

MINUTES OF THE FIRE COMMISSION SPECIAL MEETING
February 28, 2022 – 9:00 AM

President Feinstein called the meeting to order at 9:08 a.m.

Item No.

1. ROLL CALL

Vice President	Stephen A. Nakajo
Commissioner	Francee Covington
Commissioner	Armie Morgan

Also present: Court Reporter Sarah Jean MacDevitt
Member
Chief Jeanine Nicholson
Deputy City Attorney Matthew Yan
Deputy City Attorney Brad Russ
Sam Gebler, Local 798
Fire Commission Secretary Maureen Conefrey

2. CASE NO. 2021-16: HEARING AND DELIBERATIONS ON VERIFIED COMPLAINT FILED WITH THE COMMISSION BY CHIEF OF DEPARTMENT
[Discussion and possible action]

On November 3, 2021, Chief of Department Jeanine Nicholson filed a Verified Complaint with the Fire Commission against member for a non-disciplinary 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)]

PUBLIC SPEAKER: Yes. I would. Good morning, Commissioners. I've been watching some of these fire commission hearings, and I've noticed what I would interpret as kind of jokes or easing of the moment that have been thrown around by commissioners, which I won't name. But I feel the level of insensitivity and the level of unprofessionalism in the light of what is going on to these firefighters who worked through a pandemic and bravely went out every day to serve this community and didn't have the luxury of staying home. So in light of what happened, or what I felt what happened, should be refrained from for the entirety of these commission hearings. And also, just hearing through your discussions now, I also want to bring up the concern about Commissioner Cleaveland, and will there be more insight onto his departure? I thought he brought up valid points before his departure. Thank you.

PUBLIC SPEAKER: I have three minutes, I see, so thank you for your time for listening. I'm going to come out and be very transparent and open with you. I'm a firefighter here in the Bay Area in San Jose, California. I've been there for 16 years. My family, before I moved down to the South Bay, was a third-generation in San Francisco in the Excelsior District, so San Francisco holds a deep part for me. I'm calling in today to support Board of Commission to roll

back the mandate and allow the firefighters to work. We have people across the Bay Area in certain cities. Some cities in the Bay Area do not have a mandate at all are continuing to work. Firefighters, first responders, nurses, doctors, they are working. They are not spreading COVID to the community. And now, as you have seen, we are moving through the pandemic. We're getting to a point where we're at the final phase of it. But we're still holding firefighters accountable to act and mandate vaccination and not have medical or religious exemptions approved. And the city of San Francisco has failed to allow that to happen.

It's frustrating to see the brothers and sisters that serve the community save lives, risk their lives, jeopardize not coming home to their families, put on unpaid leave, or even possibly terminated. I highly advise that you all dig deep down into your hearts. Consider what you're doing to the men and women that serve you 24 hours a day, 365 days a year. It would be nice to see the city of San Francisco, one of the most beautiful cities in the country and the world, roll itself back and lead by example. There are many cities across the United States right now that are doing the same, and it would be great if you did the same for your firefighters, your police officers, your sheriffs, any frontline workers that are losing their careers over this. I don't know how you would feel if you were put out on the streets –

PUBLIC SPEAKER: Thank you. It's completely disheartening what is happening to the frontline workers. And even though I work for a major city in the Bay Area that's south of San Francisco, I'm in the same boat. This is destroying the fire service across the country. This is destroying the police service across the country. And these are the people that are there for you all the time. So please talk to yourselves. Think about the ramifications of what you're doing to our livelihood, and take the time to do that today. Thank you.

