

**FIRE COMMISSION REGULAR MEETING
MINUTES**

Wednesday, October 13, 2021

This meeting was held remotely on WebEx

The Video can be viewed by clicking this link:

https://sanfrancisco.granicus.com/MediaPlayer.php?view_id=180&clip_id=39563

President Feinstein called the meeting to order at 9:01 a.m.

Commission President	Katherine Feinstein	Present
Vice President	Stephen Nakajo	Present
Commissioner	Francee Covington	Present
Commissioner	Ken Cleaveland	Present
Commissioner	Armie Morgan	Present
Chief of Department	Jeanine Nicholson	Present.
Bryan Rubenstein	Deputy Chief -- Operations	
Jose Velo	Deputy Chief --Administration	
Shaine Kaialoa	Division of Training	
Sandy Tong	EMS	
David Brown	Airport Division	
Ken Cofflin	Bureau of Fire Prevention	
Dawn DeWitt	Support Services	
Erica Arteseros	Homeland Security	
Tom O'Connor	AWSS	
Simon Pang	Community Paramedicine	
Brice Peoples	Diversity, Equity & Inclusion	
Natasha Park	Health and Wellness	
Staff		
Mark Corso	Deputy Director of Finance	

President Feinstein read the Ramaytush Ohlone Land Acknowledgement.

2. RESOLUTION 2021-02 [Discussion and possible action]

Resolution making findings to allow teleconferenced meetings under California Government Code Section 54953(e)

President Feinstein Moved to adopt Resolution 2021-02. Commissioner Cleaveland Seconded. The motion was unanimous.

There was no public comment.

3. RESOLUTION 2021-03 [Discussion and possible action]

Resolution Approving Addendum to Procedural Rules Governing Trial of Disciplinary Cases for COVID-19 Vaccination Policy-Related Cases Subject to Meet and Confer with the Affected Union.

Commissioner Cleaveland Moved to adopt Resolution 2021-02. Commissioner Covington Seconded. The motion was unanimous.

There was no public comment.

4. GENERAL PUBLIC COMMENT

There was no public comment.

5. APPROVAL OF THE MINUTES [Discussion and possible action]

Discussion and possible action to approve meeting minutes.

- Minutes from Regular Meeting on September 22, 2021.

Commissioner Covington wanted to amend the minutes to add statements that she made in response to something that Commissioner Nakajo had said in terms of the monies that were going out were not our monies and without Commissioner Nakajo's statement, her comment looks like it is coming out of thin air. She would like there to be more of lead into what she was saying. The matter was continued to amend the minutes as addressed by Commissioner Covington.

There was no public comment.

6. CHIEF OF DEPARTMENT'S REPORT [Discussion]

REPORT FROM CHIEF OF DEPARTMENT, JEANINE NICHOLSON

Report on current issues, activities, and events within the Department since the Fire Commission meeting on September 22, 2021, including budget, academies, special events, communications, and outreach to other government agencies and the public.

Chief Nicholson reported on activities since the last meeting on September 22, 2021. She announced that COVID has been decreasing in the city and the Department has 15 members off with COVID, 10 of those are long-term. She added that vaccination mandates were extended for the members, and the due date is today and those that are not fully vaccinated as of today, are not permitted to enter the fire station at this point and there are approximately 41 non-compliant members and that does not include folks that are off on disability or FMLA. She thanked Chief Rubenstein, Chief Velo, HR, and everyone who has worked on getting those numbers down. She mentioned that the return of Fleet Week was a huge success, and she thanked all the members who stepped up to make it a success. She stated that she and several of her command staff attended the Italian Heritage Parade where she ran into Commissioner Cleaveland. She also stated that they have been meeting with numerous candidates who are applying for the upcoming H-2 academy class that should begin in January. She mentioned that she has been meeting with the employee groups and they are committed to working together to move the Department forward in a positive way. She also met with Supervisor Safai and the Department of Human Resources to investigate a new testing method. She assured the commissioners that she is committed to making changes, not just with diversity, but equity as

an important part of the entrance process and success within the San Francisco Fire Department.

There was no public comment.

REPORT FROM OPERATIONS, DEPUTY CHIEF BRYAN RUBENSTEIN

Report on overall field operations, including greater alarm fires, Emergency Medical Services, Bureau of Fire Prevention & Investigation, Homeland Security and Airport Division.

