I. Roll Call

Mr. Levy called the meeting to order at 1:30 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.

Mr. Levy acknowledged the contents of the City's file as Exhibit 1 in each case.

II. Cases

10-1-01 (over from 1/25/10)

Appeal Omaha Police Department denial of firearm registration: Stephen Davis, 3211 N 14 Avenue 68110

Stephen Davis and Richard McGowan, attorney appeared before the Board.

Sgt. John Bahle, Omaha Police Department, stated that on September 23, 2009 a protection was issued and served to Mr. Davis. Based on city code, a concealable firearm cannot be registered to a person who is currently the subject of an active protection order. On December 28, 2009, a letter was sent to Mr. Davis which revoked his right to have concealable firearms. The protection order has been dismissed which allows Mr. Davis to have concealable firearms in his possession.

Mr. McGowan submitted Exhibit 2, Order to Dismiss Harassment Protection Order.

Mr. Levy questioned if there was any other reason for the revocation of firearms. Sgt. Bahle responded that there was no other reason.

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

AYES: Jerram, Weaver, Lopez, Levy

Motion carried 4-0. Appeal granted.

10-2-05

Appeal Omaha Police Department denial of firearm registration: Monica Espejo, 4002 Spring Circle 68105

Monica Espejo appeared before the Board.
Sgt. John Bahle, Omaha Police Department, stated that Ms. Espejo marked “yes” to the question, “Have you ever been or are you now being treatment for a mental disorder?” He stated Ms. Espejo indicated that she was bi-polar. According to city code, a concealable firearm may not be registered to any person who has a record of mental disorder which would show the applicant to be dangerous to self or others. Secondly, it was learned that Ms. Espejo is the subject of an active protection order, which was confirmed with Lane County, Oregon. The active protection order is a non-expiring protection or stalking order.

Ms. Espejo submitted several documents (Exhibit 2). She stated that she is a valid concealed weapons carrier for the State of Oregon and a law abiding citizen who wants to do the right thing. She stated she was diagnosed with bi-polar in 1993 and has steadily taken medication on a daily basis with no episodes or outbreaks. She is a member of the surgical team for the Nebraska Medical Center as a surgical technologist. She served her country for eight years and carried a side arm and M16. She served the Florida community as a law enforcement officer in corrections for years in which weapons training was required. During October 2005 to mid 2006, a stalker that was obsessed with her partner tormented her and her partner. A concealable handgun would be used for protection.

In response to Mr. Weaver, Sgt. Bahle confirmed that Ms. Espejo is currently the subject of an active, non-expiring/stalking order.

Ms. Espejo stated the stalking order was overturned.

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

AYES: Weaver, Lopez, Jerram, Levy

Motion carried 4-0. Appeal granted.

10-2-04
Appeal Omaha Police Department denial of Taxicab Driver’s Permit: Yussuf Hassan, 3021 Burt Street #211  68131

Yussuf Hassan appeared before the Board.

Sgt. John Bahle, Omaha Police Department, stated that Mr. Hassan was denied a taxicab permit based on the fact that he did not complete the application; specifically he did not fill in his age and did not indicate knowledge of traffic ordinances within the city. There was a concern that Mr. Hassan could not clearly speak the English language.

Mr. Hassan stated he has had a valid Nebraska driver’s license for one year. Mr. Hassan was able to read, “what is your age?” when asked by Mr. Jerram.

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

AYES: Lopez, Jerram, Weaver, Levy

Motion carried 4-0. Appeal granted.

9-11-87 (over from 11/30/09, 1/25/10)
Appeal Omaha Police Department notice of nuisance: Richard M. Henn, 8147 Burdette Street 68134
Richard Henn reappeared before the Board to request that his tractor remain parked in the front yard of his residence. Mr. Henn stated he uses the tractor all the time and he believes the tractor is outside the scope of the code. The tractor would be legal if it was a recreational vehicle. There are seven four-wheelers and two dirt bikes on his dead-end street. The neighborhood has larger lots and is very relaxed as indicated by photos submitted (Exhibit 2) which shows several tractors and campers parked in various places within the neighborhood.

