Minutes
Administrative Board of Appeals
May 23, 2011

MEMBERS PRESENT:  Ann O’Connor, Chair
                   Jose Lopez
                   Steve Simmonds, Alternate

MEMBERS ABSENT:    David Levy, Vice Chair
                   Jim Weaver
                   Bode Labode
                   Jama Samiev, Alternate

OTHERS PRESENT:    RoseMarie Horvath, Law Department
                   Kevin Denker, Planning Department
                   Debbie Hightower, Recording Secretary

I.  Roll Call

Ms. O'Connor, called the meeting to order at 1:02 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

11-5-022
Appeal Omaha Police Department denial of firearm registration:  Michael D. Cole, 6808 North 51st Street  68152

Michael D. Cole appeared before the board.  Mr. Cole stated the gun was a present and he would like to own the firearm for home security.

Sgt. Dave Volenec, Omaha Police Department, stated the reason for the denial was based on an incident that occurred in October 1986 where Mr. Cole was working as a security guard at 4028 Lake Street.  Mr. Cole displayed a firearm and discharged the firearm at a vehicle that was attempting to run him over.  As a result of the incident, Mr. Cole was booked for carrying a concealed weapon and discharging a firearm within the city limits.  The case against Mr. Cole was adjudicated with a $50 fine and jail time.  Mr. Cole has no other criminal record.

Mr. Simmonds questioned the facts and circumstances behind the charge against Mr. Cole.  Sgt. Volenec answered that Mr. Cole did not have permission to carry a firearm in the performance of his duties as a security guard at the time of the incident.

Mr. Lopez made a motion to grant the appeal.  Second by Mr. Simmonds.

AYES:  Lopez, Simmonds, O’Connor

Motion carried 3-0.  Appeal granted.
Larry Robinson appeared before the board.

Sgt. Dave Volenec, Omaha Police Department, stated the reason for the denial was based on a felony conviction from an incident that occurred in December 1971 where Mr. Robinson was convicted of burglary and sentenced for 2-5 years.

Mr. Robinson answered that the information is inaccurate. The felony conviction was from 1965, 46 years ago, with a full and complete pardon (Exhibit 2) from the Governor of Nebraska.

In response to Ms. O’Connor, Sgt. Volenec indicated that is the only information he has on Mr. Robinson’s record.

Mr. Simmonds questioned the disposition from 1971. Sgt. Volenec answered that the 1971 incident was a second incident, there is no disposition but that it could be in conjunction with the burglary. Mr. Simmonds concluded that the pardon which was issued in 1981 was after the 1971 incident.

Mr. Simmonds made a motion to grant the appeal. Second by Mr. Lopez.

AYES: Simmonds, Lopez, O’Connor

Motion carried 3-0. Appeal granted.

Kirk A. Schmitz appeared before the board. Mr. Schmitz stated he would like to register the gun for home and personal protection.

Sgt. Dave Volenec, Omaha Police Department, stated the reason for the denial was based on an incident that took place in July of 1993 where officers had contact with Mr. Schmitz and a loaded pistol was found on his person. Mr. Schmitz was booked for carrying a concealed weapon, convicted and received nine months probation.

Mr. Schmitz stated he was being shot at and made it home and came back out with a loaded gun and followed the parties. He stated the charge was a misdemeanor.

Sgt. Dave Volenec stated Mr. Schmitz does not have any other criminal record.

Mr. Simmonds made a motion to grant the appeal. Second by Mr. Lopez.

AYES: Simmonds, Lopez

NAYS: O’Connor

Motion carried 2-1. Appeal granted.

Appeal Omaha Police Department notice of nuisance: Rafiu Braimah, 4904 Curtis Avenue 68104 for Alasa Braimah d/b/a Brama Auto, 4200 Redman, Omaha, NE 68111
Rafiu Braimah did not appear before the board.

Kevin Denker, Chief Housing Inspector, indicated that Mr. Braimah is working on receiving a certificate of occupancy and has several inspections scheduled. Mr. Denker suggested laying the case over until the June 27th meeting.

Motion to lay this case over for 30 days until the June 27, 2011 meeting by Mr. Simmonds. Seconded by Mr. Lopez.

AYES: Simmonds, Lopez, O’Connor

Motion carried 3-0. Appeal laid over for 30 days until the June 27, 2011 meeting.

11-4-016 (over from 4/25/11)
Appeal Omaha Police Department notice of nuisance: Britney L. Stamm, 11265 Evans Street #2 68164

Britney L. Stamm did not appear before the board.

Mr. Simmonds made a motion to deny the appeal. Second by Mr. Lopez.

AYES: Lopez, Simmonds, O’Connor

Motion carried 3-0. Appeal denied.

11-5-023
Appeal Omaha Police Department notice of nuisance: Tammy Jessen, 6738 Florence Blvd 68112

Tammy Jessen, 1111 West Adams Street, Creston, Iowa, appeared before the board. Ms. Jessen indicated she is a legal resident of Iowa and stays with a friend in Nebraska because of medical reasons. She verified that she stays at 6738 Florence Boulevard approximately two weeks per month and does not remain in the state longer than 30 consecutive days.

Mr. Simmonds made a motion to grant the appeal. Second by Mr. Lopez.

AYES: Simmonds, Lopez, O’Connor

Motion carried 3-0. Appeal granted.

11-5-024
Appeal Omaha Police Department notice of nuisance: Jimmy Kisner, 8029 Manderson Circle 68134

Jimmy Kisner appeared before the board. Mr. Kisner stated he has lived at his residence for many years and four years ago he was issued a notice. At that time an officer came out and measured the distance from the street.

Officer James Stokes, Omaha Police Department, stated an anonymous complaint came in regarding an RV parked in the driveway and a panel van that was parked on an unpaved surface. The camper is parked in front of the residence and he suggested that he meet with Mr. Denker to measure the exact setback.

Motion to lay this case over for 30 days until the June 27, 2011 meeting by Mr. Simmonds. Seconded by Mr. Lopez.
AYES: Lopez, Simmonds, O’Connor

Motion carried 3-0. Appeal laid over for 30 days until the June 27, 2011 meeting.

**11-5-027**
Appeal Omaha Police Department notice of nuisance: Lawrence Kowal, 1402 William Street 68108

Lawrence Kowal appeared before the board. Mr. Kowal indicated that his van is parked on the driveway and is licensed.

Officer William Shaw, Omaha Police Department, stated a complaint was received regarding a van that has not been moved.

Mr. Denker stated the van is in excess of 20 feet and is parked in the street side yard setback. Mr. Denker questioned if the van could be parked behind the face of the building. Mr. Denker stated a driveway could be added but a permit would be required for more than 200 feet of concrete.

Several photos were submitted (Exhibits 2-5).

Mr. Simmonds made a motion to deny the appeal with 90 days to comply. Second by Mr. Lopez.

AYES: Simmonds, Lopez, O’Connor

Motion carried 3-0. Appeal denied with 90 days to comply.

### III. Approval of Minutes from April 25, 2011

Motion to approve the minutes from the April 25, 2011 meeting by Mr. Simmonds. Second by Ms. O’Connor.

ABSTAIN: Lopez

AYES: Simmonds, O’Connor

Motion carried 2-0.

### IV. Adjournment

Motion to adjourn meeting by Mr. Simmonds. Second by Mr. Lopez.

AYES: Simmonds, Lopez, O’Connor

Motion carried 3-0. Meeting adjourned at 1:47 PM.