Chief Rubenstein reported on Operation activities for September 2021. He welcomed Commissioner Morgan. He stated that they carried on with drills and incidents during the month as well as rescued people out of the water. He touched on the mutual aid response and stated that most of the resources are back. He added that over the month the Public Information Office had a lot to do, including the annual police and fire memorial mass, the 9/11 ceremony, and the high-rise stair climb. Chief Rubenstein stated that they are continuing with their fire scene safety and education programs with the SFPD and Muni. He added that EMS has been working hard towards hiring and he touched on the Bureau of Fire Prevention and Investigation, the Airport Division, and Homeland Security.

Commissioner Cleaveland thanked Chief Rubenstein for his report and acknowledged the special report on Rescue Captain Beth Goudreau and her extraordinary rescue and suggested inviting her to a future commission meeting so they can thank her personally for her heroism and her skills in that incident. Commissioner Covington also thought it would be lovely to have her so they can tell her how appreciative they are of her efforts. Commissioner Cleaveland mentioned how stunned he was that one of our Street Crisis Response Team vehicles was vandalized and confirmed that the person was arrested.

Commissioner Covington thanked Chief Rubenstein for his public service announcements regarding motorists following the directions of firefighters who are on site of an emergency.

Vice President Nakajo thanked Chief Rubenstein for his report and welcomed Commissioner Morgan. He went through the written report and asked Chief Tong and Chief Pang some follow-up questions and confirmed some of the challenges, including staff shortages. He also concurred that Captain Goudreau should be invited to a future commission meeting.

There was no public comment.

7. PRESENTATION FROM DEPARTMENT OF PUBLIC WORKS ON UPDATE AND PROGRESS OF STATION 35 [Discussion]

Presentation and overview from the Department of Public Works on the progress of Station 35

Carla Short, Interim Director of San Francisco Public Works introduced herself and stated that Public Works and the Fire Department have a long-standing partnership in the delivery of both new and renovated Fire Department Facilities and over the past decade-plus through the voter-backed Earthquake Safety and Emergency Response Bonds, dozens of projects have been completed successfully. She added that some projects are fairly simple to execute and others are more complex such as Fireboat Station 35 which is unique, innovative, exciting, and one

that will meet the needs of a 21st century, San Francisco. She also introduced Charles Higuera, the ESER bond project manager.

Mr. Higuera stated that they are nearing the completion of the project and they know it doesn't come soon enough for all concerned, the Fire administration, the rank, and file, and certainly, themselves at Public Works. He added that it's a very unique project, the first of its kind anywhere and it has presented many challenges that they have worked hard to address. He stated that they have learned lessons from this experience. Lessons that will serve them well as they go forward in undertaking other projects. He acknowledged the many that have aided and abetted to design the delivery of the project, most significantly the representatives from the Fire Department, with whom they have always enjoyed a very cooperative and collaborative partnership. He described each slide in the attached PowerPoint: <https://sf-fire.org/files/2021-10/FS35%20Update%20to%20Fire%20Commission%20Slide%20Deck%20Final%2010-8-21.pdf>

Mr. Higuera introduced Magdalena Ryor, project manager for Fire Station 35, where she provided information about the budget impacts and schedule impacts including the mitigation measures BCDC levied on the project, the Steel Tariff enacted March 18, 2018, conventional change orders, and providing permanent power and the redesign by PG&E.

Public Comment:

Shon Bufford, President of San Francisco Firefighters Local 798 thanked the team from DPW for coming and presenting and commented that he has concerns about some of the depictions on how this project is being handled and 798 has a major concern about the cost overruns of many of these DPW run projects, not just at Station 35 but other stations in which they have gone over the time frame which has cost the Department additional money, as well as additional money in change orders. He knows some of these change orders are unforeseeable, but that is the project manager's responsibility to manage the project for the clients and Local 798 is the entity that has taken the time to walk the streets, to educate the public, and to help get these bonds passed for not just the public safety, but also for the members in which they represent. He concluded his comments by stating he would like for DPW to explain how a lot of these overruns have happened over the past and what can be done for the Department to be able to get some credit back on these costs and not have to absorb the cost of these overruns.

Floyd Rollins, Secretary of San Francisco Firefighters Local 798 stated: "At the time of the rebuild of Station 16, I was a company officer at Station 16. In looking at this, I realize that I have actually been involved in the moving in of two separate firehouses and the moving out of one. We -- I was at Station 51 when we moved into that facility, and I was at Station 16 as a company officer when we moved back into that facility. I was also a company officer involved in moving out of Station 16. And realizing the magnitude of moving out of a firehouse that has been in existence for a long time has just a collection of equipment, you know, history, decades and decades of company journals, workout equipment, kitchen equipment, beds, lockers. Station 16 being a water rescue house with water rescue equipment. It was quite a task. And so what I wanted to provide you all with was information that really made an already challenging situation even more difficult once we moved back into Station 16. Almost from the beginning of moving back into Station 16 the first day that we moved back into the station, it so happened to be raining a lot in the city. We were met with water leaks coming through the ceilings the

