MINUTES
Administrative Board of Appeals
May 23, 2016

MEMBERS PRESENT:
Brian W. Kruse
Mark Santo
Jeffrey Beals
Marty Conboy, Alternate

MEMBERS NOT PRESENT:
David C. Levy, Vice Chair
Ann O’Connor
John R. Barrett, Alternate

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

ROLL CALL:
Mr. Kruse 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.

Mr. Santo moved to elect Mr. Kruse as acting chairman for the meeting. Second by Mr. Conboy.

AYES: Conboy, Santo, Beals
ABSTAIN: Kruse

Motion carried 3-0-1

Cases:

1. 16-05-032
Robert S. Keith, Engles, Ketcham, Olson & Keith, P.C.
1350 Woodmen Tower
Omaha NE 68102
REQUEST: Appeal City Fire Department Invoice (RE: M's Pub Fire, January 9, 2016)

Kevin Denker, Board Administrator, stated that the applicant and City Law Department submitted letters to the Board requesting the case be held over for 90 days.

Motion to HOLD OVER FOR 90 DAYS by Mr. Santo. Second by Mr. Beals.

AYES: Conboy, Santo, Beals, Kruse

Motion carried 4-0. Appeal held over for 90 days.
2.  

16-04-027 (held over from 4/25/16 meeting)  
Carl Hengen  
2502 North 49th Avenue  
Omaha NE 68104  
REQUEST: Appeal Police Department denial of firearm registration  

Carl Hengen appeared before the Board. Lt. David Sedlacek, Omaha Police Department, appeared before the Board. Lt. Sedlacek stated that Mr. Hengen was denied a firearm registration due to a carry concealed weapon conviction dated November 11, 1994.

Mr. Hengen stated that his case was held over last month upon request of the Board that he register for a firearm safety course. He then stated that he and his daughter have taken and completed the requested course.

Motion to APPROVE by Mr. Conboy. Second by Mr. Santo.

AYES: Conboy, Santo, Beals, Kruse

Motion carried 4-0. Appeal granted.

3.  

16-05-033  
Victor Moody  
6104 South 116th Street  
Omaha NE 68137  
REQUEST: Appeal Police Department denial of firearm registration  

Victor Moody was not present when his case was called. The secretary stated that a return receipt for certified mail was not received from the applicant, and that she tried to contact the applicant by phone, but was unsuccessful. Lt. David Sedlacek, Omaha Police Department, appeared before the Board. Lt. Sedlacek stated that Mr. Moody applied to register a firearm on April 7, 2016 and was denied for 2 carry concealed weapon convictions dated January 8, 2009, for a loaded 9mm weapon located under the driver’s seat, and August 28, 2009, for a loaded 45 caliber handgun. He then stated that the only other convictions on Mr. Moody’s record were traffic offenses.

Motion to DENY by Mr. Conboy. Second by Mr. Santo.

AYES: Conboy, Santo, Beals, Kruse

Motion carried 4-0. Appeal denied.

4.  

16-05-034  
Rodrick Tanksley  
5008 North 33rd Street  
Omaha NE 68111  
REQUEST: Appeal Police Department denial of firearm registration  

Rodrick Tanksley appeared before the Board. Lt. David Sedlacek, Omaha Police Department, appeared before the Board. Lt. Sedlacek stated that Mr. Tanksley applied to register a firearm on April 13, 2016 and was denied due to a marijuana less than 1 ounce conviction dated May 25, 2012 and a carry concealed weapon conviction dated August 6, 2015. He then stated that the weapon involved in the 2015 conviction was a 22 caliber handgun, loaded with a magazine, and located between the driver and passenger seat of the vehicle.
Mr. Tanksley stated that because of violence in his neighborhood, he needed a weapon for protection prior to turning 21. He then stated that he worked, had 2 children and wanted protection for his home. In response to the Board, Mr. Tanksley stated that the 2015 conviction resulted after he failed to complete probation for his carry concealed weapon charge in 2013 and the statement was confirmed by Lt. Sedlacek, adding that the arrest date was October 16, 2013. Mr. Conboy commented that the conviction was very recent.

Motion to DENY by Mr. Conboy. Second by Mr. Santo.

AYES: Conboy, Santo, Beals, Kruse

Motion carried 4-0. Appeal denied.

