

MINUTES FIRE COMMISSION SPECIAL MEETING
March 3, 2022 – 9:30 AM

President Feinstein called the meeting to order at 9:31 a.m.

Item No.

1. ROLL CALL

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

Also present: Court Reporter Cynthia Dammann
Member
Captain Floyd Rollins, Local 798
Chief Jeanine Nicholson
Deputy City Attorney Jennifer Stoughton
Deputy City Attorney Brad Russ
Fire Commission Secretary Maureen Conefrey

2. CASE NO. 2021-06: 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)]

CALLER: I would like to talk about the bias of the Fire Commission and the board's lack of autonomy from the mayor. It is clear from the past hearings that the fate of the employees is predetermined. I do not think anyone would deny the vaccines, mandates, and their effectiveness are political. They're some of the most polarizing and political issues in today's society, but we are not here for politics, or shouldn't be anyway. We are here to ensure these employees are afforded due process. It is becoming increasingly obvious that a fair trial is impossible because each one of you is beholden to the mayor, the mayor who has made it clear that she wants us gone. It is so unfortunate that politics are controlling here and not justice. There are many reasons why this board is compromised when it comes to the obligation to be impartial, but I'll focus on one of the most important reasons. In a 2016 article written by Tel Goldberg from KQED, the board of supervisors president at the time, now Mayor London Breed was quoted as saying the following about the employment of fire commissioners: "It is important that we have a body that doesn't feel like they have to make the mayor happy in order to keep their seat. We have to be people who are independent." Goldberg goes on to

compare the police and the fire commission. According to the city charter, the fire commission should consist of five members and the mayor has the power to replace any of them. Compare that to San Francisco Police Commission, which has seven members who are nominated by the mayor and three by the board of supervisors. Supervisors can confirm or reject beliefs, members of the police oversight body, and can remove members we have nominated. No disrespect made by this comment, but the fact is the members of the fire commission and the chief are appointed by the person who's driving this process, and that fact makes you mere puppets of her desires. You do not do as you do -- if you do not do as you are told, you'll be gone. We all know this. Believe it or not, I sympathize with the display of cowardice that is before us. I know firsthand that it does not feel good to be discarded like a piece of trash, and I completely understand your willingness to sacrifice your position and society for a bunch of strangers, strangers who have made out to be selfish civil servants. I think you know in your hearts this is not true, that the playbook has a lot of holes in it, yet you all seem to be moving forward with this plan like it makes sense at this point. It is very obvious that you are not allowed to operate outside the political playbook that has been prewritten for you.

CALLER: Yes. This is the fire commission? Thank you for taking my call. A couple days ago, the FDA finally released a list of adverse reactions. Pfizer and the FDA were forced to do this. Anybody can look this up for themselves. It is called the "Cumulative analysis of post-authorization adverse events." Please keep in mind that these side effects would have been kept confidential. There are nine pages of adverse reactions, equaling hundreds of side effects. I wanted to bring this up because this is the first required release of these documents. I urge the fire commission to do your due diligence before you liquidate anyone else. This is the least you can do. Remember, these first responders showed up for a year and a half with only personal protective equipment, no vaccine and no guarantee of safety. Show some leadership and do what is right. Make no mistake. More is being revealed. What side of history do you want to be on?

CALLER: Commission statement of San Francisco Fire Department says, part of it, "free workplace of harassment and discrimination." Commissioners, ask yourself if any attempt to accommodate these firefighters was ever made. Telling firefighters to get vaccinated is not an attempt to accommodate them. Ask yourselves what changed. These firefighters worked through the height of the pandemic with no vaccine in sight and the quote-unquote minimum safety requirements. Why is it necessary to fire them now? 100 percent of the department is vaccinated? City and County of San Francisco is 84 percent vaccinated. Why more restrictive? The city is opening up again. Mandates are being rescinded all over the Bay Area and the country. COVID-positive nurses and staff are working at UC Parnassus. If COVID-positive nurses can enter high-risk settings, surely firefighters that are COVID-negative can enter the facility briefly to drop off patients or assist staff there. No laws need to be changed. No health orders need to be amended. Don't fool yourselves. This commission hearing and firing these firefighters is anything short of the Spanish Inquisition for other kangaroo courts that we've seen in the past. Please make the right choices, ask yourselves the real questions, and ask the chief the real questions. What accommodations were ever, if ever, provided to these firefighters? Thank you

CALLER: Yes, I would. Thank you. Christopher Salas, retired fireman from San Francisco under duress. I direct my comment to Commissioner Morgan. I was extremely disappointed with your biased attack on Jeff Chadwick yesterday at the predetermined commission hearing. I cannot believe that you actually called a dedicated public service selfish. In addition to that, you misrepresented the fact of the COVID pandemic. For example, you mentioned close to 1 million COVID deaths which are all - - which all count as human beings admits is sad. However, the CDC, aka the Corrupt Department of Coercion, has admitted to hiding the actual data from the

American public. The CDC now admits over half of so-called deaths were with COVID, not from COVID. Comorbidity was the real reasons for the deaths. Additionally, the CDC now acknowledges that vaccinated are more susceptible to new COVID variants than unvaccinated and that the vaccinated account for the vast majority of hospitalizations in the United States of America. The CDC's reasons for hiding these facts from the American public are: They thought it would make people of the United States not want to take a vaccine that does not work. They got that right. Please refer to the New York Post article I sent to the Questions section yesterday to all of you, dated February 27th of this year. Science also says that 98.8 percent of healthy individuals with healthy immune systems recover from COVID with no lingering effects, 98.6 percent with their God-given immune systems. I hope and pray all of you have been enlightened, especially you, Commissioner Morgan. Remember, if the CDC's reasoning for vaccines is flawed, so is the city's health order and the chief's general order. Thank you.

