MEMBERS PRESENT:
David C. Levy, Vice Chair
Jose Lopez-Nuno
Brian W. Kruse
John R. Barrett, Alternate

MEMBERS NOT PRESENT:
Marty Conboy, Alternate

STAFF PRESENT:
Timothy Himes, Law Department
Kevin Denker, Planning Department
Rikki Flott, Recording Secretary

ROLL CALL:

Mr. Levy called the meeting to order at 1:00 pm. The Board received as Exhibit 1 in each of this meeting's cases the contents of the City's file on each case.

Cases:

Item number 7, case 15-11-097 was moved to the beginning of the Agenda to accommodate the applicant’s employment schedule.

7. 15-11-097
Daniel Muldoon
4720 Grover Street
Omaha NE 68106

REQUEST: Appeal Police Department Notice of Nuisance (RE: 4720 Grover Street)

Daniel Muldoon, appeared before the Board. Officer James Stokes, Omaha Police Department, appeared before the Board. Officer Stokes stated that a complaint was received by the Mayor’s hotline for the referenced nuisance. He then stated that the front yard setback limit was 20 feet and that the white 1976 Winnebago motorhome measured 23 feet, which violated the setback requirement.

Mr. Muldoon stated that his recreational vehicle was 20 feet shorter in length than his driveway and that the front bumper was over 16 feet from the sidewalk. He then stated that the vehicle was parked in the driveway since he purchased the home in 2014. He explained that the vehicle did not block vehicular views along the main street and commented that the definition of a nuisance in the City Code was vague.

In response to the Board, Mr. Denker stated that the code referenced personal vehicles over 20 feet in length were not allowed in the front yard setback and that an option for Mr. Muldoon was to extend the driveway to remove the vehicle from the front yard setback. Mr. Muldoon responded that the cost to extend the driveway was more than the value of the vehicle and that the vehicle was not currently at the property. Mr. Barrett commented that policy was made by the City Council and that the code stated the front yard setback limit was 20 feet.

Motion to DENY by Mr. Barrett. Second by Mr. Kruse.

AYES: Barrett, Kruse, Lopez-Nuno, Levy
Motion carried 4-0. Appeal denied.
1. 15-11-092
Doug Kellner
Thompson Dreessen Dorner Inc.
10836 Old Mill Road
Omaha NE 68154
REQUEST: Appeal Public Works Department denial of driveway permit (RE: 22nd & Howard Streets, Howard Street Flats)

Doug Kellner, Thompson Dreessen Dorner, and David Geck, NRG Energy, appeared before the Board. Ryan Haas, Public Works Department, appeared before the Board. Mr. Haas stated that the site was part of a recent redevelopment project and that the reduced width of Howard Street made truck access to the NRG Energy Center site difficult. He then stated that the requested driveway width of 40 feet exceeded the 30 feet width requirement, but the Department was not opposed to the request.

Mr. Kellner stated that the main reason for the requested 40 feet width of the driveway was to accommodate trucks accessing the existing NRG site. Mr. Geck stated that the trucks supplied fuel to the energy site and were essential to the business.

Motion to APPROVE by Mr. Kruse. Second by Mr. Lopez-Nuno.
AYES: Barrett, Kruse, Lopez-Nuno, Levy
Motion carried 4-0. Appeal granted.

2. 15-11-093
David Fjare
Olsson Associates
2111 South 67th Street, Suite 200
Omaha NE 68106
REQUEST: Appeal Public Works Department denial of driveway permit (RE: 63rd & Center Streets, Bucky’s)

David Fjare, Olsson Associates, was not present at the meeting. The Secretary to the Board stated that the applicant called to request the case be heldover.

Motion to HOLDOVER by Mr. Barrett. Second by Mr. Lopez-Nuno.
AYES: Barrett, Kruse, Lopez-Nuno, Levy
Motion carried 4-0. Appeal heldover.

3. 15-10-089 held over from 10/26/15
Venitia N. Page
3315 Laurel Avenue
Omaha NE 68111
REQUEST: Appeal Police Department denial of firearm registration

Venitia Page appeared before the Board. Lt. David Sedlacek, Omaha Police Department, appeared before the Board. Lt. Sedlacek stated that Ms. Page applied to register a firearm on October 2, 2015 and was denied for a marijuana less than one ounce conviction dated May 15, 2007. He then stated that Ms. Page had no other items on her record that prevented her from registering a firearm.
Ms. Page stated that she lived alone and wanted the firearm for protection. In response to the Board, she explained that she did not remember the conviction. Mr. Levy commented that the conviction was approximately 9 years prior.

Motion to APPROVE by Mr. Barrett. Second by Mr. Kruse.

AYES: Barrett, Kruse, Lopez-Nuno, Levy

Motion carried 4-0. Appeal granted.

4.