PUBLIC SPEAKER: Hello, I'm an anonymous concerned citizen. I've watched some of these commission meetings in the past and decided to follow these hearings. I never thought I would call in to make a public comment, but after watching these last few hearings, I have to do all I could to voice my concerns. I'm disgusted by what I've seen and heard from almost everyone involved in the decision-making process. After hearing Commissioner Cleaveland's questions in one of the hearings, I decided to take a look at the health orders that you are standing behind. Have you all read the entire health order? If you haven't, that's a crying shame. Read it in its entirety and look at the options available to accommodate these firefighters. The health order gives you ability to do so including entering high-risk settings, and it's based on health and science. You have an obligation and a duty to do so for the citizens of this city. You are being misled by the city attorney and the fire chief. You have the authority to grant them accommodations or at least direct the fire chief to come back with some better options than "see you later." You have the opportunity and you have the duty to hold the Department accountable as a citizen commission. This whole thing is starting to look like politics or attacks on certain faiths and personal beliefs, and I really hope that is not the case, especially for such a diverse and inclusive city like San Francisco. You have the opportunity to protect these firefighters' livelihoods, their family's livelihoods, their faiths, and their professions and at the same time keeping this city safe with experienced firefighters during a staffing shortage regardless of what their personal religious beliefs might be. Every single minute these hearings should be made public, and that includes your closed-door deliberations, especially if these people request it. Firing these people should never have been an option, especially now as we enter the endemic phase of this 1 virus. 2 If you move forward with separating all these firefighters, you will cast a stain on the reputation of this fire department, this administration, and this city for a very long time. And that stain will only grow as we look back on policy decisions that were made in this pandemic. It's time to right the ship. Ask the right questions, get the right answers, and make the right decision within your authority and within the guidelines of the health order. I relinquish my time.

My name's Shawn Chatfield. I work for the San Francisco Fire Department. Against my will, on 20 August 5th, I received the COVID vaccine. I did it because I have three beautiful children

and a wife that I need to provide for. Within a week of receiving the vaccine, I experienced night sweats, body aches, chills, fever. I lost 15 pounds. Seven days after, I woke up, 5:00 in the morning, with a feeling like my heart was going to pound out of my chest. I immediately called the physician's office. The next morning got into a workers' comp doctor. They did blood work, X-rays. I had myocarditis. Had a major cardiac event at age 35. All right? Just 30 minutes ago, I received an email from your HR department stating that my medical exemption for a booster is denied. So now I'm put into a position where I either receive another vaccine and potentially die or lose my job and my ability to support my children. How much sense does that make? The other day you fired a man named Tom Daggett, an American hero, a patriot, a man who spent 20 years of his life defending the Constitution against all enemies foreign and domestic. He did not care whether you were white, black, what your religion was, where you were from, how you grew up, where you grew up, what your belief system was. His patriotism gave this fire commission the ability to even have this meeting right now. All right? You people need to open up your eyes. Why is Ken Cleaveland not on here when he's asking normal questions? Why is he outed? Why am I put in the position to either have a major cardiac event or lose my job? That makes zero sense to me. I had never thought it would come to this, but this is absolutely ridiculous where you're asking me to choose between taking a shot or losing my job and my life. And Chief Jeanine Nicholson wants to sit here and say that they have people -- plans in place to help people? After I had my cardiac event, not one member from the command staff contacted me. Not one member from the physician's office contacted me to see how I was doing. For three months the city and county put me off on disability with an adverse reaction to the COVID vaccine.

My name is Michael Crotty. I'm a San Francisco fireman. What we are witnessing here is political retaliation for stances on autonomy. They have been given over to your commission to be executed because of their sincerely held beliefs. You who sit on this council were ordered to end the career of those who you govern over, but don't forget also tasked with defending. You hold the futures of these fine people in your hands. Please handle this situation as if it were your own careers or those of your own children. Please do not be influenced by the political storm outside your doors. They risk their lives to save others. That is thrown around too flippantly these days. Do you know what caliber of person would risk their own life to save yours? Will you yourselves now risk everything to save one or all of them? I believe the balance of power is lopsided in this situation. You are the judges and juries of people who put their everything on the line for those they do not know, not because their lives are worth less, but that they value others' lives above their own. That's incomprehensible to the average citizen. These firefighters have families that pray they return home after their shift. Some tragically do not. Please fulfill your duties and be the protectors of these defenseless heroes as if there's no one coming to save them. They, right now, are in a fully engulfed fire, and you must go in and drag them out to safety. Today you can be our heroes. They are at your mercy. They have run out of air in a fire, and you are the only ones who can rescue them from certain death. You don't have to disobey a health order, but you can demand that they are afforded the same allowance as 99 percent of all fire departments in this county, given the ability to mask and test so that they may leave to fight another fire and save another life. This isn't a job. It's a vocation, a passion, a commitment, and servitude to the fine people of the great city of San Francisco. Everyone has a time in their lives that comes to a crossroads. This might be yours. I can only imagine what tremendous stress this puts on your hearts and minds. If this atrocity isn't the last thing you think of before you close your eyes, then I may have wasted my breath, and you will be -- you will have done what you have been told to do here. I suspect Commissioner Cleaveland had trouble falling asleep under the weight of what he was tasked with, and I hope that he resigned in protest and wasn't fired by the mayor by not following through with her execution orders. We may never know the truth of that, but you know very well the truth of that. Please, I implore you to use your hearts as well as your minds in this monumental moment. This may define the rest of your lives as your decision will absolutely define the rest of these firefighters' lives. Make it count, your job. Breathe the fresh air of truth and justice