5.

16-05-035
George Wakeman IV
130 South 184th Court #209
Omaha NE 68022

REQUEST: Appeal Police Department denial of firearm registration

George Wakeman IV appeared before the Board. Lt. David Sedlacek, Omaha Police Department, appeared before the Board. Lt. Sedlacek stated that Mr. Wakeman applied to register a firearm on April 15, 2016 and was denied for a marijuana less than 1 ounce conviction dated February 25, 2013. He then stated that Mr. Wakeman had no other items on his record.

Mr. Wakeman stated that he resided just outside the city limits and was trying to register his recently purchased firearm within city limits. He then stated that the conviction occurred during a traffic stop for expired license plate tags and that he fully cooperated with the officer. He mentioned that he wanted proper registration within city limits for travel through the city and shooting at the shooting range within city limits. Mr. Wakeman stated that he was currently a college student and worked full time. He added that he recently submitted to a drug test and that he no longer used marijuana.

Motion to APPROVE by Mr. Conboy. Second by Mr. Beals.

AYES: Conboy, Beals, Kruse

NAYS: Mr. Santo

Motion carried 3-1. Appeal granted.

6.

16-05-036
Dijon Rhodes
6526 North 64th Plaza #8
Omaha NE 68152

REQUEST: Appeal Police Department denial of firearm registration

Dijon Rhodes appeared before the Board. Lt. David Sedlacek, Omaha Police Department, appeared before the Board. Lt. Sedlacek stated that Mr. Rhodes applied to register a firearm on April 22, 2016 and was denied due to a marijuana less than 1 ounce charge dated October 10, 2007. He added that the only other items on Mr. Rhodes’ record were minor traffic violations.

Mr. Rhodes stated that he was in high school at the time of the conviction, which was approximately 9 years prior and that he wanted the firearm for home protection.
Motion to APPROVE by Mr. Conboy. Second by Mr. Santo.

AYES: Conboy, Santo, Beals, Kruse

Motion carried 4-0. Appeal granted.

7. 16-05-037
Benjamin L. Kienast
12916 Ellison Avenue
Omaha NE 68164

REQUEST: Appeal Police Department denial of firearm registration

Benjamin Kienast appeared before the Board. Lt. David Sedlacek, Omaha Police Department, appeared before the Board. Lt. Sedlacek stated that Mr. Kienast applied to register a firearm on April 25, 2016 and was denied for a marijuana less than 1 ounce conviction dated April 20, 2011. He then stated that Mr. Kienast also had a DUI conviction from November 2011 and a disorderly conduct conviction dated July 11, 2013, which were not reason for denial of the firearm registration.

Mr. Kienast stated that he currently worked for Hawkins Construction, was subject to random drug testing and that he frequently hunted with his family. He added that during the stop that resulted in his marijuana conviction, he fully cooperated with the officer. Mr. Kienast explained to the Board that the disorderly conduct charge resulted after an argument between his father and the neighbor and that he also argued with the neighbor.

Motion to APPROVE by Mr. Conboy. Second by Mr. Beals.

AYES: Conboy, Santo, Beals, Kruse

Motion carried 4-0. Appeal granted.

8. 16-05-038
Kenneth Johnson
10540 V Street
Omaha NE 68127

REQUEST: Appeal Police Department denial of firearm registration

Kenneth Johnson was not present when his case was heard. The Board Secretary stated that a return receipt for certified mail was received, but since his application was mailed in, she was not certain he was aware he was required to attend the meeting. In response to the Board, Mr. Denker stated that the appeal notice did not specify appearance at the meeting.

Motion to HOLD OVER UNTIL THE JUNE 27, 2016 MEETING by Mr. Santo. Second by Mr. Beals.

AYES: Conboy, Santo, Beals, Kruse

Motion carried 4-0. Appeal held over until the June 27, 2016 meeting.
9.
16-05-039
Tyler MD Croushorn
12417 A Street
Omaha NE 68144
REQUEST: Appeal Police Department denial of firearm registration

Tyler Croushorn appeared before the Board. Lt. David Sedlacek, Omaha Police Department, appeared before the Board. Lt. Sedlacek stated that Mr. Croushorn applied to register a firearm on April 28, 2016 and was denied for a drug paraphernalia conviction dated July 10, 2012. He then stated that the only other items on Mr. Croushorn’s record were minor traffic violations.

