Minutes
Administrative Board of Appeals
July 30, 2012

MEMBERS PRESENT: Ann O’Connor, Chair
David Levy, Vice Chair
Bode Labode
Jose Lopez
Jama Samiev, Alternate

MEMBERS ABSENT: Jim Weaver
Steve Simmonds, Alternate

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

I. Roll Call

Ms. O’Connor called the meeting to order at 1:01 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

12-7-46
Appeal Omaha Police Department denial of firearm registration: Erica R. Ozuna, 2030 N 18th St., 68110

Ms. Ozuna was not present. The Board Secretary confirmed that notice of today’s meeting was sent to Ms. Ozuna via certified mail; however, it was never claimed by the applicant. After some discussion, the Board members agreed to wait to hear this case until the end of the meeting.

After the conclusion of all other cases on today’s agenda, Ms. Ozuna was not present.

Motion to hold this case over to the August 27, 2012 meeting by Mr. Levy. Second by Mr. Samiev.

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

Motion carried 5-0.
At the Administrative Board of Appeals meeting held on July 30, 2012, Allan M. Myles appeared before the Board.

Sgt. Eric Nordby, Omaha Police Department, stated that Mr. Myles’ application for registration of a firearm was rejected due to a conviction for possession of marijuana less than an ounce from June 12th, 2005. Current laws require a span of ten years following such a charge before any handgun may be registered. Currently, it has been seven years since Mr. Myles’ conviction.

Mr. Myles explained that he would like to have a handgun for the protection of his family. He stated that he was young at the time of this conviction, adding that he no longer associates with the same type of people.

Ms. O’Connor inquired as to whether there were any other incidences in Mr. Myles’ record which might be of concern. Sgt. Nordby stated that Mr. Myles’ drug conviction was the sole reason for his denial. Sgt. Nordby reminded those present at today’s meeting that Omaha city ordinances do not restrict citizens from owning a long-barreled weapon, such as a shotgun for home protection.

Motion to grant appeal by Mr. Labode. Second by Mr. Samiev.

AYES: Labode, Samiev, Levy

NAYS: Lopez, O’Connor

Motion carried 3-2.

At the Administrative Board of Appeals meeting held on July 30, 2012, Christen Harrington appeared before the Board.

Sgt. Eric Nordby, Omaha Police Department, commented that this case was for the revocation of firearm registration. He stated that Mr. Harrington’s registration was revoked due to two protection orders being filed against him.

Mr. Harrington explained that it was his children’s mother who had taken out the protection orders; she is now willing to drop the protection orders, but this process has not been completed yet. He added that he is currently going through custody proceedings for his two children, stating that these arrangements are to be finalized by the courts on August 14th, 2012.

Mr. Harrington stated that the reason for his appearance before the Board today was to request that his case be held over for thirty days. This would allow him time to finalize arrangements for the custody of his children, and for the protection orders to be dropped. He brought documents with him showing that he is currently working with the courts on this matter. The Board members viewed these documents and returned them to Mr. Harrington.

Mr. Harrington informed the Board that he had been before them previously; at his last appearance, his appeal was denied due to a CCW charge dating from 2001 (Note: this appeal was granted, not denied – please see minutes from 6/29/2009, case number 9-6-50 for more information). Since his last appearance before the Board, Mr. Harrington’s CCW charge has been set aside; he brought documents with him as proof of his claims. The Board viewed these documents and returned them to Mr. Harrington.
When asked by Mr. Levy, Sgt Nordby confirmed that once Mr. Harrington’s protection orders have been dropped, his rights to register a handgun would be restored. He confirmed that Mr. Harrington’s CCW charge was set aside.

Some concern was raised by both Mr. Samiev and Mr. Labode as to whether a thirty day extension would be enough time for Mr. Harrington to conclude his business with the courts. Mr. Harrington stated that all arrangements for his children should be finalized by August 14, 2012.

After some discussion, Mr. Levy made a motion to hold this case over to the August 27, 2012 meeting. Second by Mr. Samiev.

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

Motion carried 5-0.