next morning. We had our first of what I know now to be approximately 10 or 11 major sewage backups in the building that resulted in sewage running from the showers and four rooms on the apparatus floor. An almost electrical fire in the main IT room down on the first floor. Numerous alarm system problems. A stove hood replacement that took the kitchen out of commission for a while. Ventilation issues in the day room area. We had an issue with standing water in a tank that was under the kitchen table that was supposed to never have any water in it. We began having pest problems in the kitchen area. And so we looked inside and found a large amount of standing water that was rusted and had a film across the top of it. It took probably about 45 minutes to an hour to pump that tank out. Issues with the door suites around the building where when it would rain, water would come cascading down the steps. Oxygenation with tiles and on the front of the building that had to be removed and reset. And, you know, it just -- it was a challenging time, as I said, for a lot of the members, because almost on a daily basis, there were workers returning to the facility to have to effect repairs at different places in the building. You know? And I have since moved. I was moved back to Station 7 into a position that I love working in, actually, but what I do understand about Station 16 is just the other day during tri-annual inspection, they had yet another sewage backup which amounts to approximately 10 or 11 sewage backups since they've moved into that building. DPW now has to go out on an almost bi-monthly basis to put a camera down the main line and then shoot enzymes in and clean out that line because via discovery, it was found that there were four low spots in the main line, the main sewage line, which caused the backups. And in order to repair them, it was said that they would have to tear out a portion of the apparatus floor and to repair that, which would cause issues with the apparatus floor itself being structurally sound and maintained. So it's just information that I felt as not only a company officer, but as a member of the Fire Department who lived through that situation that I believe the Commission needed to be provided with. Everyone came over and had a great time at the opening of the station. And it's a nice-looking station. But at the very same time, there have been numerous, numerous, numerous problems with the workings of that station. And it just -- it has provided a challenging situation for the company officers and the members that work there on a daily basis. And so to echo what President Buford said, I would hope having lived through that situation that the Commission and the Department would take into account the issues that occurred over there, the cost of that particular station, the cost the Department continues to incur with regard to repairs and fixing things and repairing things. That in a lot of cases I think should have been addressed during the build. Additionally, the delays that occurred in demolition, we were a year over moving back in. That project was delayed by a year plus. We were a year over moving back in from the original date that we were given. So I just hope that all of that is taken into account when looking at projects going forward and what needs to be done and what can be done to prevent the cost overrun, time overruns, and the numerous, numerous, numerous issues that continue to occur at that station.”

Chief DeWitt described her experience with the Station 35 Project and stated there has been never-ending, very expensive change orders that were imposed on the Department by different agencies and that there is a lot of finger-pointing at whose fault it is that all of these things came about so late in the project and she's left with a lack of understanding as to whether Public Works is responsible for helping put these projects together and being the experts in project management and planning these projects, why a lot of these issues were not dealt with and budgeted for initially and she feels that the change orders that took place over the life of the

project should have been anticipated and risks mitigated before they even approved the project to move forward.

President Feinstein confirmed that the total sum of change orders amounts to 11.4 million dollars. She expressed her displeasure with how the project was run and was baffled by what it is a project manager is supposed to do, as they should have foreseen the station was going to need power and there should have been no surprises other than the steel tariff. She expressed her concerns about the competency of the management of the project. She added that she is sensitive to the fact that DPW seems to get paid regardless of how much the bond money is getting squandered because nobody seems to be running the project and somebody should have paid attention to the issues they have come across. Mr. Higuera responded to her comments and stated that lessons were learned. He added that design-build is a delivery model, and it does not allow them to understand the full consequence of the design until it's accomplished and in this particular design delivery model, that occurs after the award of contract to the design-build entity. He confirmed that Public Works determines the design delivery model for all projects, and it's made through consultation with the director.

Commissioner Cleaveland thanked Mr. Higuera for his report and acknowledged it's a difficult situation all around. He confirmed that the non-construction costs amounted to about five million dollars which are the costs of the development of the project, typically the architect and engineer. Commissioner Cleaveland asked Mr. Higuera if he could do the Station 35 project over again, what he would do differently as the chief manager from Public Works. Mr. Higuera responded that he would use a design delivery model called progressive design-build which allows you to gather the intelligence, the insights into all these circumstances, and parameters for the eventual approval of the project in a way that candidly, design-build does not.

