicant was stopped in his vehicle in Missouri in December 2014 when officers found marijuana less than an ounce in his possession. He was also charged with possession in Pittsburgh, Kansas in March 2017 but Sgt. Martinez did not have the disposition on that case.

Mr. Zabihullah stated that he was temporarily working in the data center in Council Bluffs and wanted to legally register his firearm. He was not aware of the laws in Omaha that prevented him from registering his firearm due to his marijuana charges. He indicated that he went through a diversion program to have the Kansas charge reduced. He further explained that he was in school when he was charged in 2014 and he explained that marijuana had been decriminalized in Missouri. He was not aware the when he paid the ticket, he was essentially pleading guilty to the charge. He stated that he wanted the gun for the protection of himself and his family.

Mr. Bucher moved to GRANT the appeal. Mr. Kuehl seconded the motion.

AYES: Kuehl, Bucher, Bessmer, Kruse, Levy

MOTION CARRIED: 5-0. Appeal granted.
Quinton Ebo
12707 Fowler Cir.
Omaha, NE 68164

REQUEST: Appeal of the Omaha Police Department’s denial of a firearm registration dated April 24, 2020.

At the Administrative Board of Appeals meeting held on May 18, 2020, Quinton Ebo appeared before the board. Sgt. Angie Martinez appeared on behalf of the Omaha Police Department.

Sgt. Martinez stated that the applicant was stopped in April 2014 and was found with marijuana and a handgun in his possession. He was charged with Carrying a Concealed Weapon and received a fine, seven days in jail and one year probation.

Mr. Ebo stated that he was not aware of the gun laws at the time of the incident. He wanted a handgun to protect his family. He explained that he only had to serve six months of the one year probation.

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

AYES: Kuehl, Bucher, Bessmer, Kruse, Levy

MOTION CARRIED: 5-0. Appeal granted.

Travis Rush
3515 N. 49th St.
Omaha, NE 68104

REQUEST: Appeal of the Omaha Police Department’s denial of a firearm registration dated May 1, 2020.

At the Administrative Board of Appeals meeting held on May 18, 2020, Travis Rush appeared before the board. Sgt. Angie Martinez appeared on behalf of the Omaha Police Department.

Sgt. Martinez stated that in August 2014 the applicant was arrested during a traffic stop for Driving Under Suspension. A small amount of marijuana was found in his possession. In January 2013 he was stopped by the State Patrol and was fined for marijuana less than an ounce and an open container.

Mr. Rush briefly explained his reason how he went about the appeals process.

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

AYES: Kuehl, Bucher, Bessmer, Kruse, Levy

MOTION CARRIED: 5-0. Appeal granted.
At the Administrative Board of Appeals meeting held on May 18, 2020, Julio Ortiz appeared before the board on behalf of her husband. Sgt. Angie Martinez appeared on behalf of the Omaha Police Department. Timothy Kerkhove with the Planning Department interpreted for Ms. Ortiz.

Sgt. Martinez explained that a notice was issued to the applicant for not having current Nebraska plates. There were California plates on the vehicle.

Mr. Kerkhove stated that he had spoken with the applicant before the meeting about the case. The applicant had attempted to register the vehicle in California in October but it needed a smog check as per State of California regulations. When they attempted to register the car in Nebraska they needed to get a pink slip from California, however, the DMV in California was closed due to Covid19. The applicant wanted 90 days to take care of the registration.

Mr. Bucher moved to LAYOVER for 90 days. Mr. Kruse seconded the motion.

Mr. Levy suggested an amendment of the motion to a 120 day layover (September 28, 2020 meeting). The amendment was accepted by Mr. Bucher and Mr. Kruse.

AYES: Kuehl, Bucher, Bessmer, Kruse, Levy
MOTION CARRIED: 5-0.

The applicant was given the option to submit proof of registration to the board secretary if it was received before the September meeting.

At the Administrative Board of Appeals meeting held on May 18, 2020, the applicant failed to appear before the board. Sgt. Angie Martinez appeared on behalf of the Omaha Police Department. Ms. Ingram explained that the applicant was afraid to come to the meeting due to the Covid19 pandemic. Her son was also not able to appear due to his work so the applicant requested that her case be laid over until the next meeting.

Mr. Bessmer moved to LAYOVER until the June 22, 2020 meeting. Mr. Bucher seconded the motion.

AYES: Kuehl, Bucher, Bessmer, Kruse, Levy
MOTION CARRIED: 5-0.
17.  
20-05-039  
Jennifer Fitl  
11817 Cryer Ave.  
Omaha, NE 68144  
This request was withdrawn at the request of the applicant.

18.  
20-05-040  
Scott Hansen  
15110 Redman Ave.  
Omaha, NE 68116  

At the Administrative Board of Appeals meeting held on May 18, 2020, Scott Hansen appeared before the board. Sgt. Angie Martinez appeared on behalf of the Omaha Police Department.

