

**Town of East Hartford
Personnel Appeals Board
May 11, 2016**

TOWN CLERK
EAST HARTFORD

2016 MAY 13 P 4: 06.

Robert J. Keating

Present during meeting:

Board members: Shaun Jones – Chairperson; Thomas Ogar, Esq.;
Alternate Board Members: Lynn L. Kayser; Robert Keating
Attorney Eric Chester, Attorney Peter Janus, Santiago Malave, Suzan Kyeremateng, Dr. Godfred Ansah, Daniel Wasilewski, Josh Recker, Aaron Lapointe, James Sopelak, Matt Hannon, Steve Purcell. Those attending the public meeting: Jared Weiner, John Oczkowski, Matthew Braunschweiger, Matt Martinelli, and Marcus Rice.

Meeting called to order at 6:11 p.m.

Daniel Wasilewski indicated he was present at the meeting as an advocate for town labor and board

Eric Chester, Attorney for the Appellants

Attorney Chester indicated that one of the examiners for the Fire Lieutenant Examination was supposed to be present for the hearings however ten minutes before the meeting he had been instructed by his present employer not to attend; Examiner is essential for this appeal; Pursuant to the Appeals Board should have the ability to issue subpoenas him at its earliest convenience

Attorney Janus, Attorney for the Town

The Town plans to call its own witnesses

Attorney Chester

He will need a 2nd day for an examiner; only aware of one Michael Berry Captain New Britain Fire Department

Chairman Jones:

Statutes vs. ordinances – Chair Jones stated that in accordance with State Statutes the Board does not have subpoena powers; Santiago Malave, Human Resources Director, will try to schedule a second meeting this as soon as possible; Counsel for town indicated it is not appropriate for the inquiry to get into the substance of the test questions; Counsel for appellants indicated that their focus was on the process on how scores were arrived at; Counsel for town indicated that Town HR personnel were going to testify to the following::

Documents that were shared with the panel members are as follows:

- How instructions were given and how it was scored
- How did a particular panel member score
- Impossible process it won't be information that could be reviewed

Counsel for Appellant's indicated that the testimony was relevant

6:31 P.M.

Atty Chester opening statement

1. Appealing oral examination result
- 2.- 20 took exam and ten failed
- 3.- Studied and felt prepared
- 4.- All failed because of oral exam
- 5.- Appellant's unclear and remain unclear how the results were scored
- 6.- Answers don't match score received of in the oral exam
- 8.- Conversations with other candidates and the other candidates response seemed to me similar
- 9.- Documents – rubric score sheet shows ten questions asked and ten scored and only five questions asked and scored
10. Instructions said three panelists' actually 4 panelist scored for exam
11. All four scores were added and divided by four
- 12.- Extra panelists affected score, this is significant problem
- 14.- All Appellants are go getters and prepared carefully for the exam
- 15.- Look at scoring protocol going forward
16. Have a new oral exam and throw out the oral exam taken in October 2015

Attorney Janus for the town:

- 1.- Disappointment of results for test
 - 2.- Unwarranted to have this type of an appeal
 - 3.- Procedure is in place for over twenty years
 - 4.- Oral exam contains questions, requiring responds Of Appellant's and such responses are judged by panel members
 - 5.-Only the panel members are the best judges to evaluate the responses to the test questions that were asked at the time of the oral exam. They were present during the questioning and answering .
 - 6.-The procedure for the examination was followed as called for.
 - 7.- Comparing other responses between candidates would not be beneficial
 8. The practice has been to use two to four panelists even though instructions states three
 9. Questions vary from exam to exam. The exam could be comprised of five to ten questions.
- The Chief and oral panel members select questions
10. The Process matters

Peter Janus: for Town

Exhibits:

The original posting, Exhibit A, that triggered the examination process for the Town was discussed.

Instruction to Panelists - Town B

Panel Rating Scale - Town C

Oral Panel Rating Sheet – Town D

Attorney for Appellant's reserved Union questions at this time

Appellants sworn in by Chair

Matthew Hannon:

Attorney Chester for Mr. Hannon:

1. He re-calls five boxes not ten boxes on the score sheet
its possible there were ten
- 3 . Notes were written on score sheet
4. Could not understand score sheet he reviewed in HR

Tom Ogar: asked questions of the Appellant

5. All tests before were passéd
6. Not promoted ; not score high enough
7. "I don't get essence of appeal" Atty Ogar's comment
8. Half failed never before seen

Bob Keating asked questions of Appellant

Appellant Hannon responses:

9. The four panelist were from various towns, Bristol, Danbury New Britain Torrington Fire departments
10. With a score of 70 I would have passed exam

11. Lynn Kaiser asked question of Appellant

Appellant responses

12. Ratings correspond to numbers to Town C
13. All I saw was numbers no label, no description
14. Numbers were on there
15. If I received a70, I would be sixth or seventh
16. If the 70 for oral exam requirement was thrown out then we could have calculated scores for all twenty exam takers.