CALLER: Thank you. Most of this isn't for the chief. I'm kind of unprepared, but I know -- I've met the chief, very smart woman, and I'm a great way about her. But after listening yesterday, it's -- it's getting pretty frustrating. The Commission -- the -- this should be about working within the law and the health order and the general order to accommodate people with sincerely held religious beliefs or valid medical exemptions, but what is painfully clear is this is about intolerance. The powers that be, and unfortunately some of these commissioners, the city attorney for sure, made a decision that they could not tolerate unvaccinated members with sincerely held religious beliefs or medical exemptions, not that they couldn't accommodate them. This is obvious in some of the ridiculous things we've had to listen to, one being questioning a man's sincerely held religious beliefs based on a statement the pope said in an article of a newspaper, another one being a commissioner asking if you're going to hold a gun to a head of a resident or take the shot, what are you doing to do? This is inferring that people that are fully vaccinated can't transmit COVID. Are the -- are these people the last people on God's green earth that don't know that? Do you want me to read the quote that was submitted as evidence? "Rochelle Walensky: What the vaccines can't do anymore is prevent transmission. "Dr. Anthony Fauci: We know as a fact that vaccinated people with COVID are capable of transmitting the infection to someone else." So am I stupid enough to believe that the hundreds of vaccinated symptomatic members of the fire department can't transmit it to someone else? That's why they're offered masking and testing. Even the vaccinated are. So why can't the unvaccinated be? We have commissioners comparing ebola to COVID. What are the death rates of those two, I please ask you? They said yesterday in the closing arguments the health order is the only science in evidence. That's ridiculous. There's been tons of evidence submitted. Obviously, no one's reading it. This obviously is my point. Please go back to my fire commission. My point is the obvious discrimination and lack of accommodation offered to these firefighters. I've worked with Jessica. Here we go, firing another female Christian woman firefighter. If you look at this, it's kind of interesting that this last group of us are more diverse than San Francisco, more diverse than the fire department in general, but just -- just to let these theologians know, fear is what is Catholic teaching and what is Christian teaching within the catechism and in the Bible.

CALLER: Okay. (Unintelligible) fall on deaf ears. I think they should be ashamed of themselves, constantly hiding behind this outdated joke of a health order (unintelligible) in all these hearings. This circus isn't even about a pandemic or a health order. It's all about control of the money. You know it, and we know it. If the pandemic is so dangerous and deathly, it keeps us separated. Our California governor, LA mayor, San Francisco mayor, chief of department herself has been consistently seen without a mask. Yet you guys have the audacity to destroy our lives, unlawfully terminating us without even proper due process, all you guys hiding under this outdated umbrella of a

joke health order making decisions about our lives While the rest of the world is crossing off a mandate. I want you all to remember we, the ones that you're unlawfully terminating, made it possible for you to sit in your seats. We protected the city, the citizens of the city that pay (unintelligible). That's why San Francisco's now one of the worst cities in the nation due to poor leadership, pathetic to say the least. Good leaders raise leaders. Bad leaders raise followers. Your conditional president has made public bias comments. She knows herself she shouldn't be here making decisions that affect our lives. She should be removed, period, but she won't because all this is all corrupt. We battle, and they still battle without any help from the city department. Our 798 executive board were completely on a roll. You actually don't deserve us. We all know how this is going to end. Go ahead and have closed deliberations. (Unintelligible). Go back to your faulty (unintelligible) health order. I will close by saying my name is Michael (unintelligible), once a (unintelligible). My hearing will be -- for being unlawfully terminated will be 14 March 16th, and I say this for all the fighters (unintelligible.) Hold your head up high and look at these people in the eyes. These people (unintelligible) legacy. (Unintelligible) by far. We're just beginning. God bless us all.