My name is Ben Landis, San Francisco fireman. I just wanted to call -- I keep -- after listening to some of these hearings I'm hearing, it just goes back to the science doesn't matter. I keep hearing that from the lawyers, the left, science doesn't matter. The bottom line is they disobeyed an order. Well, these GOs were put in place based off science at the time that thought that these vaccines were going to stop the spread of the virus. That has been proven to not be true since then with hundreds of firemen in our department that have been sick, including our own chief -- including our own chief who got COVID after being vaccinated. So laws are able to change based off science. You guys have the power to step in and work on changing these laws that are wrong. Let me point out, you know, many times in history -- let's not forget that there was laws and regulations and rules that said certain people -- or people of certain demographics, sexual choice, women -- all kinds of rules that were wrong and people stood up and for and by regardless of what the general populous said. They stood by these people and fought for their rights and because it was right. Those laws were changed. And thankfully all of you are sitting where you are -- if you really sit and look around at each other, the majority are all sitting there because somebody stood by you at one point in time. Now it's your time. Now it's your time to stand by these people, firemen, that would openly and willingly give their lives, run into any emergency situation, into your home, not knowing who you are, not caring who you are, not caring what you look like, not caring what your sexual preference is, not caring about anything except for saving your life. I bet you -- really think about it. You have any family members, you have any friends that would truly do that that aren't police, fire, or military? Do you really have any friends like that? Seriously ask yourself; search yourself. So I challenge you guys to all stand up for what's right, as we all do as firemen, as we all do to protect this community. It's your job. Your position is to protect us. And now it's your position to stand up by us just as so many in the past and throughout history have stood by you and your beliefs and everything that has made you you in where you are today. That's all I have to say. Thank you.

My name is Carl Bishavic. I retired on October 13, 2021, under duress because of the vaccine mandate. I have listened in on some of these hearings. I've been appalled at the lack of concern for the members that you're terminating. If you have been listening really carefully, you should be able to see that these firefighters have a very high degree of integrity, intelligence, respect, and honor. Those are the characteristics that make excellent firefighters. Think about it. Why would anyone give up the career of their dreams, which they had worked very hard to obtain and maintain? Why would they subject themselves and their families to so much stress to become unemployed because of conspiracy theories, politics? Are they insubordinate rebels who are dangerous to themselves and others? I'm asking each and every one of you to think about this very carefully even though your minds are already made up. Some of you can still hear that little voice deep inside you telling you that this is wrong on every level. This whole thing is an absolute travesty. I'm not sure, honestly, if I feel more sorry for these firefighters or for you. That's all I have.