Mr. Croushorn stated that the drug paraphernalia incident occurred while fishing and smoking with friends at a lake and that he was fully cooperative with officers upon searching his car. He responded to the Board that nothing was found in his car and that the paraphernalia used belonged to his friend. Mr. Conboy commented that technically a drug paraphernalia charge was not a controlled substance violation.

Motion to APPROVE by Mr. Conboy. Second by Mr. Santo.

AYES: Conboy, Santo, Beals, Kruse

Motion carried 4-0. Appeal granted.

10.
16-05-040
Joshua B. Orisman
1711 South 54th Street
Omaha NE 68106
REQUEST: Appeal Police Department denial of firearm registration

Joshua Orisman appeared before the Board. Lt. David Sedlacek, Omaha Police Department, appeared before the Board. Lt. Sedlacek stated that Mr. Orisman applied to register a firearm on April 23, 2016 and was denied for a drug paraphernalia conviction dated November 19, 2010. He added that the only other items on Mr. Orisman’s record were traffic violations.

Mr. Orisman stated that he completed Douglas County adult drug court 3 years prior, no longer abused any type of substance and continues to attend AA meetings. He added that he wanted to attend the shooting range with his sponsor. Mr. Conboy commented that technically a drug paraphernalia charge was not a controlled substance violation.

Motion to APPROVE by Mr. Conboy. Second by Mr. Beals.

AYES: Conboy, Santo, Beals, Kruse

Motion carried 4-0. Appeal granted.
11.  
16-05-041  
Carl Hendrix  
12602 Ames Plaza, Apt 306  
Omaha NE 68164  

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

Carl Hendrix appeared before the Board. Lt. David Sedlacek, Omaha Police Department, appeared before the Board. Lt. Sedlacek stated that Mr. Hendrix applied for a taxicab driver’s permit on April 16, 2016 and was denied for a robbery conviction dated May 23, 1991, which was considered a violent felony conviction, and an operating during suspension conviction dated August 16, 2012, the driver’s license suspension resulted from failure to comply with a citation. He then stated that he was concerned with the 8 assault and battery convictions on Mr. Hendrix’s record dated 1987 through 2016, with the most recent domestic violence assault occurring in March of 2016, and an active protection order against Mr. Hendrix.

Mr. Hendrix stated that he was unaware of the protection order and that he did not commit a robbery, the conviction was for aiding and abetting a robbery, which occurred in 1989. In response to the Board, Mr. Hendrix stated that the domestic assault conviction from March 2016 involved a woman and her neighbor and that he was trying to stop the situation. He also responded that he knew the woman but was not involved with the woman in the domestic assault incident resulting in his probation. He then stated that the arrest for strangulation in 2013 occurred at a strip club in Omaha and that the driving during suspension convictions resulted from failure to pay child support. Mr. Hendrix explained that he worked part-time and seasonal jobs and was currently involved with church. He added that he now had 3 children and that Pastor Ron Smith from his church, who also was a licensed taxicab driver, suggested employment as a taxicab driver. He then stated that with probation, he was required to submit to random drug testing.

After further discussion with the Board, Mr. Hendrix explained that he had a job offer from Happy Cab and that the company was awaiting the outcome of his appeal. Lt. Sedlacek stated that qualifications under City Ordinance Section 38-63 required applicants shall be of good morals, character and reputation.

Mr. Conboy motioned to hold over the case to hear from Pastor Ron Smith and submital of the most recent police report. Mr. Kruse expressed concern for recent convictions.

Motion to HOLD OVER UNTIL THE JUNE 27, 2016 MEETING by Mr. Conboy. Second by Mr. Beals.

AYES: Conboy, Santo, Beals, Kruse

Motion carried 4-0. Appeal held over until the June 27, 2016 meeting.

12.  
16-05-042  
Michael Chizek  
2008 Morrie Drive  
Bellevue NE 68123  

REQUEST: Appeal denial of Third Grade Stationary Engineer Certificate

Michael Chizek appeared before the Board. Tom Phipps, Permits & Inspections Department, appeared before the Board. Mr. Phipps stated that Mr. Chizek submitted a letter to the Department dated March 22, 2016 requesting renewal of his voided license, and that the Department submitted a letter dated April 12, 2016 to Mr. Chizek rejecting the request per City Ordinance.

