

**TOWN OF EAST HARTFORD PERSONNEL APPEALS BOARD
SPECIAL MEETING MINUTES**

Monday, January 10th, 2022
Virtual Meeting via Microsoft Teams

Present:

Personnel Appeals Board Members

Shaun Jones, Chair
Godfred T. Ansah
Richard Bates

Appellant

Ofc. Jason Guerrero

Other

Stephen McEleney, Esq.
Michael Daniels, Clerk

CALL TO ORDER

Chair Shaun Jones called the meeting to order at 5:42 PM. Mr. Daniels called the roll.

Members indicated that they received the agenda via email and did not require one to be sent in the mail.

Chair Jones moved to waive receiving the agenda via US Mail.

Mr. Bates seconded. All voted in favor, none voted opposed.

Mr. Bates moved to approve the minutes of November 29, 2021.

Mr. Ansah seconded. All voted in favor, none voted opposed.

Chair Jones recognized Atty. McEleney to make a comment. Atty. McEleney said his understanding is that January 11th is the deadline for the Board to make a decision on the outstanding appeals. Chair Jones responded by giving a summary of the events dating back to the decisions on the original appeals on August 2, 2021.

Chair Jones referred to the memo from Corporation Counsel Scott Chadwick to Human Resources Director Theresa Buchanan of November 3rd, 2021. Atty. Chadwick wrote that the Board was wrong to believe Ms. Buchanan did not have discretion to determine where Ofc. Guerrero's name should appear on the eligibility list without taking seniority points into consideration. Atty. Chadwick wrote this would have required an effective re-scoring of the exam or a requirement for the Town to deem that Officer Guerrero had a passing grade on the

exam. Chair Jones said he listened to the recording of the August 2, 2021, meeting, specifically the second open session, and he referred to comments he said were made at that meeting by Assistant Corporation Counsel Rich Gentile. Chair Jones said that Atty. Gentile had told the Board they could make a decision without violating the protective order, and Atty. Gentile had provided an example that the Board could sustain the appeal because there were issues in the grading and that this decision would be binding. Chair Jones said that Atty. Gentile had told the Board that simply affirming or denying the appeal without any further context would not be adequate.

Chair Jones said that he believed the Board's actions in affirming Ofc. Guerrero's original appeal had fulfilled Atty. Chadwick's requirement that the Board deem Ofc. Guerrero as passing the exam in order for him to receive seniority points. He said the Board deemed the other two individuals they added to the eligibility list as having passed the exam as well. He said the way the Board's decisions in the original appeals were worded was necessary in order to not violate the protective order.

Chair Jones noted that Atty. Chadwick's November 3rd memo said that Atty. Chadwick had read the minutes of the meeting at which the original decisions were made. Chair Jones said he believes that if Atty. Chadwick had listened to the recording instead of reading the minutes, he would have better understood the Board's actions. Chair Jones said he believes the Board followed the instructions of the Assistant Corporation Counsel and indicated that there was an issue in the scoring of the exam and deemed the three individuals as having passed the exam but did not say so explicitly out of fear of violating the protective order.

Chair Jones said he believes the best way to resolve the situation is for the Board to make a decision that will go to the Mayor, the new Corporation Counsel, the new Human Resources Director, the Finance Director, and the Town Council encouraging them to review the recordings of the Board's decision on the original appeals. Chair Jones said he believes if the Corporation Counsel had reviewed the recordings, he would have understood that the Board intended to consider Ofc. Guerrero as having passed the exam, and therefore he would receive a score and points based on the Personnel Rules and Merit System.

Chair Jones proposed a motion that would clarify that the Board believes their original decision on August 2nd, 2021 was consistent with the instructions they received from the Assistant Corporation Counsel. Mr. Daniels asked if Chair Jones could specifically state the motion for clarity. Chair Jones said that in response to Atty. Chadwick's statement in his November 3rd, 2021 memo that the Board did not re-score the exam to a passing grade, did not deem Ofc. Guerrero as having passed the exam, and did not give an instruction to add seniority points, the Board believes it did actually deem Ofc. Guerrero and the other two individuals as having passed, and it did this through language that was constructed to not violate the protective order

and was consistent with instructions given by the Assistant Corporation Counsel. He says the Board believes this would be evident by reviewing the meeting recordings. Chair Jones said the Board would not have instructed Ms. Buchanan to add the names to the eligibility list if they had not deemed the individuals to be passing, and he said his desire to extend the eligibility list was further evidence that the Board had deemed the three individuals as passing. Chair Jones said he wished for this decision to be presented to the Mayor, Town Council, Corporation Counsel, Human Resources Director, and Finance Director, and he wishes for the new Corporation Counsel to review the meeting recordings. He said it will be evident that the Board deemed that Ofc. Guerrero and the other two individuals passed the exam because something had been wrong with the scoring. He then wishes for the new Corporation Counsel to take action consistent with the three individuals having been deemed as passing the exam.

Mr. Bates said he agreed that it was the Board's intent that the three individuals would be deemed to have passed the exam and would be placed on the eligibility list as if they had passed.

Ofc. Guerrero asked if the Board would clarify that it believes the Human Resources Director should follow the Rules and Merit System to give him a score for seniority, written test, and oral board test. Chair Jones responded by saying the Corporation Counsel had indicated that the Board did not re-grade, deem Ofc. Guerrero as passing, or give instruction for seniority to be added. He said the Board is saying only one of these is sufficient for Ofc. Guerrero to be placed on the list with all of his points added, and the Board did this by deeming him as having passed the exam. He said Ms. Buchanan was acting as if he was considered to be failing the exam, which was an incorrect interpretation of the Board's decision. He believes that upon review of the recordings, it will be clear that the Board considered Ofc. Guerrero as having passed but was following instructions to word their decision in a way that would not violate the protective order.