12-7-49
Appeal Omaha Police Department denial of firearm registration:  Lewis Tipton Jr., 5556 Northwest Dr., 68104

At the Administrative Board of Appeals meeting held on July 30, 2012, Lewis Tipton Jr. appeared before the Board.

Sgt. Eric Nordby, Omaha Police Department, stated that Mr. Tipton’s application for registration of a firearm was rejected due to two convictions on Mr. Tipton’s record. The first, a conviction for carrying a concealed weapon (CCW), occurred in 2002. The second, a conviction for possession of marijuana less than an ounce occurred in 2009. Current laws require a span of ten years following drug convictions before any handgun may be registered. Currently, it has been three years since Mr. Tipton’s conviction.

Mr. Tipton explained that he would like to have a firearm for his own protection, as well as for protection while working and while with his family. Mr. Tipton submitted a document regarding his CCW charge and asked that it be marked as an exhibit (Exhibit 2). He submitted additional documents for the Board’s review; the Board viewed these documents and returned them to Mr. Tipton, as he did not wish to mark them as exhibits.

Mr. Tipton admitted that he did have marijuana in his vehicle, which he surrendered to the police at the time of his marijuana charge. However, he stated that he no longer uses drugs. Mr. Tipton stated that he is currently employed to deliver pharmaceuticals and narcotics to area pharmacies, and would like to have a firearm for protection while making his deliveries. He commented that he successfully completed a federal background check for this employer.

Ms. O’Connor asked Sgt. Nordby whether his records show that Mr. Tipton completed his probation satisfactorily. Sgt. Nordby stated that Mr. Tipton’s records show a violation of probation order. This violation was handled by another agency. Mr. Tipton stated that this violation was for driving under the influence (DUI); this incident was tied to his CCW charge, but he was not charged for this until later. Mr. Tipton stated that he voluntarily spent four months in a drug rehabilitation program following this DUI charge.

Mr. Labode inquired as to what type of clearance Mr. Tipton had to have in order to obtain work with his current employer. Mr. Tipton stated that he had to complete both state and federal background checks and drug testing. He added that his job requires him to travel all over Nebraska. He commented that there had been an occasion recently where someone confronted him while he was performing his duties. This incident was resolved without the need for a firearm; still, Mr. Tipton expressed concern for his own safety while working.
Mr. Samiev and Mr. Levy asked Sgt. Nordby whether there were any other incidences on Mr. Tipton’s record which would be of concern. Sgt. Nordby stated that Mr. Tipton has had a few traffic offenses; however, these would not figure into his denial for a firearm registration.

Motion to grant appeal by Mr. Samiev. Second by Mr. Labode.

AYES: Samiev, Labode

NAYS: Levy, Lopez, O’Connor

Motion failed 2-3; appeal denied.

12-7-50
Appeal Omaha Police Department denial of firearm registration: Nathan Kamprath, 3843 S. 191st St., 68130

At the Administrative Board of Appeals meeting held on July 30, 2012, Nathan Kamprath appeared before the Board.

Sgt. Eric Nordby, Omaha Police Department, stated that Mr. Kamprath’s application for registration of a firearm was rejected due to a conviction for carrying a concealed weapon (CCW) which occurred in 1999. Sgt. Nordby stated that this incident occurred with another agency; he was unable to obtain a copy of their report of this incident.

Mr. Kamprath explained that he would like a gun for protection. He stated that in 1999, he was pulled over for changing lanes without signaling. During this traffic stop, the officer discovered some novelty brass knuckles under one of the car’s seats. Since this time, Mr. Kamprath stated that he has completed two undergraduate degrees, two masters degrees, has become a notary public, and has completed a CCW class.

Mr. Levy inquired as to whether the CCW charge on Mr. Kamprath’s record was a felony or a misdemeanor. Mr. Kamprath replied that it was charged as a misdemeanor. Sgt. Nordby stated that according to his records, Mr. Kamprath received a fine of $100.00 for this offense; something which, in his mind, indicated that the courts were not too worried about Mr. Kamprath. He added that jail time is more common in these cases.