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

Mr. Levy questioned Ms. Horvath what would happen if the appeal was granted and where does the jurisdiction lie. Ms. Horvath stated it was determined, after much research, that a tractor is not a personal vehicle. The city of Omaha allows personal vehicles to park in front of a residence but the tractor is not a personal vehicle and does not fit under that exemption. Technically, if the tractor is not used as a personal vehicle and is stored outside, it would be considered outside storage.

Mr. Denker stated the code addresses parking of personal vehicles on a residential lot in the front yard. The code would allow for the tractor to be parked in the side yard or rear yard as long as the parking pad is connected to an alley, the street or a drive.

Mr. Henn stated the tractor could be classified as a personal vehicle because he personally owns the tractor and the definition of a vehicle is “anything that has an engine and tires that will move.”

In response to Mr. Levy, Mr. Denker stated the tractor cannot be parked in the legal front yard setback. The appeal is for a notice of nuisance that was issued but the proper notice should probably have been issued by a zoning notice of Chapter 55 and appealed before the Zoning Board of Appeals.

Mr. Levy indicated that if the appeal were granted on the notice of nuisance, there would still be a zoning issue.

Mr. Weaver stated that the tractor is not listed as a personal vehicle and for the consistency of the board, the tractor should not be allowed in the front yard setback.

Mr. Henn stated the notice of nuisance is under codes 18-42 and 18-43. He stated he thought the nuisance was dropped when he was supplied with the zoning and outdoor storage codes. Mr. Denker stated the nuisance violation was issued by the Police Department but if an issue violates a nuisance code, it can violate other codes.

Mr. Henn stated another option with regard to Section 55-742, parking of a personal vehicle states that parking is permitted outside an enclosed structure in the side yard behind the line of the required front yard setback or in the rear provided the space is on a paved, hard surfaced driveway or a paved pad adjacent to the driveway. He questioned if the appeal could be granted if a pad was poured along the side of the garage where the tractor could be parked behind the setback line.

Mr. Denker stated he understands Mr. Henn’s plight. The driveway could be extended on the side of the garage to accommodate the tractor but would the tractor still remain a nuisance?

Mr. Denker agreed with Mr. Levy that the tractor is a nuisance because it violates the zoning ordinance.

Motion to grant appeal subject to 120 days to comply with zoning ordinance by Mr. Weaver. Second by Mr. Lopez.

AYES: Weaver, Lopez, Levy

Motion carried 3-0. Appeal granted.
10-2-02
Appeal Omaha Police Department notice of nuisance: Alejandra Centeno d/b/a Junior Tires; 3229 S 24 Street  68108

Kenton Duncan, code inspector, stated the notice of nuisance was issued after a complaint of trailers parked on the south side of the property approximately 12’ off the street. The trailers are considered outside storage and are not allowed to be parked on the property which is zoned CC (Community Commercial).

Alejandra Centeno appeared before the Board. Ms. Centeno stated the business was started in 2003 and the trailers have been parked on the premises for approximately three years. She stated a former inspector told her that the trailers could remain if they had license plates, wheels, tires and in good condition. The building is leased to someone else and there is no space inside the building for storage.

Mr. Duncan submitted photos (Exhibit 2) showing the location of the parked trailers. The property is a corner lot and there is room behind the building for the trailers but the trailers cannot be parked on the grass. S & R Development owns the building, the adjacent clinic and the adjacent lot. The trailers are licensed and presently parked on a paved surface which is part of the lot that the building is on.

Ms. Centeno confirmed that the trailers are plated and insured.

In response to Mr. Weaver, Mr. Duncan stated there were two complaints; one from the Police Department and another came through a city council member.

Mr. Jerram suggested adding a concrete slab, approximately 52’ x 24’, behind the building for the trailers. Ms. Centeno stated she would need to talk to the building owner.

Mr. Levy did not feel comfortable authorizing the trailers to remain.