Ofc. Guerrero asked again for clarification that if he is considered to have passed the exam, he will receive all of his points consistent with the Town's rules and the police contract instead of simply being added to the end of the list.

Mr. Bates suggested that the Board find in favor of Mr. Guerrero and that all points should be awarded the same as if he had passed based on the contract and the Personnel Rules. Chair Jones said he believed a new decision by the Board was not necessary, but rather the Board should clarify that it already had deemed Ofc. Guerrero as having passed the exam, which means he should receive all his points, but that the Town was not interpreting their original decision correctly.

Mr. Bates said he believes the Board needs to make a decision on Ofc. Guerrero's pending appeal, and he believes the Board should rule, based on all that Chair Jones has explained, that it approves Ofc. Guerrero's current appeal. Chair Jones said he wants the Board to clarify that the

original decision was sufficient towards considering Ofc. Guerrero as having passed the exam, meaning he would receive all his points, and that the Corporation Counsel was incorrect in the interpretation that the original decision did not do this.

Ofc. Guerrero asked for further clarification that the Board's intention is for him to be awarded points as having passed the exam following from the Personnel Rules and Merit System. Chair Jones said that his explanations are limited by memos having been directed to the Human Resources Director instead of to the Board, but that the Corporation Counsel told the Human Resources Director that Ofc. Guerrero would have received these points if the Board had deemed him to have passed, and the Board is clarifying that they did deem him to have passed.

Mr. Bates urged the Board to make a clear determination finding in favor of Ofc. Guerrero's current appeal. He said this decision would be based on all the information Chair Jones has referenced in the recordings of the previous meetings.

Ofc. Guerrero pointed out that his appeal suggests a remedy of correctly awarding him his written score, oral score, and seniority points in the proper weighting for a final score, and then using that correct score to update the eligibility list. Mr. Bates said that by ruling in favor of Ofc. Guerrero's appeal, it will affirm everything that is proposed in his appeal.

Mr. Ansah said he understands Chair Jones is urging individuals at the Town, many of whom are new to their positions, to review the meeting recordings. However, Mr. Ansah said he has believed from the beginning of the process that the Board did not intend to make a determination on where the new names would be placed relative to the seven names already on the list. Chair Jones disputed this and said the recordings would show otherwise. Mr. Ansah said he believed the new names would be placed eighth, ninth, and tenth after the previously existing seven names. Chair Jones said the Board had instructed the Town to follow the merit rules with the candidates having been deemed as passed. Mr. Ansah said this was never discussed. Mr. Bates said that Mr. Ansah, therefore, cannot assume the names would be placed eighth, ninth, and tenth since it was not discussed, and that the Board determined the individuals had passed. Mr. Ansah said the Board decided to add the names to the list, and this would mean they would go at the end. Chair Jones said the Board originally took a vote to put an individual higher on the list, but then upon being asked where the name would go on the list, the Board revised its decision to instruct the Town to follow the rules and procedures. Chair Jones said the Board did not explicitly mention seniority because they assumed it would result from the following of the Personnel Rules.

Chair Jones asked Ofc. Guerrero if his grievance is still pending. Ofc. Guerrero said his grievance is still pending but asked for a clear decision on his appeal before the next day's deadline. Chair Jones said they are making a decision on the current appeal and repeated his

views about the Town's actions that he believes will result from a review of the previous recordings. Ofc. Guerrero asked if this decision is a ruling on his currently pending appeal before the Board. Chair Jones said it is and that the Board is reaffirming its earlier decision.

Mr. Bates asked if the motion could be clearly put on the floor and proceed to a vote.

Mr. Daniels stated the motion as he understands it and asked the Board members if it was an appropriate way to record the motion in the minutes. The Board members agreed with it and Chair Jones added an addendum that is reflected in the motion.

Chair Jones moved that the Personnel Appeals Board affirms the current appeal of Officer Jason Guerrero, in that they believe their original decision in his appeal indicated that Officer Guerrero would be considered as having passed the exam, and therefore should receive all points, including seniority points. This is consistent with the opinion that was delivered to the former H.R. Director from the Corporation Counsel that indicated there were three paths to be followed, not all of them to be equal, but one of them was, "Did you deem Jason Guerrero as passing the exam?" and the Board believes that their previous opinion did – not only Jason Guerrero but also, to show the strength of how they thought Mr. Guerrero passed, they felt that the exam raised questions as to how the Board couldn't fathom how the people were considered to be failing based upon their executive session meetings with testimony, documents, and the like.

Mr. Bates seconded.

Mr. Ansah said he wishes to abstain because he believes the Board did not do what they should have done. Mr. Jones asked if Mr. Ansah understood that the Corporation Counsel had said the Board only needed to determine that there were issues with the exam and that would be sufficient. Mr. Ansah said the board did not do what they should have done and that he abstains.

Chair Jones added for the record that the Board is asking the decision to be sent to the Mayor's Office, the Town Council, the Corporation Counsel, the H.R. Director, and as a courtesy to the Finance Director.

Chair Jones and Mr. Bates voted in favor, none voted opposed, Mr. Ansah abstained.

Mr. Ansah clarified that he agrees with transmitting the decision to the parties at the Town but is abstaining on the decision itself.

Mr. Bates moved to adjourn.

Mr. Ansah seconded. All voted in favor, none voted opposed.

Meeting adjourned at 6:29 PM