Minutes
Administrative Board of Appeals
December 19, 2011

MEMBERS PRESENT: Ann O’Connor, Chair
                   David Levy, Vice Chair
                   Jose Lopez
                   Jim Weaver
                   Bode Labode

MEMBERS ABSENT:  Steve Simmonds, Alternate
                  Jama Samiev, Alternate

OTHERS PRESENT:  RoseMarie Lee, Law Department
                 Kevin Denker, Planning Department
                 Andrea Wisniewski, Recording Secretary

I. Roll Call

Ms. O’Connor called the meeting to order at 1:00 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

11-12-074
Appeal Omaha Police Department denial of Taxicab Driver’s Permit: Bryan Cordner, 313 Main Street, Plattsmouth, NE 68048

Bryan Cordner appeared before the board. Mr. Cordner submitted a list of his medications (Exhibit 2).

Sgt. Jeremy Christensen, Omaha Police Department, stated that Mr. Cordner was denied a taxicab permit under Section 38-64, Subsection 5: “Subject to an infirmity of mind or body, which might render him unfit or unable to operate a taxi-cab.” He stated that Mr. Cordner’s record shows five episodes of suicide attempts, overdose, or mental sickness as well as a Board of Mental Health Order. The most recent incident occurred in 2004.

Mr. Cordner stated that in February 2004, he committed himself to the Norfolk Regional Center for a period of six months. He stated he went through psychological and chemical evaluations and after completing six months at the Norfolk Regional Center he completed another six months at a halfway house in Norfolk, Nebraska. He stated that he started a dual diagnosis meeting at the Salvation Army in Norfolk, Nebraska.

In response to Ms. O’Connor, Mr. Cordner stated that he recently moved back to Omaha. He indicated that he is active in the community with AA and Adult Diagnosis. He stated he does not have a doctor here in Omaha, and he will continue to drive to his physician in Norfolk until he can get a physician in Omaha.

In response to Mr. Levy, Mr. Cordner answered that he does not have seizures and the medication in question is to help control his bi-polar illness. Mr. Cordner stated he has not had any episodes since he became active in addressing his mental illnesses and alcoholism. Mr. Cordner stated he has been sober since February 19, 2004.

Mr. Levy asked Sgt. Christensen if there were any other incidents in Mr. Cordner’s criminal history since 2004. Sgt. Christensen answered that the most recent incident occurred in 2004, when Mr.

Mr.
Cordner had a Board of Mental Health Order for mental illness. Sgt. Christensen stated the Omaha Police Department does not have records regarding the time Mr. Cordner spent in Norfolk.

In response to Mr. Labode, Mr. Cordner stated he has had no other incidences since 2004. He indicated that he has worked on the suicide hotline in Norfolk and is trying to get on with the Plattsmouth Fire Department to help assist mental illness patients.

Mr. Cordner confirmed that his stay at the Norfolk Regional Center was a self-committal. He stated that he is presently unemployed because of five back surgeries since 2004 with the latest surgery being two years ago. He stated he cannot physically do heavy lifting or carrying but is trying to get back into driving. He stated before his committal, he drove over-the-road for the government for seventeen years. He stated that he injured his back in 1999 and that was the time period when he had the mental illness problems. He stated he is trying to transition back into the community and would like to work again, but the only thing he can do is drive. He indicated that he would like to get off Social Security and take care of his wife and children and get his life back on track.

Mr. Weaver commended Mr. Cordner for his attempts to solve his problems. Mr. Weaver stated he would like to see Mr. Cordner find a local physician.

Mr. Levy asked Mr. Cordner if he has a job with a local taxi-cab company. Mr. Cordner stated that he would work for Happy Cab once he has the permit.

Mr. Weaver made a motion to layover for 30 days until the January 30, 2011 meeting to allow time for the applicant to find a local physician to get a prognosis. Seconded by Mr. Labode.

AYES: Weaver, Lopez, Labode, O'Connor

NAYS: Levy

Motion carried 4-1

11-12-075
Appeal Omaha Police Department denial of firearm registration: Gary D. Snell, 3454 North 60 Street 68104

Gary Snell appeared before the board. Mr. Snell stated that he recently obtained a permit to purchase a firearm but was denied the gun registration by OPD because of a felony charge. He stated that according to OPD, the felony charge was changed to a misdemeanor. Mr. Snell stated that he has obeyed the law, does not have a criminal record and should not be denied a gun registration for something that happened 40 years ago and was a misdemeanor.

Sgt. Jeremy Christensen, Omaha Police Department, stated that since the misdemeanor charge, Mr. Snell has three entries on his criminal history: littering, an accident, and no valid registration on a vehicle. The last offense was in 2005. Sgt Christensen verified that the littering charge was declined in 1983.

Mr. Levy made a motion to grant the appeal. Seconded by Mr. Weaver.

AYES: Weaver, Lopez, Labode, Levy, O’Connor

Motion carried 5-0

11-12-076
Appeal Omaha Police Department denial of application to attend the Handgun Safety Training class conducted by the Safety and Health Council of Greater Omaha: Ariel Rettig, 3130 South 134 Street 68144

Ariel Rettig appeared before the board. Ms. Rettig stated that her recently deceased grandfather owned guns, and he wished for her to receive them per his will.
Sgt. Jeremy Christensen, Omaha Police Department, stated that Ms. Rettig has several missing juvenile entries on her criminal history, as well as several incidents where she was a victim. He stated that Ms. Rettig does not have any arrest entries. Sgt. Christensen stated the factor that caused Ms. Rettig to be denied was her placement into emergency protective custody at Creighton University Medical Center for an incident that occurred in 2006.