My name is Christopher Salas. I've attended every hearing. I am a retired San Francisco firefighter under duress, October 13th, same as Carl. I'm a native San Franciscan, and I still live in San Francisco to this day. I don't -- Chapfield didn't say anything, one of the first callers. He's a marine. He served the country honorably. I also would like to know what happened to Commissioner Cleaveland as he stood by us and brought up something in the health order that none of you have brought up or have given an option for. Even the chief knows about it, I'm sure, to test as we come to work. If we have a negative test when we come to work, that's proof positive that we don't have COVID and we can go into high-risk settings with our full PPE, which we did for over a year a half before these vaccines came out that don't even work. The efficacy of the vaccine is new. As COVID spread throughout the Department after we were no longer part of it, and two months later, the Department started testing vaccinated employees. That seems mighty strange to me that they were tested and the unvaccinated cannot be tested. Nowhere in the health order does it say to wear a mask for 24 hours, only in high-

risk settings. The firehouse is not a high-risk setting. The dorm is not a high-risk setting. The shower is not a high-risk setting. And I believe the chief knows that. I have heard that it was about money that we couldn't have a test for the unvaccinated firefighters. I do not believe that to be true. The City spent \$60,000 per tent in the homeless camps. The City pays the hotels like they are full without being full. And they also pay for alcohol, hypodermic needles, and drugs for the homeless people that they keep in the hotels. So that being said, none of you have to go against the health order for all of us to have our jobs back because the health order gives the opportunity not only for a religious exemption, which we were all denied, which I feel is discriminatory and retaliatory, but it also gives the option for testing. That is one of the easiest things to do, and it's being done for the vaccinated. That's also discriminatory and retaliatory. How are they allowed to be tested and the unvaccinated fire is not? So, to me, that's the travesty of the whole situation. I also, like Carl, pray for all of you, pray that your hearts are open to realize that, yes, you can make a different decision than the city attorneys tell you you can. And it's almost incumbent upon you to do so. These firefighters are brave, courageous people, and they put the citizens of the city and county of San Francisco above everything. We have and we always will. So, hey, God bless everybody today –

PUBLIC SPEAKER: San Francisco is in the worst shape that it has ever been in its history of San Francisco. And why? Who's in charge? Who's in charge of the city? A criminal. Someone who has taken bribes. Someone who has lied about their brother's whereabouts the night he killed his fiancé. We all know this. How dare she tell us what to do when she can't even wear her own -- and abide by her own laws about wearing masks. City hall is corrupt. We know the firefighters. We know the police officers that have been in all these calls. How dare you? You all are guilty. You all are guilty. I hear about people waiting for ambulances for an hour while they're having heart attacks. You want to get rid of people that are willing to sacrifice their lives, their livelihood just so -- just so -- because she said so? Shame. The corruption in city hall and the board that we are witnessing right now is despicable. The no-news coverage -- it's a shame. And I just want to -- and I pray that one day, one day we will see the light. And God bless these firefighters. Shame on you. That's all I have to say.

My name is Susan Abbott. I'm a native San Franciscan, and I think that going on right now is -- this is a test of character of the members of this commission. I implore you to go back and look at the oath that you took. Everybody takes an oath. And you are -- Can you hear me? Hello? I 2 keep -- Sorry, I got a couple of calls right there. And so I implore you all to uphold your oath. The fire department is a paramilitary operation there. It's structured that way, so about disobeying order and all that comes into play. But your oath overrides all of that technicality and procedure. And this linchpin seems to be here that we're in this health emergency and that we're trying to protect others by not allowing these unvaccinated firefighters to continue in their job. But that actually has no basis in reality. Disneyland is open. All kinds of communities are wide open. There's huge traffic jams on the Bay Bridge. That does not reflect a health emergency. And especially the fact that what's required of somebody when they go to work, fine, but with this vaccine, that goes into their body and it remains in their body when you leave, when you're not working as a firefighter. So this is a violation of the Bill of Rights. San Francisco does not have the ability to override the fundamental rights of your physical autonomy and informed consent. So this is a test of character. I don't know what goes on at city hall. I don't know what all the relationships you guys have with each other and with other people in power. But this is a test of your individual character to look and see what is actually going on and to protect these firefighters from losing their jobs and their livelihood, which is -- you come out of your mother's womb and you got to work to make a living. Okay? So this is very, very, very important and very wrong to allow them to lose their jobs over this. Thank you.