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

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

Motion carried 5-0
12-7-51
Appeal Omaha Police Department denial of firearm registration: Christopher D. Compton-Griffin, 10919 Cottonwood Lane #11, 68164

At the Administrative Board of Appeals meeting held on July 30, 2012, Christopher D. Compton-Griffin appeared before the Board.

Sgt. Eric Nordby, Omaha Police Department, stated that Mr. Compton-Griffin’s application for registration of a firearm was rejected due to a conviction for possession of marijuana less than an ounce from March 3rd, 2005. Current laws require a span of ten years following such a charge before any handgun may be registered. Currently, it has been seven years since Mr. Myles’ conviction.

Mr. Compton-Griffin explained that he would like to have a handgun for the protection of his family. He stated that he was nineteen at the time of this conviction, adding that he no longer uses drugs, rarely drinks alcohol, and no longer associates with the same type of people.

Mr. Levy asked Sgt. Nordby whether there were any other incidences on Mr. Compton-Griffin’s record which would be of concern. Sgt. Nordby stated that Mr. Compton-Griffin had a few traffic offenses on his record; however, these would not figure into his denial for a firearm registration.

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

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

Motion carried 5-0

12-7-52
Appeal Omaha Police Department denial of firearm registration: Jemar E. Reed, 5314 Northwest Dr., 68104

At the Administrative Board of Appeals meeting held on July 30, 2012, Jemar E. Reed appeared before the Board.

Sgt. Eric Nordby, Omaha Police Department, stated that Mr. Reed’s application for registration of a firearm was rejected due to two convictions for possession of marijuana less than an ounce. These offenses occurred on March 30th, 2008 and March 29, 2011. Current laws require a span of ten years following such charges before any handgun may be registered. Currently, it has been less than two years since Mr. Reed’s last conviction.

Mr. Reed stated that he would like to have a firearm for self-protection, and for possible use at the shooting range. He stated that he is currently living with his parents; however, he plans to move soon, and is concerned for his safety once he is living on his own.

Mr. Levy asked the applicant if he is currently employed. Mr. Reed responded that he has worked full-time at Marriott Hotels’ reservation service for the past three years. He also plays music for a local church. Mr. Reed commented that he wished he had never been introduced to marijuana. He added that he no longer has anything to do with drugs.

Mr. Levy stated that although it appeared that Mr. Reed is making better choices now, the fact remains that his last conviction for marijuana was less than two years ago. Mr. Levy stated that city ordinance clearly states that Mr. Reed would need to wait in order to legally register a firearm. He pointed out that as stated by Sgt. Nordby earlier in the meeting, Mr. Reed could have a long-barreled weapon, such as a shotgun, and not be in violation of city ordinance. Mr. Labode agreed with Mr. Levy’s statement, and encouraged Mr. Reed to maintain the path he is currently on.
Mr. Samiev asked the applicant whether he was currently facing any threats in his home environment. Mr. Reed said that he does not feel threatened in his parents’ home; however, with the number of shootings that have been occurring in Omaha lately, he is nervous about living on his own without protection.

Mr. Levy asked whether one of Mr. Reed’s parents could register the gun in question. Sgt. Nordby replied that this was permissible, provided that Mr. Reed’s parents were eligible to register firearms. Mr. Samiev countered that since Mr. Reed is moving out on his own, he would not be able to have a gun in his new home that is registered to his parents at his old address.

Motion to deny appeal by Mr. Levy. Second by Mr. Lopez.

AYES: Levy, Lopez, O’Connor
NAYS: Labode, Samiev

Motion carried 3-2.

12-7-53
Appeal Omaha Police Department notice of nuisance: Paul C. Mills, 1738 S. 32nd Av., 68105

At the Administrative Board of Appeals meeting held on July 30, 2012, Paul C. Mills appeared before the Board.

Mr. Mills stated that his vehicle is operational and has valid license plates and insurance. His car is usually parked on a paved driveway. Mr. Mills admitted that his vehicle may look as if it is non-operational; however, this is not the case. He added that he likes this vehicle, as it is paid for and can get him from point A to point B.

