I. Roll Call

Ms. O’Connor called the meeting to order at 1:35 pm.

Mr. Denker asked that the board receive as Exhibit 1 in each of this meeting’s cases the contents of the City’s file on each case.

Ms. O’Connor acknowledged the contents of the City’s file as Exhibit 1 in each case.

II. Cases

9-11-86
Appeal Police Department denial of firearm registration: Jason J. McFarlane, 10327 Washington Drive 68127

Jason McFarlane appeared before the Board. Mr. McFarlane stated that the reasons for denial were a part of his juvenile record, and should not have been considered as part of his application for registration of a firearm.

Lt. Dave Sedlacek of the Omaha Police Department stated that Mr. McFarlane was denied registration of a handgun due to false information supplied on his registration application. Mr. McFarlane indicated on his application that he had never been convicted of a crime, felony or misdemeanor.

According to police record, Mr. McFarlane was convicted of assault, minor in possession of liquor and concealed weapon in 1990. Mr. McFarlane was fined twice for driving on a suspended driver’s license in 1992. In 2005, Mr. McFarlane was fined for obstruction of a police officer. Lt. Sedlacek stated that Mr. McFarlane’s record also shows numerous traffic and dog violations. Lt. Sedlacek concluded that the municipal code states that applicants for firearm registration must not have been convicted of carrying a concealed weapon or a minor in possession of a concealable firearm. Mr. McFarlane was convicted of concealed weapon in 1990; he received three days in jail and a fine of $100.00 for this offense.

Mr. Incontro asked Mr. McFarlane for information regarding his obstruction charge in 2005. Mr. McFarlane alleged that he witnessed an officer shocking his dog through his property’s fence. Mr. McFarlane left the property rather than wait to receive his ticket, and was charged with obstruction as a result. Ms. O’Connor inquired as to the disposition of the court case for this charge. Mr. McFarlane stated that the obstruction charge was dropped, but he received a fine for his dog. Lt. Sedlacek confirmed this statement.

Mr. Levy inquired as to the particulars of the assault charge on Mr. McFarlane’s record. Mr. McFarlane was a minor at the time of this charge, and the weapon in question was a knife. Mr. McFarlane stated that he was a minor at the time and was not aware at the time that it was illegal to carry a pocketknife with a blade in excess of four inches.
Mr. Incontro inquired why Mr. McFarlane indicated that he had never been convicted of a felony or misdemeanor on his registration card. Mr. McFarlane stated simple error and a belief that the question only asked for felony convictions, not misdemeanors.

Mr. Incontro asked Lt. Sedlacek if Mr. McFarlane’s record showed any serious altercations with the law since 2005. Lt. Sedlacek replied in the negative.

Motion to grant appeal by Mr. Incontro. Second by Mr. Levy

AYES: Incontro, Levy, Weaver

NAYS: Jerram, O’Connor

Motion carried 3-2. Appeal granted.

9-11-88
Appeal Police Department denial of firearm registration: Murry E. Moore, 4518 Laurel Avenue 68104

Murry Moore appeared before the Board. Mr. Moore stated that his application was denied due to a concealed weapons charge. His reason for appeal is that he would like to obtain work as a security guard.

Mr. Moore stated that the weapon in question belonged to his girlfriend; he was unaware at the time that the gun was in the vehicle when he was pulled over by the police. Since this time, Mr. Moore has completed the concealed weapons class and is waiting for his permit to arrive from the State of Nebraska.

Lt. Dave Sedlacek of the Omaha Police Department stated that Mr. Moore’s application for registration was denied due to concealed weapons charge. This charge was dismissed on November 9, 2009. Mr. Moore was also charged for discharging a firearm within city limits in February of 2009. He received a $200.00 fine for this action. Lt. Sedlacek stated that according to his records Mr. Moore discharged his firearm when someone attempted to rob him.

Motion by Mr. Weaver to lay this case over until such time as Mr. Moore can provide proof that the State of Nebraska has issued him a concealed carry permit. Second by Mr. Jerram.

AYES: None

NAYS: Incontro, Levy, Weaver, Jerram, O’Connor

Motion failed 0-5.

Motion to grant appeal by Mr. Incontro. Second by Mr. Levy.

AYES: Levy, Weaver, Jerram, Incontro, O’Connor

Motion passed 5-0. Appeal granted.
9-11-89
Appeal Police Department denial of firearm registration: Michael Lynn Smith, 2122 Avenue K, Council Bluffs IA 51501

Michael Smith appeared before the Board.