In response to Mr. Weaver, Sgt. Christensen confirmed that the denial was for the registration for Ms. Rettig to take a handgun safety training class through the Safety and Health Council of Greater Omaha.

Mr. Levy questioned if the Board were to grant the appeal, would the Board be granting any other right other than to take the class.

Mr. Weaver asked Ms. Rettig to clarify if she was going to take this class to open-carry a handgun or for employment in a security position in the future. Ms. Rettig stated that her grandfather left her two guns in his will and she is going to school to obtain a Criminal Justice degree and eventually become a police officer. It was her grandfather’s wish for her to inherit the guns and take the gun safety class in order to successfully handle the weapons.

Sgt. Christensen stated Ms. Rettig does not have to take the class in order to own the guns but if they are handguns, she would have to register them with the city.

Mr. Labode asked Sgt. Christensen if the City had the right to control whether Ms. Rettig was qualified to take this class or not. Sgt. Christensen stated that the language of the letter indicates that the City does have that control.

RoseMarie Horvath, City Law Department, advised the Board they could vote to deny or grant the appeal. Mr. Weaver stated that if the appeal is granted, Ms. Rettig could take the class, but there would be another issue when she attempts to register the guns.

Mr. Levy pointed out that Ms. Rettig has not been denied a handgun permit at this time. He suggested that Ms. Rettig attempt to register the guns at the police department and then be denied therefore the Board could consider everything at once. Ms. Rettig stated she wished for the Board to vote on denial of the application so that she would be allowed to take the handgun classes because she has already paid for them.

In response to Mr. Weaver, Sgt. Christensen stated that the only entries on Ms. Rettig’s record since 2006 have been as a victim.

Mr. Labode made a motion to grant the appeal. Seconded by Mr. Levy.

AYES: Lopez, Labode, Levy, Weaver, O’Connor

Motion carried 5-0

11-12-077
Appeal Omaha City Code Enforcement notice of nuisance at 2434 South 43 Street: Michael Smola, 2434 South 43 Street 68105

Michael Smola appeared before the board. He stated his temporary address is at 2434 South 43 Street.

Kenton Duncan, Code Inspector, City of Omaha, stated that he received a complaint regarding a roofing company being run out a residential home. He stated that at the time of the inspection it was noted that there were three vehicles (two with Kansas plates and one vehicle with Texas plates) that were not properly registered in Nebraska. Mr. Duncan stated that the vehicles had been in Omaha in excess of the 30-day timeframe in which owners are required to register their vehicles.
In response to Mr. Levy, Mr. Smola stated that the appeal is only for the notice of nuisance for the unregistered vehicles. Mr. Smola stated that the reason for the appeal is because he is working in Omaha and Iowa on a temporary basis. He stated his permanent residence is in Texas but is renting on a temporary basis while working in the Omaha area. Mr. Smola stated he has been working in the Omaha area since September 1, 2011 but has been going back and forth between Omaha and Texas. He stated that his work in Omaha is primarily done and he would be leaving Omaha shortly. Mr. Smola stated that it does not make sense to register his vehicles in Nebraska when he is leaving the state by the end of the week.

Ms. O’Connor asked Mr. Smola about his 30-day extension request. Mr. Smola answered that it depends on the work but the work is almost complete. Mr. Levy asked Mr. Smola if this is a long-term business model or is the work generated by a spike in volume of work. Mr. Smola answered that the work was generated by the hailstorm. He stated that he works for Stonebrook Roofing as a sub-contractor and operates from a leased space in Lincoln and at 3515 South 50th Street in Omaha. Mr. Smola presented a lease for 3515 South 50th Street that was signed on September 2, 2011.

Mr. Duncan pointed out that if a vehicle is parked in Omaha for more than 30 days and the owner of the vehicle is living at the property, the vehicle has to be properly registered. Mr. Labode asked Mr. Smola if he was requesting an additional 30 days to comply. Mr. Smola stated that he filed the appeal to request 30 days but he is not requesting a 30-day extension because the work is complete and he will be leaving Nebraska.

Motion by Mr. Labode to deny the appeal with 30 days to comply. Seconded by Mr. Levy.

AYES: Labode, Levy, Weaver, Lopez

NAYS: O’Connor

Motion carried 4-1

III. Approval of Minutes from November 28, 2011

Motion to approve the minutes from the November 28, 2011 meeting by Mr. Levy. Seconded by Mr. Lopez.

AYES: Levy, Weaver, Lopez, Labode, O’Connor

Motion carried 5-0.

IV. Election of Officers

Motion by Mr. Levy to nominate Ms. O’Connor as Chair. Seconded by Mr. Weaver.

AYES: Levy, Weaver, Lopez, Labode

ABSTAIN: O’Connor

Motion approved 4-0-1

Motion by Mr. Weaver to nominate Mr. Levy as Vice Chair. Seconded by Ms. O’Connor.

AYES: Weaver, Lopez, Labode, O’Connor

ABSTAIN: Levy

Motion approved 4-0-1
V. **Adjournment**

It was the consensus of the board to adjourn the meeting at 1:44 p.m.

Andrea Wisniewski, Planning Department
Recording Secretary