Motion to deny appeal subject to 120 days to comply with zoning ordinance by Mr. Jerram. Second by Mr. Weaver.

AYES: Weaver, Lopez, Jerram, Levy

Motion carried 4-0. Appeal granted.

10-2-03
Appeal Omaha Police Department notice of nuisance: Alice M. Baker; 1516 N 94 Street  68114

Mr. Denker stated that Alice Baker contacted him and requested to have her case laid over.

Motion to lay this case over until the March 29, 2010 meeting by Mr. Jerram. Seconded by Mr. Weaver.

AYES: Lopez, Jerram, Weaver, Levy

Motion passed 4-0. Appeal laid over to March 29, 2010 meeting.

10-2-06
Appeal Omaha Police Department notice of nuisance: Robb N. Gage, attorney representing Import Connection, 1308 S. Saddlecreek  68106
Robb Gage, attorney representing the property owner and Dan Karnish, owner of Import Connections, appeared before the board. Mr. Gage represents the landlord only.

Mr. Denker stated the complaint was for unlicensed vehicles parked on an open lot and being stored in non-running condition. Vehicles that are being worked on or are customer vehicles would need to be licensed.

Mr. Karnish stated all vehicles are in running condition and if a vehicle does not have a legal license plate, a shop plate is used. A list was submitted (Exhibit 2) that included the year, make, vin number and license plate of each vehicle that was tagged.

Mr. Denker stated there was an initial complaint for the lack of snow removal on the lot. Mr. Karnish stated he parked a vehicle on the property line to prevent a snowplow from pushing snow and blocking the drive and front door to the building.

Kenton Duncan submitted photos (Exhibit 3) showing that all cars are plated except for one vehicle that is parked inside the shop. The vehicles that are intransit have intransit plates from Lincoln. Mr. Duncan verified that vehicles could be parked in front of the building if the vehicles have a valid license plate.

In response to Mr. Jerram, when he asked what was being done with the vehicles, Mr. Karnish stated he is waiting for parts on one vehicle. There is a lien on another vehicle and the vehicle has to be held for 120 days before it can be sold. The vehicle with an Indiana license plate is a repo vehicle that a friend parked on his lot for a few days. The vehicle with a Texas license plate belongs to an air force customer. The shop does automotive repair and some vehicles are held until a customer pays for the repairs.

Mr. Jerram suggested laying over the case to observe that the vehicles are being worked on and out of town vehicles are being moved. He stated he was concerned that the license plates appear to have just been placed inside the vehicles.

Mr. Gage stated the landlord/property owner is willing to add a privacy fence, if feasible.

Mr. Denker stated the notice was issued by the Police Department for unlicensed vehicles. If the case is laid over, code enforcement will do some background checking.

Motion to lay this case over until the March 29, 2010 meeting by Mr. Jerram. Seconded by Mr. Weaver.

AYES: Jerram, Weaver, Lopez, Levy

Motion passed 4-0. Appeal laid over to March 29, 2010 meeting.

III. Approval of Minutes from January 25, 2010

Motion to approve minutes from the January 25, 2010 meeting by Mr. Jerram. Seconded by Mr. Weaver.

AYES: Weaver, Jerram

ABSTAIN: Levy, Lopez

Motion carried 2-0

IV. Election of Officers
Motion was made to nominate Ms. Ann O’Connor as Chairman of the Administrative Board of Appeals by Mr. Jerram. Second by Weaver. Ms. O’Connor was absent.

AYES: Lopez, Jerram, Weaver, Levy

Motion carried 4-0

Motion was made to nominate Mr. David Levy as Vice Chairman of the Administrative Board of Appeals by Mr. Jerram. Second by Weaver. Mr. Levy accepted the nomination.

AYES: Lopez, Jerram, Weaver, Levy

Motion carried 4-0

V. Adjournment

It was the consensus of the board to adjourn the meeting at 2:35 p.m.

Debbie Hightower, Planning Department
Recording Secretary

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