This is firefighter Tommy Daggett. Correction, I was firefighter Tommy Daggett. I was terminated by this commission and the fire chief last Thursday, which went effective on Friday evening at 5:00 Pacific. I am calling on behalf of Eddy McCue, a really great man, San

Francisco native who started working in this city and then moved his way into the position of firefighter and has served very well. He's a loving husband and father and just all around -- just so you know who he is, he is a really, really great guy, hard worker, and a professional. He's been charged with endangering the public. And I would like to remind everybody that's listening in that it is the San Francisco Fire Department's responsibility to provide a preponderance of evidence suggesting that Eddy McCue and follow on Jessica Lindsey who's up for termination later this afternoon. The Department is charged with serving a preponderance of evidence supporting your charge that these people are an endangerment to the city. And I want everybody to keep their ears open to the evidence that they are an endangerment. Shifting gears a little bit, I just want to say publicly that I really appreciated during my termination hearing the request for transparency from former commissioner Ken Cleaveland. I thought that was very noble of him. And I too am hoping that somebody from this commission will shed some light on exactly why he is no longer a member of the San Francisco Fire Department Fire Commission. And then also I wanted to just say I think that I've heard many times that this is -- you know, people saying "this is out of our hands" or "it is out of my jurisdiction." The Fire Department has no jurisdiction. The Fire Commission has no jurisdiction." I feel like when power, money, title become your God, the answer is always going to be "it's out of my hands" because you are not willing to take risks. If your priorities are mixed up, why would you give up a potential nugget or a little bit of your livelihood or put some undue stress on you in support of somebody whose livelihood is at stake? So to the Chief of Department, we see you on these hearings, and I suspect that there's a little uneasy feeling in your stomach. And if there isn't, I would be worried. But I want to tell you, God loves you.

My name is Ken Rappaport. I'll be brief. I'll be transparent. I'm a firefighter for a county down in the South Bay. I've lived in San Francisco. I just want you all to think about the stress that this is causing the firefighters and that it is going to cause the public. I'm vaccinated. I got vaccinated. And Eddy doesn't cause the public any more harm than I do. All right. I got COVID after I was vaccinated. I could have given it to the public, but we didn't because we wear the proper PPE that protects ourselves and protects the public. The downside here is that the public is going to be having to really wear all of this on their sleeve because they're losing experienced firefighters. They're losing the correct amount of staffing on fire engines. And it sure doesn't make financial sense because now we're going to have to train somebody, start all over to fill this person's spot with someone who's not as experienced. So financially, it doesn't help the public at all, the ones who are paying for their fire service. There's nothing about this that makes sense to the public. So even take away the fact this is horrible for firefighters and firefighters' families. Take that out of it. Think about the public. This is not good for the public. This is dangerous for the public. If we, you know, forget about the firefighters. That's -- want to do, but -- they serve. They're the ones that are going to have the challenges of making sure that when they call 911, they get someone experienced and they get the right number of people to show up. And if we let people go who have that experience because they're unvaccinated and pose the exact same risk as someone who's vaccinated, that doesn't make sense, does it? So I'd like you all to think about it and, you know, really think about the effect that this is having, not only on the firefighters and their families but just from a public safety perspective. Thank you.

B. Votes on Closed Session

Member requested an open session.

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

Commissioner Morgan Moved to hold deliberations in closed session. Commissioner Covington Seconded. The motion was approved unanimously.

Convened in closed session at 12:08 p.m.

Also in closed session was Deputy City Attorney Brad Russi and Fire Commission Secretary Maureen Conefrey.

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]

Commissioner Morgan moved to find the Department proved by a preponderance of the evidence that member failed to comply with the City Health Order and the Department General Order and to uphold the Chief's recommendation for a non-disciplinary separation. Commissioner Covington Seconded. The Motion was unanimously approved.

D. If Closed Session is held, reconvene in Open Session

Reconvened in open session at 12:51 p.m.

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. 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 Morgan moved to not disclose discussion held in Closed Session. Commissioner Covington Seconded. The motion passed unanimously.

3. **ADJOURNMENT:** President Feinstein adjourned the meeting at 12:54 p.m.