Mr. Chizek stated that he held an active license for 27 years and that he prepared his license renewal for 2016, but unknowingly forgot to mail the paperwork and fees. He then stated that he was employed by Omaha Public Schools (OPS) for the past 28 years.
Motion to APPROVE by Mr. Conboy.  Second by Mr. Beals.

AYES: Conboy, Santo, Beals, Kruse

Motion carried 4-0.  Appeal granted.

13.
16-05-043
Kenya Hatch
3129 South 17th Street
Omaha NE 68108

REQUEST:  Appeal Nebraska Humane Society Reckless
Dog Owner Declaration

Kenya Hatch appeared before the Board.  Mark Langan, Nebraska Humane Society, appeared before the
Board.  Mr. Langan submitted a copy of the Investigative Report (Exhibit 2) and explained the series of
events leading to Ms. Hatch’s appeal.  He explained that in August of 2014 Ms. Hatch was issued
citations and a Potentially Dangerous Dog declaration for her dog Maggie after the dog was found to be
loose in her front yard and bit another dog.  He added that Ms. Hatch met the 30 day and 90 day
requirements of the declaration, but not the 2 year requirement because on April 4, 2016 Maggie was
again found running loose and bit a woman.  Mr. Langan stated that Ms. Hatch was then issued citations,
along with a Reckless Owner Declaration, and that all animals were required to be forfeited immediately
to the Nebraska Humane Society and that animal ownership was prohibited for 4 years.  He explained that
on April 28, 2016 Ms. Hatch appealed the Declaration to the Nebraska Humane Society Board of Appeals
and was denied.

Ms. Hatch submitted a letter and short report from the Nebraska Humane Society Behavior Specialist
regarding Maggie (Exhibit 3).  She then stated that Maggie was approximately 11 years old, near the end
of her life expectancy, and that she obtained her in January of 2014 from the Council Bluffs Humane
Society.  She explained that in August of 2014 she was unaware Maggie followed her out of her home
and that the dog was usually never in the front yard unrestrained.  She further explained that after Maggie
bit the neighbor’s dog, she paid the vet bill for the neighbor’s dog and the neighbor stated in a note to her
that his dog was fine.  Ms. Hatch stated that Maggie was kept indoors and that during the April 4, 2016
incident, Maggie was possibly let out of the house by one of her two daughters and bit a woman walking
down the street.  She then stated that she immediately obtained Maggie, put her inside her home and
approximately two days later, found the woman involved and was told she only received a scratch.

Mr. Kruse noted that the Exhibit 1 picture of the bite on the woman resembled a puncture wound.  In
response to the Board, Mr. Langan explained that the photos were taken the day of the incident.  Ms.
Hatch then explained to the Board that Maggie was vaccinated through 2017, licensed, microchipped,
spayed and insured.  She also stated that Maggie was not aggressive with family members or visitors to her
home and that she planned to move out of state.  In response to further questioning by the Board, Ms.
Hatch stated that her court date for Harboring a Dangerous Animal was scheduled for June 28, 2016.  Mr.
Langan explained that Maggie was currently at the Nebraska Humane Society and that the dog would be
euthanized following denial of the appeal.

Mr. Denker informed Ms. Hatch that the Board’s decision today could be appealed through District Court.

Motion to DENY by Mr. Beals.  Second by Mr. Conboy.

AYES: Conboy, Beals, Kruse

NAYS: Santo

Motion carried 3-1.  Appeal denied.
APPROVAL OF MINUTES:

Motion by Mr. Conboy to approve the minutes from February 22, 2016. Second by Mr. Santo.

AYES: Conboy, Santo, Beals, Kruse

Motion carried 4-0.

Motion by Mr. Conboy to approve the minutes from March 28, 2016. Second by Mr. Santo.

AYES: Conboy, Santo, Beals, Kruse

Motion carried 4-0.

ADJOURN:

Motion to adjourn by Mr. Conboy. Second by Mr. Santo.

AYES: Conboy, Santo, Beals, Kruse

Motion carried 4-0. Meeting adjourned at 2:28 pm.