Mr. Denker postulated that the applicant may have had a flat tire, and that this might have been the reason that the vehicle was written up by the police department. Mr. Mills denied having a flat tire. Ms. O’Connor asked Mr. Mills how often he drives the vehicle. Mr. Mills replied that the car in question is not his primary vehicle; however, he does drive it around his neighborhood periodically in order to keep the battery charged.

Mr. Labode professed to be unsure as to why Mr. Mills was here today if his vehicle is operational. Officer James Stokes, Omaha Police Department, stated that “operational” is typically defined by the police as having four tires (none of which can be flat), no missing windshields and/or windows, no major fluid leaks, and the appearance of being generally operational.

Officer Stokes stated that as long as Mr. Mills’ car is parked on a paved surface and is plated, then he appears to be in compliance at this time. Mr. Levy asked Mr. Mills if his vehicle had any missing windshields, windows, headlights, or taillights. Mr. Mills assured the Board that all of these items were present and operational. Officer Stokes commented that it appears that Mr. Mills is willing to work with the City to resolve the issue – he offered to go to Mr. Mills’ house the following day to view the vehicle in question. Officer Stokes stated that he could see no reason to deny Mr. Mills’ appeal today.

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

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

Motion carried 5-0.
12-7-54
Appeal Nebraska Humane Society Reckless Owner declaration: Jonathon Rutten, 3232 N. 40th Av., 68111

At the Administrative Board of Appeals meeting held on July 30, 2012, Jonathon Rutten appeared before the Board.

Mark Langan, Nebraska Humane Society (NHS), stated that this appeal is unique in that it is for both the denial of a Reckless Owner declaration and the denial of two Potentially Dangerous Dog declarations issued by NHS. He submitted into evidence the Investigative Report from NHS, a letter to Mr. Rutten regarding his appeals of the Potentially Dangerous Dog/Reckless Owner declarations, and a copy of the city ordinances which correspond to such declarations (Exhibit 2). The Board decided to hear the Potentially Dangerous Dog declarations and the Reckless Owner declaration separately.

Mr. Langan reported that on June 1st, 2012, NHS was called to Mr. Rutten’s address after receiving a report that Mr. Rutten’s dogs Bruno (male American bulldog) and Trina (female American bulldog), had attacked a mail carrier. Based on this incident, NHS issued two Potentially Dangerous Dog declarations, one for each of Mr. Rutten’s dogs. At the time of this incident, it was determined that neither dog was vaccinated or licensed, nor did Mr. Rutten carry the insurance required under city ordinance for such a breed. Mr. Rutten was also cited for these additional issues.

Mr. Matthew Spanke, mail carrier, appeared before the Board and stated that he was delivering mail to one of Mr. Rutten’s neighbors at 3236 North 40th Avenue when he heard the screen door open at Mr. Rutten’s house. Mr. Spanke stated that he had been attacked by these dogs previously, and was listening for any noises coming from the direction of Mr. Rutten’s home. He could see a woman struggling with Bruno and Trina. Both dogs escaped from this woman, ran towards Mr. Spanke and attacked him, the male dog Bruno on his left and the female dog Trina on his right. He attempted to use his bag and dog spray on both dogs with no effect. At one point, he fell from a 2 ½’ retaining wall trying to get away from Bruno and Trina. Mr. Spanke stated that he yelled repeatedly for the owners to come and get their dogs. Mr. Rutten eventually arrived on the scene and collected Bruno and Trina.

Mr. Langan reported that at the time of this incident, NHS was made aware of a second unreported incident which had occurred two weeks previously. During this earlier incident, Mr. Spanke was again delivering mail to a neighbor’s house when Mr. Rutten’s mother came to the edge of her property to retrieve their mail. While she was waiting for her mail, Trina, the female bulldog, slipped her tether in the front yard, ran down the street, and attacked Mr. Spanke. During this attack, she bit Mr. Spanke on the arm. Mr. Spanke reported that this was the first time he had been attacked by a dog on the job. Mr. Rutten’s mother had a difficult time getting control of Trina. Mr. Spanke reported the incident to his postmaster, who chose not to report the incident to NHS. Reporting the incident would have jeopardized Mr. Spanke’s employment with the Post Office. Mr. Langan stated that Mr. Rutten filed an appeal of the Potentially Dangerous Dog declarations issued June 1, 2012 with NHS on June 12, 2012.

