

SAN FRANCISCO FIRE COMMISSION



FOR FIRE COMMISSION SPECIAL MEETING

December 15, 2021 – 10:00 AM

698 Second Street, Room 102, San Francisco, CA 94107

President Feinstein called the meeting to order at 10:03 A.M.

Item No.

1. ROLL CALL

President	Katherine Feinstein
Vice President	Stephen A. Nakajo
Commissioner	Francee Covington
Commissioner	Ken Cleaveland
Commissioner	Arnie Morgan

Also present was:

Court Reporter Veronica Guerrero
Deputy City Attorney Brad Russi
Deputy City Attorney Jennifer Stoughton
Commission Secretary Maureen Conefrey
Chief of Department appeared at 11:11 a.m.

2. CASE NO. 2021-04: HEARING AND DELIBERATIONS ON VERIFIED COMPLAINT FILED WITH THE COMMISSION BY CHIEF OF DEPARTMENT *[Discussion and possible action]*

On October 19, 2021, Chief of Department Jeanine Nicholson filed a Verified Complaint with the Fire Commission against member for a non-punitive medical separation

This case may be heard in Closed Session pursuant to Government Code Section 54957(b) and San Francisco Administrative Code Section 67.10(b).

A. Public Comment on Special Meeting Agenda Item; Possible Closed Session

Members of the public may comment on all matters pertaining to Agenda Item 2 and whether to consider the matter in closed session. [Government Code §54954.3(a), Administrative Code §67.15(b)]

Marie Kricken wife of Firefighter Michael Kricken stated the following: "My name is Marie Kirken. I'm the wife of Michael Kirken. He's been a dedicated firefighter in San Francisco for over 17 years, and so I wish to submit my public comment. The TCSF and Chief Nicholson threatened a imposition of interim unpaid suspension against those firefighters who remain vaccine free of COVID-19 EUA, or emergency use authorization injection. TCSF and Chief Nicholson cannot satisfy the requisite statutory conditions in the San Francisco City Charter to the Administrative Code or/and general orders establishing that

these firefighters constitute an immediate danger to the health or safety of the general public or to fellow employees or that pressing circumstances exist which justify deprivation of up to 30 days of their regular salaries and benefits. However, now we're past the 30 days of deprivation --just my last comment is that there are pressing circumstances exist which justify the deprivation of up to 30 days of their regular salaries and benefits. However, now, we're past the 30 days of deprivation of pay, and these firefighters are still without proper hearing, without pay, without work, and most importantly, without any answers from either Local Union 798, HR, TCSF, and the Fire Commission. These unpaid suspensions are predetermined terminations, and my hope is to just gain clarification here. These firefighters were not able to exercise their procedural due process rights, no true Skelly hearing, and have yet to receive a supposed trial hearing by the Fire Commission based on – on Chief Nicholson's recommendation of separation from employment. This is absolutely unlawful. This submission of my public comment to support the vote on an open session, if it is, in fact, for this, is to provide public with full transparency on this case, if it is, and the complaint that was filed by Chief Nicholson, if that should arise in another -- in another hearing.”

Caller Five stated: “The fire chief is overstepping her reach, especially since all of other Bay Area departments have been able to secure testing and masking for the employees. Please think of this: Does the City and County of San Francisco want to take on the burden of trying to justify an illegal mandate regarding an emergency use vaccine? There have been zero cases of first responders infecting the public. Not to mention that we are not following the science by denying natural immunity or the fact that we worked together through the majority of pandemic without having a vaccine. Why are firefighters being vilified now? Firefighters are losing their job based off a vaccine that can no longer stop the spread, and the vaccinated--and the unvaccinated can contract the virus all the same according to the recent e-mail from the fire department doctor.

B. Votes on Closed Session

1. Whether to hold the hearing on the verified complaint in closed session [Action]

Commissioner Covington Moved to hold the hearing in closed session. Commissioner Cleaveland. Seconded. The motion was unanimous.

The commission went into closed session at 10:19 a.m.

2. Whether to conduct deliberations in closed session [Action]

Deliberations began at 11:39

C. Hearing and Deliberations

1. Hearing on verified complaint (in open or closed session, per the Commission's vote)
2. Deliberations and possible action on charges (in open or closed session, per the Commission's vote) [Discussion and Possible Action]

D. 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).

The Commission Reconvened in open session at 11:50 a.m.

Commissioner Covington Moved to uphold Chief Nicholson's recommendation to medically separate member from the position as a San Francisco Fire Fighter. The Commission also instructed the Department to prepare proposed Findings of Fact to support this decision and submit the Findings to the Commission and to member no later than January 27, 2022. Pursuant to Rule XIV.B of the Procedural Rules member will have until February 4, 2022, to submit a response to the proposed Findings if member wishes. The Commission plans to consider the proposed Findings for adoption at the Regular Commission meeting on February 9, 2022.

2. 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]**

Commissioner Cleaveland Moved to not disclose discussions held in closed session. Commissioner Morgan Seconded. The motion was unanimous.

3. ADJOURNMENT

Commissioner Covington Moved to adjourn the meeting. Commissioner Cleaveland Seconded. The motion was unanimous. President Feinstein adjourned the meeting at 11:52 a.m.