15-11-094
Shawn Poole
3509 North 150th Avenue
Omaha NE 68116

REQUEST: Appeal Police Department denial of firearm registration

Shawn Poole appeared before the Board. Lt. David Sedlacek, Omaha Police Department, appeared before the Board. Lt. Sedlacek stated that Mr. Poole applied to register a firearm on October 30, 2015 and was denied due to two marijuana less than one ounce convictions dated March 11, 2009 and September 3, 2015.

Mr. Poole stated that he recently moved to Omaha and has owned the firearm for a long time. He then stated that he was unaware he was required to transfer the firearm and admitted that he was in possession of a small amount of marijuana at the time of the convictions. In response to the Board, Lt. Sedlacek stated that the firearm could not be released to Mr. Poole, but could be transferred to a relative. Mr. Kruse commented that the conviction was extremely recent.

Motion to DENY by Mr. Kruse. Second by Mr. Lopez-Nuno.

AYES: Barrett, Kruse, Lopez-Nuno, Levy

Motion carried 4-0. Appeal denied.

5.

15-11-095
Lawrence Gatewood
7063 Crownpoint Avenue, Apt. 313B
Omaha NE 68104

REQUEST: Appeal Police Department denial of firearm registration

Reggie Young, attorney for the applicant, and Lawrence Gatewood, appeared before the Board. Lt. David Sedlacek, Omaha Police Department, appeared before the Board. Lt. Sedlacek stated that Mr. Gatewood’s firearm registration was revoked on September 22, 2015 due to an explosive device conviction dated September 22, 2015. He explained that Mr. Gatewood hired a man to do work for him and the man stole money from Mr. Gatewood. Mr. Gatewood then fired a handgun into the air within city limits to stop the man.

Mr. Young stated that confirmed Mr. Gatewood’s conviction as stated by Lt. Sedlacek and submitted a journal entry order signed by a judge ordering Alex M. Dearry to pay restitution to Mr. Gatewood for the stolen money (Exhibit 2). Mr. Young explained that Mr. Gatewood farmed and sold produce and meats within the city limits and wanted the gun for protection. He also explained that Mr. Gatewood understood the risk and consequences of the incident. Mr. Young then stated that Mr. Gatewood was given the opportunity for diversion by the City Attorney office, but his age limited his ability to meet all
requirements. He then explained that the court journal entry order document ordered that Mr. Gatewood’s gun be released to him and that he had no criminal background on his record.

In response to the Board, Lt. Sedlacek stated that the revocation included 4 weapons registered to Mr. Gatewood and included the weapon involved in the aforementioned incident. He explained that if the weapon was released to Mr. Gatewood, he was still in violation of the ordinance. In response to the Board, Mr. Gatewood stated that he was no longer in possession of the other 3 firearms revoked and not involved in the incident. After brief discussion regarding Mr. Gatewood’s firearms, Lt. Sedlacek confirmed the weapon from the incident was a .38 caliber Smith & Wesson.

Motion to APPROVE only permit #164777 for Smith/Wesson 642 serial # CV17370 by Mr. Kruse. Second by Mr. Lopez-Nuno.

AYES: Barrett, Kruse, Lopez-Nuno, Levy

Motion carried 4-0. Appeal granted only for permit #164777 Smith/Wesson 642 serial # CV17370.

6. 15-11-096
Jason Epperson
4321 North 65th Street
Omaha NE 68104

REQUEST: Appeal Police Department denial of Taxicab Driver’s permit

Jason Epperson was not present when his case was called before the Board. The Secretary to the Board stated that an email was received November 25, 2015 from Mr. Epperson stating that he would not attend the meeting and that he decided to stay with contracting work.

Motion to DENY by Mr. Barrett. Second by Mr. Kruse.

AYES: Barrett, Kruse, Lopez-Nuno, Levy

Motion carried 4-0. Appeal denied.

8. 15-11-098
David Smith
5021 South 48th Avenue
Omaha NE 68117

REQUEST: Appeal Police Department Notice of Nuisance (RE: 5021 South 48th Avenue)

David Smith was not present when his case was called before the Board. The Secretary to the Board explained that she received an email from Mr. Smith stating he was not in town the day of the meeting and requested the case be heldover. Mike Johnson, Planning Department, and Officer James Stokes, Police Department, appeared before the Board.

Mr. Johnson stated that he visited the site today and all nuisance vehicles were parked on the grass. He then explained that the violation was on an unpaved lot owned by Mr. Smith, which was adjacent on the south of Mr. Smith’s residence. Officer Stokes explained to the Board that the truck was in compliance and that Mr. Smith planned to park the boat and trailer in his driveway after installing a folding hitch to make the trailer compliant. Officer Stokes also explained that the lot was formerly a limestone roadway for the railroad, but that the lot was not maintained over time.
Motion to HOLD OVER THE CASE UNTIL THE DECEMBER 28, 2015 MEETING by Mr. Kruse. Second by Mr. Barrett.