Ms. O’Connor asked to hear from Mr. Rutten regarding these two incidences. Mr. Rutten stated that he did not understand the first incident in mid-May, commenting that neither NHS nor the police department were called as a result of this incident. He added that he had previously warned Mr. Spanke about Bruno and Trina, advising him not to walk on the grass near his property, and pointing out a sign on his property about the dogs. He told Mr. Rutten to walk around the side of the house to deliver mail, away from the dogs. Mr. Rutten maintained that Mr. Spanke approached his house despite his warnings and was not paying attention to his dogs tethered in the front yard. He stated that Mr. Spanke entered the front yard, turned around, and went back on the sidewalk. He did not comment as to whether or not Trina bit Mr. Spanke as was claimed.
In regards to the second incident on June 1st, Mr. Rutten stated that his mother was opening the side door. Mr. Spanke was in their yard delivering mail at this time. Mr. Rutten stated that his female dog, Trina, slipped her collar, came out of the side door, and ran up to Mr. Spanke, who swung his mail bag at her. Trina nipped at the mail bag before Mr. Rutten could grab her. During this time, the male dog, Bruno, began struggling to get outside as Mr. Rutten was putting Trina back inside the house. Mr. Rutten restated that he had previously told Mr. Spanke to stay off his property and had warned him about the dogs tied up in the front yard.

Mr. Langan stated that an appeal hearing was held at NHS on June 25th, 2012 for the two Potentially Dangerous Dog declarations and the Reckless Owner declaration issued by NHS. At that hearing, Mr. Rutten’s appeal was denied. Mr. Levy asked whether the NHS review panel considered only the June 1st, 2012 incident, or if the earlier incident was also included. Mr. Langan replied that NHS based its denial on both incidences, commenting that the June 1st, 2012 incident was sufficient in and of itself to meet the requirements for the issuance of a Potentially Dangerous Dog definition.

Mr. Labode asked for clarification in regards to the numerous citations issued to Mr. Rutten listed in NHS’ report. Mr. Langan replied that these included the Potentially Dangerous Dog declarations, the citations for no insurance, vaccination and license, and court appearance citations. Mr. Langan informed the Board that Mr. Rutten has a poor history with NHS and recounted numerous contacts with Mr. Rutten through the years. These incidences include two occurrences in 2005 where Bruno was found to be running loose around the neighborhood and attacked a poodle; a conviction for animal cruelty in 2007 for allowing bulldog puppies to live in filth; a complaint in 2009 about both Bruno and Trina being aggressive; and a 2010 conviction for not licensing his animals or having insurance on his two dogs.

In response to Mr. Langan, Mr. Rutten replied that he was young at the time of these incidences. He asserted that he had only recently gotten Bruno and Trina back from an aunt who lives out of state, and was in the process of obtaining their licenses and insurance when the June 1st, 2012 attack occurred. Mr. Samiev asked Mr. Spanke whether he had spoken to Mr. Rutten about his dogs prior to the June 1st, 2012 incident. Mr. Spanke he had never met Mr. Rutten prior to Bruno and Trina attacking him on June 1st, 2012. He commented that since this attack, Mr. Rutten’s mail service has been cut off. Mr. Spanke stated that he takes extra measures to avoid Mr. Rutten’s dogs, including crossing the street to avoid the sidewalk in front of Mr. Rutten’s house. Mr. Samiev asked whether Mr. Spanke was on Mr. Rutten’s grass when the attacks occurred. Mr. Spanke denied being on Mr. Rutten's property, stating that both attacks took place at a neighboring property, 3236 North 40th Avenue.