CALLER: Good morning, commissioners, chief staff, officers, fellow firefighters leading today with bittersweet emotions to discuss the future firefighter -- future life of a firefighter. I paint a picture of -- to paint a picture of Jessica Beers regardless of vaccination status or religious practice. In particular, I would like to share my personal experience I had with her. The San Francisco Fire Department has established a trade policy where two members are able to agree to work for each other. This only works when both sides follow through with the agreement. In my situation, along with at least two other firefighters who have had agreements with Jessica, weren't so smooth. In fact, it was a careful, malicious and calculated attack against her fellow firefighters. The following events occurred during the COVID era where there was a vaccination deadline. Because Jessica did not plan on getting the vaccine, she knew she would be putting -- she would be put on administrative leave. However, she let others know she'd be returning in November. According to one firefighter, the trades were already recorded in the books. However, Jessica called the trade. Jessica cancelled the trade and worked an overtime shift instead. Another firefighter had to switch dates. However, Jessica elected to work an overtime shift instead of repaying her debt. When I in particular asked her to repay my trade on 3 September 26th, she stated that she was busy and to send her dates in November. Upon looking up her schedule, she did it yet again, worked another overtime shift instead of repaying her debt. I sent her messages requesting her to repay, and I -- I even sent her a formal letter to settle before I commenced the legal proceeding, yet she never responded a single word. Looking at her trade summary, it shows that she had an outstanding balance of at least eight trades prior to her administrative leave. Is this the type of person you want representing the San Francisco Fire Department? Is this the type of person you want knocking at your door? Is this the person you can work with for the next 20 years knowing she stared you straight in the eyes and said, Remember the one time I owed you -- I screwed you on the trade? Thank you, ladies and gentlemen, for your time.

CALLER: Thank you. I'm a resident and voter in San Francisco, and I'm strongly opposed to terminating any city employees based on their personal decisions to vaccinate or not vaccinate. I've lived in San Francisco for well over a decade. My family's from San Francisco plan, and I've always been so proud of the diversity that we place to embrace in San Francisco. Threatening to terminate or terminating an employee based on their own personal decisions, especially if it's a medical decision or a religious belief, goes against everything that San Francisco claims to stand for while embracing diversity. Also, as a taxpayer, I see this as a huge liability for the city, and I don't want my tax dollars going towards such wrongful terminations. And in the era that

we're in where we're seeing infrastructure threatened, losing one more firefighter or one more police officer puts the public, myself included, as well as my family and friends, at a much greater risk. That's all

CALLER: Okay. Thank you. Starting off, for the record, the individual who called a few callers ago who was not able to be officially recorded, I would respectfully request that they be given the opportunity to readdress -- restate their comment so that it could be recorded for the record. The only thing that I want to say is I think there's a trend going on with these hearings. I will say that it is up to the fire department and their representation to provide a preponderance of evidence demonstrating how these firefighters and ENTs are a legitimate threat or pose an endangerment to the people that they serve. I've seen multiple cases. There's been a preponderance of evidence delivered by those who are being tried, but there has not been a preponderance of evidence in any way, shape or form from the fire department or their representation. It all falls back on they just didn't follow the rules, which is a monodisciplinary separation case. It's a no disciplinary separation case, so therefore, we need to have the San Francisco Fire Department and representation show that these firefighters are an endangerment to the people they serve because those are the charges levied against them. Now, think about this. You've had plenty of time to look at all this evidence that people have provided to you. Eventually, if you look outside the City of San Francisco, there's a lot of momentum in these firefighters' favor. You need to take a look at what's actually happening and the realistic nature of what's going on. Evidence and facts prove over, you know, a group of people sitting with their heads buried in the sand not willing to do anything about, you know, the wrongdoing that's happening to these firefighters. Eventually this will become taboo. When you think about firing good firefighters, it will become taboo, so when people are at their expensive dinner parties, rubbing elbows with their friends, you will never have the excuse of saying, oh, I never really agreed with it or I just didn't know because now you know, you have the evidence. So I just -- I want you to know I'll continue to pray for you and that you open your mind because it's very serious. We're talking about families, kids, friends. I suggest that you.

My name is Lacy Diaz. I don't know if you can all hear me. I'm actually a concerned community member and would like to just make a public comment addressing some -- I think some serious policy changes that I think would be detrimental to not only the individuals being put in positions that they should not be put in, but also the community at large. I think we can all agree that the science is not settled when it comes to the data and outcome from vaccination, and I think that with the most recent data coming out from the Pfizer and the clinical trials demonstrate that there is a lot to be desired when it comes to the efficacy of the vaccination. I think we all had the understanding that, myself included, this vaccine would have been the -- have the ability to stop and prevent the spread of COVID, but as we are now seeing, that is not true. The vaccine only protects the person, and at best it lowers your incidence of hospitalization and death. It does not protect the other person from contracting COVID from the vaccinated person, which I think making public policy changes due to this just very fundamental understanding puts the -- puts the burden of proof on those that are unvaccinated versus those that are vaccinated, saying that they are the only ones that are at risk when in reality we all still have a risk. That individual may have gotten the vaccine and maybe their standard -- their risk is lowered, but I don't think it's substantial enough to say that across the board every person must follow that same policy. I think the community members can still get COVID from a vaccinated person, and it can still be spread. Yeah, I think that making policy changes for firefighters would be an inappropriate move to make based on that knowledge and forthcoming data demonstrating the efficacy of this vaccine. Thank you for your time

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]

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

Convened in closed session at 11:38 a.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]

Vice President Nakajo 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. (Ayes: Feinstein, Nakajo, Covington, Morgan)

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

Reconvened in open session at 12:17 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 Covington moved to not disclose discussions held in Closed Session. Commissioner Morgan Seconded. The motion was unanimous.

3. **ADJOURNMENT:** President Feinstein adjourned the meeting at 2:43 p.m.