AYES: Barrett, Kruse, Lopez-Nuno

NAYS: Levy

Motion carried 3-1. Appeal held over until the December 28, 2015 meeting.

9.
15-11-099
Anthony McLaughlin
2425 Newport Avenue
Omaha NE 68111

REQUEST: Appeal Planning Department denial of Third Grade Stationary Engineer Certificate

Anthony McLaughlin, appeared before the Board. Tom Phipps, Planning Department, appeared before the Board. Mr. Phipps stated that October 30, 2015 Mr. McLaughlin was denied renewal of his Stationary Engineer License because he failed to renew the license by March 31, 2015 as required by ordinance and the license was revoked. He then stated that currently the Permits and Inspections Division did not receive any violations against Mr. McLaughlin’s license.

Mr. McLaughlin stated that he had not worked in the field for approximately 2 years, but maintained his license and inadvertently missed the renewal period. He then stated that he currently worked at Nebraska Beef as a boiler operator and wanted the opportunity to renew and eventually upgrade his license.

In response to the Board, Mr. Phipps stated that a notice of license renewal for the 2015 calendar year was sent to Mr. McLaughlin in November of 2014 and that upon approval today, Mr. McLaughlin would be required to pay license renewal fees for 2015 and 2016.

Motion to APPROVE by Mr. Kruse. Second by Mr. Lopez-Nuno.

AYES: Barrett, Kruse, Lopez-Nuno, Levy

Motion carried 4-0. Appeal granted.

10.
15-11-100
Jason Murtaugh
1856 North 153rd Plaza
Omaha NE 68154

REQUEST: Appeal Nebraska Humane Society Reckless Dog Owner declaration

Jason Murtaugh appeared before the Board. Mark Langan, Nebraska Humane Society, appeared before the Board. Mr. Langan submitted an Investigative Report to the Board (Exhibit 2) and briefly explained the events and details leading up to Mr. Murtaugh’s appeal. In summary, he stated that following 2 dog bites, a Dangerous Dog Declaration was issued to Mr. Murtaugh for his dog Mercedes and that the 30 and 60 day requirements of the Declaration were not met by the owner. He then stated that the dog was impounded for a rabies exam and released to the owner. Mr. Langan stated that following additional incidents involving the same dog, Mr. Murtaugh received a Reckless Dog Owner Declaration, again failed to meet requirements, and that Mr. Murtaugh appealed the declaration to the Nebraska Humane Society Board, but was denied. Mr. Langan then explained that Mr. Murtaugh also received a citation for Harboring a Dangerous Dog, upon which his dog was confiscated and that a County Court criminal case was currently pending for this citation.
Mr. Murtaugh stated that he received no citations for his dog biting individuals and that his dog never left his property. He then stated that he paid the license fee for a potentially dangerous dog and briefly discussed the Douglas County court case recently held regarding his dog. Mr. Murtaugh then submitted to the Board the Journal Entry and Order signed by the Judge returning the confiscated dog to him (Exhibit 3). He stated that he had no intention to avoid citations from the Humane Society and gave his lawyer’s contact information to the Humane Society on more than 1 occasion.

In response to the Board, Mr. Langan explained that the ordinance was not specific for a dog biting an individual, but for improper restraint of a dog and noted that Mr. Murtaugh received multiple citations for his dog. In response to the Board, Mr. Murtaugh stated that he was not harboring a dangerous dog and was not currently in possession of his dog.

Tim Himes, City Law Department, stated that the appeal today was for the administrative decision made by the Nebraska Humane Society Board to deny Mr. Murtaugh’s appeal for the Reckless Dog Owner Declaration and that that the duty of the Administrative Board of Appeals, governed by Robert’s Rules of Order, was to review the procedures taken to reach that decision.

In response to the Board, Mr. Murtaugh stated that he disputed his dog bit 3 people and that documentation of such incidents did not exist. Mr. Langan explained to the Board that Nebraska Humane Society animal control officers did not take an oath of office and that the dog was currently in the custody of the Nebraska Humane Society. Mr. Murtaugh confirmed that he did not comply with all requirements of the Nebraska Humane Society declaration.

Motion to DENY by Mr. Barrett. Second by Mr. Kruse.

AYES:  Barrett, Kruse, Lopez-Nuno, Levy

Motion carried 4-0. Appeal denied.

MINUTES:

Motion to postpone the approval of minutes by Mr. Kruse. Second by Mr. Lopez-Nuno.

AYES:  Barrett, Kruse, Lopez-Nuno, Levy

Motion carried 4-0.

ADJOURN:

Motion to adjourn by Mr. Lopez-Nuno. Second by Mr. Barrett.

AYES:  Barrett, Kruse, Lopez-Nuno, Levy

Motion carried 4-0. Meeting adjourned at 2:39 p.m.