Mr. Rutten protested that the mid-May incident was not reported to NHS or the police department. He insisted that he had previously had a conversation with Mr. Spanke, in which he told Mr. Spanke to stay off the property and made him aware of the sign in his front yard warning people about his dogs. He maintained that his dog Trina never bit Mr. Spanke, only nipped his mail bag. Mr. Samiev and Mr. Labode asked Mr. Rutten what steps he has taken to preserve the safety of the neighborhood in regards to his animals. Mr. Rutten replied that he had purchased muzzles, and was in the process of installing a privacy fence in his backyard for the dogs when the June 1st, 2012 incident occurred.

The Board asked Mr. Langan to explain NHS’ issuance of a Reckless Owner declaration to Mr. Rutten. Mr. Langan stated that on June 13th, 2012, just twelve days after NHS issued Potentially Dangerous Dog declarations to Mr. Rutten, NHS and the Omaha Police Department received a report of a dog running around the neighborhood and acting aggressively towards neighbors. Upon their arrival, Mr. Charles Fultz told NHS that Mr. Rutten’s female bulldog Trina had been running loose around the neighborhood and had charged his grandchildren who were Mr. Fultz’ front yard. It was reported that Trina was acting aggressively; i.e., barking, growling. During this incident, a neighbor by the name of Charles Swanson fired a gun at Trina. Mr. Langan confirmed with the Omaha Police Department that shots were fired in this incident. Animal control officers interviewed Mr. Rutten, who admitted that Trina had gotten loose. Mr. Rutten was again issued citations regarding this incident, including a Reckless Owner declaration. Trina was confiscated by NHS. Bruno was left at Mr. Rutten’s house as he was not involved in this particular incident. Mr. Rutten was required to surrender Bruno to NHS within 24 hours of the issuance of the Reckless Owner declaration. Mr. Langan stated that as of today's date, Mr. Rutten still has no surrendered his male dog as is required under city ordinance.
Mr. Samiev asked what typically happens in cases where an owner refuses to surrender an animal. Mr. Langan stated that NHS will typically ask for the owner's cooperation; if unsuccessful, a search warrant is obtained so that they can locate and confiscate the animal. Mr. Samiev asked Mr. Rutten why he did not surrender Bruno as was required. Mr. Rutten maintained that Bruno was not involved in the mid-May, June 1st, or June 13th, 2012 incidences, and that this was the reason why he did not surrender Bruno to NHS.

Mr. Rutten stated that during the June 13th, 2012 incident, his mother had opened the door to bring Trina to the front yard. While she was in the front yard, Trina ran towards a minor, Floyd Wallace, sitting on a neighbor's porch at 3236 North 40th Avenue. Mr. Rutten stated that this was the same address at which Mr. Spanke hit his dog Trina with his mail bag. Floyd Wallace ran across the yard, into his yard, and down the street. Trina began to chase Floyd Wallace, pulling Mr. Rutten's mother behind her. During this incident, Mr. Rutten stated that Trina was muzzled and was on a leash. Floyd Wallace ran into the house. Mr. Swanson came out of the house with his gun and began yelling and shooting. Mr. Rutten claimed that Mr. Swanson at one point grabbed him by the back of his shirt, forced him to the ground, and put a gun in his face.

Mr. Samiev again asked Mr. Rutten why he did not surrender Bruno as is required under city ordinance. Mr. Rutten stated that the animal control officer told him that he needed to surrender Trina; however, he was not told that he needed to surrender Bruno. Mr. Langan rebutted that the Reckless Owner declaration issued to Mr. Rutten on June 13th, 2012 clearly states that the owner must surrender all animals in his possession within 24 hours. Mr. Langan added that Mr. Rutten also received a letter following his NHS appeal on June 25th, 2012 which again stated that Mr. Rutten must surrender all animals in his possession within twenty-four hours. Mr. Levy asked Mr. Langan why NHS has not yet obtained a search warrant and seized Bruno. Mr. Langan stated that NHS was awaiting today's decision by the Board before moving forward.