17. Eliminate the seventy as the cut off as a resolution offered by fireman Hannon

Atty Chester :

18. Where would you be on the list?

Appellant responses

19. Chief does not need to go in rank order he can interview any three

20. Hannon : did the numbers seem to correlate to the scale don't recall any descriptions to those numbers six or five never saw any thing indicating failure

22. Town exhibit A- " Instructions seem to suggest that the 70% only applies to sit for the succeeding part" – Atty Chester

Tom Ogar asked questions:

23. How did you prepare for the oral exam? One day class at fire academy; experienced officers stood in as panelists for me to practice for the oral.

Atty Janus - Point of argument

24. At the top of the page of Exhibit A it indicates that there are three parts to the procedure written, oral and seniority. Therefore the statement by Attorney Chester is in error as there exists three parts for the exam.

Atty Chester, I stand by my argument

Josh Recker:

Attorney Chester for Joshua Recker

1 Lt Sep 2015 Oct 2015 written oral

2. 16 yr East Hartford Fire .Department member

3. Several months studying

4. Books on study list, oral exam and leadership

5. Passed written with 79 score failed oral 67.75 score

6. Overall 76.6 score by added averaging both scores

7. Score sheets Exhibit D only space for five questions

8. Labeled notes and comments one through five boxes

9. the space at the end for score was similar to that box appearing in the Town D

10. Re-call five questions

11. Why did you get score notes written outside lines no comments and then numbers

12. It didn't say what I did not say

13. Ratings anything you had on the score sheet saying why you failed? - no

14. Graded exact same way? -no

15. Removal of one of the scores impact on oral I would assume so

Atty Janus asked Appellant questions:

Appellant responses

1. No the score sheet, Exhibit D, was not similar to the one that I am looking at here
2. Appellant provided permission to look at score sheets
3. On the rating columns I only saw a number and notes of section
7. Only notes and comments and nothing that indicated rating just comments of what I had communicated to the panel

Lynn Kayser Asked questions:

Appellant responses

8. Unusual for this exam to have 50% failure
9. Recently public safety
10. 1-only one passed out of twelve –H.R. Director
11. One out of twenty – H. R. Director
12. Oral Panel Rating Sheet Test Exhibit D, is going to be shown to Joshua Recker and Atty Chester by Santiago and Atty. Janus 7:28 P.M.. Board in session while those in the hall review the personal documentation as presented by H.R. to the appellant Union wanted to know if he could respond to question ; chair said wait till the other members return

7:31 call meeting back to order

Dan Wasilewski, Union President

13. 23 years can't recall a fifty percent failure rate best of your recollection twelve years union president
14. Atty Janus can't speak to what happened in the past

Atty Ogar's comment shall be reflected in the minutes

Atty Ogar wanted to make it known that if Appellant Recker agrees to release scores sheet; the Board should see that as well. The Chair said Atty Ogar's it was premature to disclose such documents to anyone other than the appellant. The Chair said Atty Ogar's comments to be recorded in minute

15. Bob Keating asked questions:

16. In written exam were you the highest? -no

Atty Ogar Josh have you taken this test before?

Appellant Responses:

Appellant Responses:

17. No first time
18. Study books reading list leadership mock oral panels
19. Promoted to Driver
20. Middle of pack
21. Suzan was not there; panelists did not know applicant
22. Point of order process
23. Introduce themselves
24. Did not ask your name
17. Name was on score sheet
18. Name on uniform when presented for exam
19. Wears their uniform?- if they are smart they do

Atty Ogar asked questions:

Appellant responses:

20. Badge gives full name last name the very least
21. Not first or last name

James Sopelak:

Attorney Chester for James Sopelak

1. 18 years fire IT 2015 September & October - prepared for exam
2. Study list read books study guides attended classes oral interview senior officer oral mock boards
3. 85 written 62.5 oral board
4. Did not figure it out and it was not provided with any comments that could explain rater scores
5. Five questions
6. Could not tell out score
7. 1-5 horizontally comments
8. Rating sheet, Exhibit D, does not show what I should have said in points required to pass
9. Did not stated that I failed to answer any question with passing score
10. Not exact same scores
11. Possible it could change the score
12. Town C , the score sheet only contains the rating number not the description

Atty Janus asked questions:

Appellant responses

14. Rating sheet is not the format I saw
17. Section for comments and column for notes were on the forms

Tom Ogar asked questions:

19. Exams taken in the past I passed all but one out of six
20. Adequately prepared to take exam
21. Comments, notes and score not on Exhibit D I saw
20. Took exam 2 or 3 failed
21. Bristol, Torrington, Danbury, New Britain where the raters come from mirror each other and do not necessarily the size and functions of the Town's Fire Department

Aaron Lapointe:

Atty Chester for Aaron Lapointe:

1. East Hartford Fire Department
2. 16 years
3. Yes
4. Prepared
5. Year exam started studying
6. Taking mock oral panels with other date
7. Apparatus & Lt & Chief Med Officer
8. Delivery emergency services training programs vehicles maintenance medical items #1
9. Oral exam 90
- 10 73 oral

Attorney Janus: To Appeal Board Chairman Jones -Why is this appeal here? The Appellant passed the examination. Chairman Jones noted Attorney Janus objections but allowed the Appellant to continue his testimony. Also, Chair indicated that letter sent by Appellant did state he was one of the ten who passed and the Board was aware of that when the Board formally accepted the appeal for hearing.

Appellant continue responses:

12. I scored 83 in the written exam 73 in the oral exam for a total overall rating of 80.7. I am number number 10 on the eligible list.
14. Why are you appealing even though you score a 73 on the oral exam. The score was lower than I expected
15. I chose to appeal because I believe the process was not fair
16. One week I passed an oral exam of questions similar to – what would you do if a subordinate was not doing what he was told to do.
17. Another question was how do you deal with an irate customer.
18. Didn't hold weight
19. Score sheets asked five questions
20. Ascertain review score sheet
21. No notes of omissions did not say what should have been stated as part of this core grading.
22. Four examiners exact score can't recall
23. Some scores didn't match for question one was an 8 to 6.5 for the same question

Atty Janus asked questions:

Appellant continue responses:

26. Town Exhibit D -I recall spaces for 5 questions. This is a different sheet. I am positive to the best of my recollection
28. I could always be wrong about anything
29. Three examiners rules not followed four were used. Rules not exactly followed. Rules said only three examiners

Tom Ogar asked questions:

Appellant continue responses:

31. Fairness of this exam - It was unfair what the town did.
32. Not cut and dried between 90 score and 73 score, discrepancies in process
33. That's why I appealed
34. I wanted to learn information why the disparity in this Lt exam
35. One week before Lieutenant exam the failure rate was significantly lower
36. Notes of what you said
37. Notes of things you said no notes of omissions nothing to suggest what you should have said
38. In the past 16 years Aaron indicated that past promotions tend to be higher up on the list
40. Interviews top three and works way down till six are filled

Steven Purcell:

Attorney Chester for Steven Purcell

1. 15 years just shy
2. Lt same exam prepare for exam reading list sought info from company officer academy classes
3. Oral 67 written 82 overall
4. Do not know overall
5. Writing described answers quotes no reasons as to why that score was given if I hit all key bulletins 6. don't know all of what I should have responded
7. Five questions not surprised
- 8 .How many score sheets four- higher than ever discrepancy between the examiners
9. Any specific question was a failing score no connotation failed or did not score accurately or the reason why

Atty Janus asked question:

10. Exhibit D - looks familiar can't be 100% positive

Tom Ogar asked questions:

11. Promotional exams taken 1st LT 3 Pump Operator Master Mechanic how did you perform
12. Promoted was number 4 on list

13. I Don't recall, I passed

James Sopelak:

1. Sat on other oral panels sit down and do this helpful other guys sitting here

Atty Chester:

2. Driver test Number 4 how many 10 less than 50% failure rate

3. No oral exam

4. Subpoena to be issued by Eric Chester

5. 8:15 Recess

6. Rule of order rule of three's

8. Dan Wasilewski indicated that he had contacted the Chief who stated to him that in his 8 years as Fire Chief he was not aware of a 50% failure rate.

HR Director: Explained the rule of three for certification of candidates for promotional opportunities as per Personnel Rules at the request of the Dan Wasilewski, Union President. Basically the top three are interview for any vacancy one other applicant is taken from the list of eligible; for this exam for the six vacancies the top eight would be considered. It is consistent with Fireman Lapointe's version of the first three for the first vacancy; one hired and remaining two with next individual off the list and so on and so forth until six candidates are selected.

Meeting adjourn 8:20PM



The aforementioned minutes was filed with the East Hartford Town Clerk and the East Hartford Town Council Clerk. All board members, Appellants and Daniel Wasilewski, President, IAFF, Local 1548 were sent a copy via The United States Postal Service

The Minutes were also sent inter-office to the following offices:

Mayor Marcia Leclerc Fire Chief John Oates
Santiago Malave, Director of Human Resources

Corporation Counsel Scott R. Chadwick
Michael Walsh, Director of Finance