Lt. Dave Sedlacek of the Omaha Police Department stated that Mr. Smith’s registration was denied due to records showing a felony conviction in 1992 for intentional child abuse in Sarpy County, Nebraska. Lt. Sedlacek stated that he had contacted Sarpy County but was unable to obtain further details regarding this conviction.

Mr. Smith stated that his child and some of her friends filed charges against each of their parents at the same time. The child abuse charge against him went to the juvenile court system but the court declined to file charges. He submitted papers attesting this fact to the Board for their review (Exhibit 2). After some discussion, the Board agreed that further information regarding this charge – specifically, whether Mr. Smith was actually convicted of the alleged charges - needed to be obtained by Mr. Smith from Sarpy County.

Motion by Mr. Incontro to lay this case over until the next meeting on December 28, 2009. Second by Mr. Jerram.

AYES: Levy, Jerram, Incontro, O’Connor

NAYS: Weaver

9-11-87
Appeal Police Department notice of nuisance: Richard M. Henn, 8147 Burdette St 68134

Mr. Jerram stated that he would like to recuse himself from voting on this case.

Richard Henn appeared before the Board. Mr. Henn stated that his appeal is in regards to a 1951 antique tractor parked on his property. Mr. Henn stated that the tractor is parked on concrete, is not leaking oil or up on jack stands, and is in good running condition. Mr. Henn submitted signatures from neighbors (Exhibit 2) attesting that the tractor runs and is not a nuisance to them. Mr. Henn concluded that the complaint stems from an argument with one of his neighbors.

Mr. Denker stated that he visited the property, viewed the vehicle in question and submitted photos (Exhibit 3). He confirmed that Mr. Henn has a small tractor parked on a paved surface on his property. This tractor appears to be in running order. Mr. Denker stated that Mr. Henn had mentioned using this tractor for some snow removal and a small amount of tilling on his property for a garden. Mr. Denker stated that the tractor is not required to be licensed under current laws. Mr. Denker stated that he would like some time to investigate this matter and determine how to classify this vehicle.

Mr. Incontro asked Mr. Henn what he intended to use this tractor for. Mr. Henn stated that in addition to the uses mentioned by Mr. Denker, he would like to fix this tractor up to drive it in parades and to show it in antique exhibitions.

Motion to lay this case over until the January 2010 meeting of the Board by Mr. Incontro. Second by Mr. Levy.

AYES: Weaver, Incontro, Levy, O’Connor

ABSTAIN: Jerram

Motion passed 4-0. Appeal laid over to January 2010 meeting.
9-10-85 (held over from 10/26/09)
Appeal denial of curb cut permit at 420 N 14 St by Public Works Department: James H. Monahan, 623 Service Life Building 68102

James Monahan reappeared before the Board.

Mr. Monahan submitted to the Board pictures of his property (Exhibits 2, 3, and 4), and identified the area on 14th Street where he would like a curb cut to be located.

Mr. Incontro inquired as to the distance from this proposed curb cut to the intersection. Mr. Monahan replied that there would be a distance of 45 feet from the curb cut to the intersection. Mr. Monahan indicated that the proposed curb cut location could be moved 5-7 feet to the north of its proposed location; however, obstructions in the area such as light posts and a wall may prove to be a problem.

Chris Faulk with the Public Works Department restated his department’s concern over the location of the proposed curb cut. Mr. Faulk cited section 7-C of the guidelines and regulations with regard to driveway location. Under these guidelines, any driveway would be required to be a minimum of 230 feet from the Cass Street intersection and a minimum of 115 feet from the Chicago Street intersection. Mr. Faulk restated statistics regarding average daily use of 14th Street, and the number of accidents that have occurred in this area in the past two years. The Public Works Department stated that they are concerned that traffic accidents in the area would increase as a result of installing a driveway on this street as Mr. Monahan requested.

Motion to grant appeal by Mr. Jerram. Second by Mr. Levy

AYES: Jerram, Levy

NAYS: Incontro, Weaver, O’Connor

Motion fails 3-2. Appeal denied.

III. Approval of Minutes from October 26, 2009

Motion to approve minutes from the October 26, 2009 meeting by Mr. Jerram. Seconded by Mr. Incontro.

AYES: Incontro, Levy, Weaver, Jerram, O’Connor

Motion carried 5-0

IV. Adjournment

Motion to adjourn by Mr. Jerram. Second by Mr. Levy.

AYES: Levy, Weaver, Jerram, Incontro, O’Connor

Motion carried 5-0

Meeting adjourned at 3:00 PM.

Visit the Planning Department’s Site on the Internet at http://co.douglas.ne.us/omaha/planning/boards/administrative-board-of-appeals