

**CITY OF NEW HAVEN
CIVIL SERVICE BOARD**

MINUTES OF SPECIAL MEETING

March 22, 2010

<u>Present</u>	<u>Also Present</u>
<ul style="list-style-type: none">• Commissioner Frank LaDore• Commissioner Anne Massaro• Commissioner Latrina Kelly• Noelia Marcano, Civil Service Secretary	<ul style="list-style-type: none">• Attorney Victor Bolden, Corporation Counsel• Attorney Kathleen Foster, Asst. Corporation Counsel• Scott Nabel, Public Safety HR Manager• Atty. David Rosen (<i>representing Michael Briscoe</i>)• Michael Briscoe, Firefighter <p><u>Absent</u> All Commissioners were present</p>

Meeting opened at 5:08 pm.

Disqualification Appeal – Director of Training Promotional Exam

Ms. Marcano presented the letter from Mr. Michael Briscoe and gave a brief background on the reason why he had been disqualified from taking the promotional exam for the position of Director of Training. Commissioner LaDore invited Mr. Briscoe and his lawyer, Atty. Rosen, who were present to join the meeting. Commissioner LaDore summarized the request in Mr. Briscoe's letter. Mr. Briscoe was deemed ineligible to participate in the Director of Training exam because he does not currently hold an officer rank position in the New Haven Fire Department.

Atty. Rosen pointed out that the Board did not have before them his letter to the City claiming there was a scoring error in the test that Mr. Briscoe took for the rank position of lieutenant. Atty. Foster added some background information on Mr. Briscoe for the benefit of the Board, namely the issue that Mr. Briscoe did not pass the lieutenant exam with a score high enough to be promoted to Lieutenant. Mr. Rosen added to that background information by explaining the claim he filed on Mr. Briscoe's behalf with the federal court. He emphasized their observations, as specified in the claim concerning the weighted scoring of the oral and written exams.

Atty. Victor Bolden, Corporation Counsel added to the discussion by stating that issues regarding the scoring methodology of the lieutenant's exam are currently being litigated in Briscoe v. New Haven, but as stands today, Mr. Briscoe does not meet the eligibility requirements for the position of Director of Training.

Commissioner LaDore asked about the timeline of the case. Atty. Bolden did not know exactly when the court would be addressing the Briscoe v. New Haven case, but repeated that Mr. Briscoe's current qualifications did not meet the requirements for the position of Director of Training. Commissioner LaDore asked why this issue was being addressed now if the test in question was taken in 2003. Atty. Rosen responded that the set of facts regarding this issue were not known prior to January 2010. Mr. Briscoe discovered this information sometime in January when the testing company sent him information on how he scored across the two portions of the exam. Atty. Bolden stated that he could not speak on how the City will defend in this case, but he does not believe there was a scoring error and there may be different perceptions on the scoring method. Discussion followed regarding the lieutenant test, the current job title of Mr. Briscoe, and disparities in opinion among parties regarding the scoring method of the lieutenant test.

Atty. Foster then pointed to the Civil Service Rules pertaining to the scoring issue, such as Rule II and Rule III, regarding the scale of exam grades. She summarized Atty. Rosen's argument for the Board.

Atty. Rosen then asked what the Board's understanding was about the commission's role concerning the weighting of the exam. Atty. Foster advised that that was not an appropriate question for the Board at this time. Atty. Rosen stated his disappointment over the fact that he raised this scoring issue six months ago and it is only now that the Board was learning about it.

Atty. Bolden clarified for the record that since the issue was filed in court it became a litigation matter. He added that the certification of the lists for Lieutenant and Captain was done by Federal Supreme Court order. He also noted that there is no order before the Board by the Court requesting the addition of someone to those lists or the altering of those lists. Commissioner Kelly added that since the matter of the scoring of the lieutenant exam is currently being litigated, the Board does not have the authority to make a decision on the scoring of that test. Commissioner LaDore stated that in his opinion, the Board would have to deny Mr. Briscoe's appeal to sit for the Director of Training exam and asked for the input of the other Commissioners.

Mr. Briscoe added that the issue raised was a matter of error in math and scoring. Atty. Bolden added that that matter is currently being litigated and reminded the Board of the court order leading to the lieutenant list certification. Attorney Foster also added for the Board that regarding Rule II, there are two different types of disqualification appeals. One of which the Board has flexibility in granting disqualification appeals and the other in which the Board has no discretion when the disqualifications are made based on the lack of minimum qualifications. Atty. Foster then stated that the basis for Mr. Briscoe's disqualification is that he does not meet the minimum requirements. She emphasized the question of whether or not Mr. Briscoe meets the minimum qualifications. Slight clarifications regarding certifications as specified in the requirements followed.

Commissioner LaDore motioned to deny Mr. Briscoe's disqualification appeal. Commissioner Massaro seconded the motion. All yeas; no abstentions. Appeal denied.

Commissioner Kelly motioned to move to Executive Session to discuss the Briscoe v. New Haven case. Commissioner Massaro seconded. All yeas; Executive Session entered at 5:30pm.

Commissioner LaDore motioned to come re-open the meeting. Commissioner Kelly seconded. All yeas; meeting reopened at 5:45pm.

Commissioner LaDore motioned to adjourn. Commissioner Massaro seconded. All yeas; Meeting adjourned at 5:46pm.

Respectfully Submitted,



Noelia Marcano
Civil Service Secretary

NOTE: For the purpose of compliance with the Freedom of Information Act, these minutes are made available for review subject to later review, revision and approval by the Civil Service Board.

Civil Service Board Approval Date: 8/17/10