Sgt. Martinez explained that the notice was issued for a large boat and trailer that were parked in the driveway of the home inside of the required setback.

Mr. Hansen explained that the boat was usually at Dodge Park Marina but due to flooding and the Covid19 pandemic he was forced to move the boat to his home. He anticipated that Dodge Park could possibly reopen Memorial Day weekend and he would be able to take the boat back to the park in June.

Mr. Bessmer moved to DENY with 60 days to comply. Mr. Bucher seconded the motion.

AYES: Kuehl, Bucher, Bessmer, Kruse, Levy

MOTION CARRIED: 5-0.

19.  
20-03-022 (Laid over from 3/23/20)  
Joshua Swigart  
8262 Keystone Dr.  
Omaha, NE 68134  
REQUEST: Appeal of the Plumbing Board’s decision dated March 6, 2020.

At the Administrative Board of Appeals meeting held on May 18, 2020, Joshua Swigart appeared before the board. Martin Gomez (Acting Chief Plumbing Inspector) and David Miller (Plumbing Board Chair) appeared before the board.

Mr. Miller stated that the Plumbing Board had reviewed the applicant’s test at the request of the Administrative Board of Appeal. The Plumbing Board decided that the test scores would remain the same.

Ben Peters (ProPlumb – 14940 A Circle) questioned whether the Plumbing by-laws were being followed. He claimed that the bylaws stated that he should be able to view the test after a $35 fee was paid. He stated that he was told that information from Jim Wonder, the previous Plumbing Chief.

Mr. Miller responded that the test taker could review their test after it had been graded. Mr. Gomez stated that he had not seen any Plumbing bylaws. No one present at the meeting has seen or reviewed a copy of the bylaws.

In response to Mr. Bessmer, Mr. Swigart stated that he was not questioning the validity of his score, he just wanted to be able to review his test with a third party, preferably a Master Plumber.
Mr. Levy stated that he had reservations about the Administrative Board of Appeals telling the Plumbing Board how to conduct their business. He added that he would be more comfortable with interpreting currently effective, adopted bylaws that provided the applicant with the solution they were seeking if there was such a document. Mr. Wilwerding stated that the provision that directs any issues to the Administrative Board of Appeals exists in the Omaha Municipal Code (Section 49-122 of the Omaha Municipal/Plumbing Code). Mr. Levy noted when reading a portion of that code that the Building Board of Review had some “authority to hear appeals regarding variances and interpretation of ordinances, Plumbing Code changes, rules and regulations”. He concluded that it appeared that the Building Board of Review had the jurisdiction to make decisions in this case and not the Administrative Board of Appeals.

Mr. Miller stated that they would need to speak to the City Legal Department about the matter. It was discussed that if the bylaws did exist they would be public record and should be available to the applicant upon request. Mr. Peters formally requested a copy of the bylaws for the record. Debbie Hightower, Interim Plumbing Board Secretary, stated that she would assist the applicant with obtaining a copy of the bylaws if they were available.

Mr. Levy advised the applicant to withdraw their appeal when the matter was resolved.

Mr. Kruse moved to LAYOVER until the July 27th meeting. Mr. Bessmer seconded the motion.

AYES: Kuehl, Bucher, Bessmer, Kruse, Levy

MOTION CARRIED: 5-0.

20. 20-03-023 (Laid over from 3/23/20)
REQUEST: Appeal of the Plumbing Board’s decision dated March 9, 2020.
Josh Balcom
5112 South 20th Street
Omaha, NE 68107

At the Administrative Board of Appeals meeting held on May 18, 2020, the applicant failed to appear before the board. Martin Gomez (Acting Chief Plumbing Inspector – City of Omaha) and David Miller (Plumbing Board Chair) appeared before the board.

The board decided to layover this case since it was similar to the previous case.

Mr. Bessmer moved to LAYOVER until the July 27th meeting. Mr. Bucher seconded the motion.

AYES: Kuehl, Bucher, Bessmer, Kruse, Levy

MOTION CARRIED: 5-0.
MINUTES:

Mr. Bessmer moved to APPROVE the minutes of the February 24, 2020 meeting. Mr. Kruse seconded the motion.

AYES: Kuehl, Bessmer, Kruse

ABSTAIN: Bucher, Levy

MOTION CARRIED: 3-2.

Mr. Bucher moved to APPROVE the minutes of the March 23, 2020 meeting. Mr. Bessmer seconded the motion.

AYES: Bucher, Bessmer, Levy

ABSTAIN: Kuehl, Kruse

MOTION CARRIED: 3-2.

ADJOURN:

It was the consensus of the board the ADJOURN the meeting at 3:05 p.m.