Vice President Nakajo expressed his frustration on the project and wondered why they didn't have this kind of conversation or presentation during the course of the project, and he thinks it's a tremendously expensive lesson learned, and the project still is not done and he feels there needs to be some kind of compensation or reparation and he feels in terms of overrun, they need to build on communication and coordination. He commented to Director Short that if they don't get some confidence and trust moving forward things won't improve.

Commissioner Covington thanked everyone for coming. She confirmed that the Fire Department does not have an opportunity to go out and interview various firms because it is within the city's charter, where there are requirements for which departments can do contracting out work and project delivery and San Francisco Public Works is identified in Chapter Six as one of those departments. She asked what safeguards are in place to ensure that the client is satisfied with their choice as well as who the project manager is. Mr. Higuera responded that a project manager is a staff person that is named by the Public Works Department based on their skill set, their experience and expertise, and their alignment with the particular project that's available. They do not customarily inquire with the client department on their opinion regarding that. They do inquire with the department if once named, the project manager is not performing, and then they are engaged in a conversation about whether corrective action can be made to get right, if you will, with the department, or failing that then, it becomes a matter of the replacement of that individual. He added that of course, this goes to a matter of personnel

and employment with the city, they must be very circumspect in how they process any change in a project manager to ensure that the city is not put at risk of potentially illegal employment action. They will respond to any client who can provide them with whatever they think proves their belief that a project manager is not suited to the role, and it is initially as with any department, they appoint staff to the work, and work with the department to drive it towards satisfaction in the way the work is being prosecuted. Commissioner Covington responded that she thinks that's too late in the process, that the client department has to approve whomever it is that they select to do such expensive and huge projects. She confirmed that if work has paused on a project, the project manager does other things, she would only attend to the business that is essential to keep momentum on the project, as she has other projects under her belt to administer and manage and that the SFFD is only billed for hours that are spent working on Fire Department projects. She thanked Mr. Higuera and Ms. Short for their openness in terms of moving forward and the Fire Department and the Commission having a voice regarding the selection of the project manager going forward.

8. COMMISSION REPORT [Discussion]

Report on Commission activities since last meeting on September 22, 2021.

There was no public comment.

9. AGENDA FOR NEXT AND FUTURE FIRE COMMISSION MEETINGS [Discussion]

Discussion regarding agenda for next and future Fire Commission meetings.

- Station 16 presentation from DPW
- Training facility update

There was no public comment.

10. PUBLIC COMMENT ON ITEM 11

Public comment on all matters pertaining to Item 11 below, including public comment on whether to hold Item 11 in closed session.

There was no public comment.

11. POSSIBLE CLOSED SESSION REGARDING PERSONNEL MATTER

a. VOTE ON WHETHER TO CONDUCT ITEM 11(b) IN CLOSED SESSION [Action]

The Commission may hear Item 11(b) in closed session pursuant to Government Code Section 54957(b) and Administrative Code Section 67.10(b).

Commissioner Morgan excused himself from this item as he had not read the transcript to participate in the Findings of Fact.

Commissioner Covington Moved to hold item 11(b) in closed session. Commissioner Cleveland Seconded. The motion was unanimous.

The commission went into closed session at: 11.35 a.m.

Commissioner Morgan excused himself from this item as he had not read the transcript to participate in the Findings of Fact.

b. CASE NO. 2020-03: COMMISSION DELIBERATIONS ON PROPOSED FINDINGS OF FACT, AND POSSIBLE APPROVAL OF FINDINGS OF FACT REGARDING COMMISSION'S DECISION ON EMPLOYEE SUSPENSION APPEAL [Action]

At a Special Meeting of the Fire Commission on August 11, 2021, regarding the above-noted matter, following the evidentiary hearing, the Commission deliberated and reached a decision on employee discipline concerning employee suspension appeal.

The Commission is now considering proposed Findings of Fact in relation to that decision. [Action]

c. IF CLOSED SESSION IS HELD, RECONVENE IN OPEN SESSION

1. Report on any action taken in Closed Session as specified in California Government Code Section 54957.1(a)(5) and San Francisco Administrative Code section 67.12(b)(4).

2.

Deputy City Attorney Brad Russi announced that the Findings of Fact were approved unanimously by the commissioners present.

3. Vote to elect whether to disclose any or all discussions held in Closed Session, as specified in San Francisco Administrative Code Section 67.12(a). [Action Item]

4.

Commissioner Cleaveland Moved to not disclose discussions held in Closed Session. Commissioner Covington Seconded. The motion was unanimous.

12. ADJOURNMENT President Feinstein adjourned the meeting at 11:49 a.m.