Mr. Labode asked Mr. Rutten why he had not vaccinated or licensed Bruno and Trina, or obtained the necessary insurance required for dogs of their breed. Mr. Rutten stated that he had been on his way to the insurance office on June 1st, 2012. He stated that his dogs had already been licensed and vaccinated. According to Mr. Rutten, the insurance was the only thing that had not been completed. Mr. Langan countered that neither Bruno nor Trina were vaccinated at the time of the June 1st, 2012 incident, which occurred at approximately at 12:30 in the afternoon. According to records from Mr. Rutten’s veterinarian, the dogs were not vaccinated until 4:00 in the afternoon, well after the attack had taken place. Mr. Langan added that Mr. Rutten's insurance policy was dated June 11th, 2012 – eleven days after the attack. In response to Mr. Levy's question regarding the need for insurance, Mr. Langan replied that owners of American bulldogs are required to carry insurance under city ordinance, regardless of whether or not they are ever determined to be Potentially Dangerous Dogs.

Floyd Wallace, the minor who was charged by Trina on July 13th, 2012, appeared before the Board. Mr. Wallace stated that Bruno is a nice dog; he has not known him to bite or bark at people. Mr. Wallace described him as being a “lazy dog” and “lovable”. When asked about Trina, Mr. Wallace stated that she is aggressive.

After some additional discussion, Mr. Levy made a motion to deny the appeal for Potentially Dangerous Dog in regards to the female American bulldog, Trina. Second by Mr. Samiev.

AYES: Levy, Lopez, Labode, Samiev, O'Connor

Motion carried 5-0; appeal denied.
Mr. Samiev made a motion to grant the appeal for Potentially Dangerous Dog in regards to the male American bulldog, Bruno. Second by Mr. Labode.

Ms. O’Connor asked Mr. Spanke to confirm his statement that Bruno was involved in the June 1st, 2012 attack. Mr. Spanke repeated his statement that both dogs attacked him on that day, and not just the female dog Trina as Mr. Rutten claims.

AYES: Labode, Samiev, Levy
NAYS: Lopez, O’Connor

Motion carried 3-2; appeal granted.

Mr. Levy asked Mr. Rutten whether he would be willing to accept Trina’s permanent surrender to NHS if the Board granted his appeal for Reckless Owner today. Mr. Rutten stated that he would accept this requirement. In response to Mr. Samiev’s question, Mr. Rutten stated that a privacy fence will still be installed at his residence. Mr. Levy asked Mr. Langan whether he had any more input on the matter of the Reckless Owner appeal. Mr. Langan asked that the Board condition the Reckless Owner motion so that Mr. Rutten is required to attend Owner Responsibility and Dog Behavior classes, and to require Mr. Rutten to install a 6’ privacy fence on his property to contain Bruno. Mr. Levy asked Mr. Rutten whether he would comply with these stipulations. Mr. Rutten replied that he would agree to these requirements.

Motion by Mr. Levy to grant the appeal for Reckless Owner declaration, subject to the following conditions: 1) that Mr. Rutten surrender Trina to the Nebraska Humane Society, and that he make no attempt to challenge her permanent surrender; 2) that Mr. Rutten attend “Owner Responsibility” and “Dog Behavior” classes offered by the Nebraska Humane Society by no later than September 30, 2012; and 3) that Mr. Rutten install a 6’ privacy fence on his property for the purpose of containing Bruno within twenty days. Second by Mr. Samiev.

After some discussion regarding the height and style of the fence to be installed at Mr. Rutten’s property, Mr. Levy declined to modify his motion further. Ms. O’Connor called the question.

AYES: Labode, Samiev, Levy
NAYS: Lopez, O’Connor.

Motion carried 3-2.
III. Approval of Minutes from June 25, 2012

Motion to approve by Mr. Lopez. Second by Mr. Levy.

AYES: Levy, Lopez, Labode

ABSTAIN: Samiev, O'Connor

Motion carried 3-0-2.

IV. Adjournment

Motion to adjourn by Mr. Labode. Second by Mr. Lopez.

AYES: Levy, Lopez, Labode, Samiev, O'Connor

Meeting adjourned at 2:46 p.m.

Andrea Wisniewski, Planning Department
Recording Secretary