

SAN FRANCISCO FIRE COMMISSION

MINUTES FOR FIRE COMMISSION SPECIAL MEETING

August 30, 2023 – 9:30 AM

698 Second Street, First Floor, San Francisco, CA 94107

Commissioner Fraser called the meeting to order at 9:32 a.m.

Item No.

1. ROLL CALL

Commission President	Stephen Nakajo	Present
Vice President	Armie Morgan	Present
Commissioner	Katherine Feinstein	Present
Commissioner	Marcy Fraser	Present
Commissioner	Paula Collins	Present

*Also present: Court Reporter Suzzane I. Andrade
Member*

Chief Jeanine Nicholson

Deputy City Attorney Carlos Almendarez

Deputy City Attorney Paul Zarefsky

Fire Commission Secretary Maureen Conefrey

2. CASE NO. 2023-04: HEARING AND DELIBERATIONS ON VERIFIED COMPLAINT FILED WITH THE COMMISSION BY CHIEF OF DEPARTMENT [Discussion and possible action]

On June 21, 2023, Chief of Department Jeanine Nicholson filed a Verified Complaint with the Fire Commission against an H-20 member for a non-disciplinary separation for failure to comply with the Vaccination Requirement of the City and County of San Francisco Order of the Health Officer No. C19-07y and the Department's General Order 21 A-70.

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)]

Christopher Salas, coworker, retired out of the Fire Department on October 13th, 2021, due to the mandate that no longer exists, here in solidarity with my sister who's facing the same unfortunate disciplinary termination, even though the mandate is now kaput. I'm grateful to say that by the grace of God, I'm part of the 99.8 percent of people in the United States that had COVID and that my own immunity helped me get through it. So I'm grateful for that. I'm grateful for the time I served in the Fire Department. I'm grateful for the 22 years I worked in the

Tenderloin. I'm grateful for the time I worked in the Tenderloin when vaccinations were not available. I'm dismayed by the fact that the CDC changed the definition of vaccination so that they can coerce people into taking one that didn't work. Before I retired in June of 2021, vaccinated firefighters were already catching and spreading COVID in the Fire Department. By the grace of God, none of us firefighters ever spread COVID to anybody in the public. There's no documented case of that. So I'm grateful for that as well. I'm grateful for my wife being here today. I'm grateful for my man, Mike Crotty, in here today in solidarity with our sister, Robyn. "Solidarity," a word that Local 798 forgot the meaning to. They also forgot the meaning to fight for their members. They should have fought for the least of us, if one of us was against being vaccinated, and they should have fought for that one. They should be here today, and the fact they're not is egregious and disappointing. So with that, I'd like to hope that you guys make the right decision and do not terminate my sister Robyn with undiscipline. The mandate is gone, and she should be able to work.

My name is Michael Crotty. I'm a former firefighter here in San Francisco. Good morning, everyone. I had a speech that I worked very long and hard on. It was all written out, and I decided to leave it in the car. And the reason being is that I realize that it's better to speak from the heart. Throughout this pandemic, when this all started, people were scrambling for -- for their jobs, for their security, for their safety, for what they believed was right. Now, I could go on about what I feel is unjust [sic], but it's over. Whatever -- we're not enemies. We're here to serve the public. That's what we signed up for. Now, a difference of opinion and who -- who calls the shots -- everybody ran for cover, right? Everybody stood for what they thought was right. I'm not here to argue who's right. I'm here to -- to plead, let's just stop this. Let's just go back to -- put this all back together. It's broken. The city's broken. We're all broken. It's over. Let's do the right thing here. If you think you're doing the right thing, then you go with that. But let's stop. And the war is over. Right? I mean, they called it off. Let's put -- put this all back together. Let's -- let's rise above this, squash our differences; like, get back to work. Put us back to work.

Anonymous caller: So the City's response to the pandemic, particularly its strong push to mandate vaccines for all employees and punish them for following their conscience. Public health involves much more than simply avoiding getting sick from COVID-19, a virus that's now a permanent part of our lives. It also -- it's also about ensuring that people who serve the public are well prepared, not overwhelmed, and that their mental well-being is cared for. The City's action has done nothing but further the harm to employees who worked in person throughout the pandemic. Our city has one of the worst recoveries from the emergency, and I think that can be attributed to its decision to double down on bad policy. It should be obvious by now that getting rid of a large number of trained and experienced first responders was a mistake, yet here we are trying to get rid of another one, a woman who I imagine has had to fight hard to advance her career. What the City has done, especially to its -- to how -- what it's subjected its workforce to is truly upsetting. The toll it has taken on everyone's emotions is disheartening. If there is a way for you to look beyond your immediate objectives and grasp the extent of the harm

you've caused, I'm certain there would be a sense of regret. Admitting that things went too far might not be easy, but there's still an opportunity to make things right. It's never too late to change course.

Anonymous caller: Thank you very much for the opportunity to speak. This member met the minimum requirements when she applied for her job. She exceeded the qualifications for her job for over 20 years and even got promoted. In 2021, the City imposed a new minimum requirement. She has been on approved leave and is still an employee until recently, and is trying to go back on duty. On February of 2023, the health officer rescinded the health order and ended the emergency in San Francisco. And in that, the health officer even stated that it does not apply, meaning the vaccine, to a healthcare facility on an intermittent basis, short period of time, such as firefighters, emergency medical technicians, paramedics, police, and other law enforcement. On August 21st, 2023, the condition of employment of vaccination for City employee has ended. This member, as we sit here today, exceeds all of the requirements and minimum qualifications of her job. So am hoping very much that she can retain employment and that the City of San Francisco can use her knowledge and wealth of experience to help train the new members coming in, many of which -- and they don't need to be vaccinated anymore, the ones even entering in January. So I'm hoping that -- I don't know. It seems like this might be retaliatory or -- I have no idea why. But, anyway, that's all I wanted to say, and I thank you very much for the opportunity.

Anonymous caller: Well, if I'm on the line -- okay. Thank you. So if the state of emergency for California was lifted in February, and then in August, the vaccination as a condition of employment was lifted, why are we here? Simple question. We shouldn't -- we shouldn't be here. And what are you going to say for those that are going to be entering into the new academies? Are they going to have to go through the same thing too? Why are we here?

Anonymous caller: Good morning. I would just like to say that the Commission is in their full scope to rescind the chief's recommendation for non-disciplinary separation. With -- with changing the new health directive, excluding firefighters specifically, the end of the condition of employment, it now seems punitive to retroactively go back and separate this lieutenant. I'm asking the commissioners to really listen to her story, weigh the current policies, what's going on, and make a decision based on now, not the past. Does this really warrant a separation of this experienced firefighter? And who does this benefit? Does this benefit the City? Does it benefit the citizens? Does it benefit the taxpayers to continue separating firefighters when the pandemic is over? The emergency is over, and now the condition of employment is over.

B. Votes on Closed Session

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

Member requested an open session.

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

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

Convened in closed session at 10:52 p.m.

Also in closed session was Deputy City Attorney Paul Zaresfky 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**]

President Nakajo Moved to uphold the Chief's recommendation of a non-disciplinary separation. Commissioner Collins Seconded. The motion was approved unanimously.

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

Reconvened in Open Session at 11:31 a.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**]

Vice President Morgan Moved to no disclose discussions held in closed session. Commissioner Collins Seconded. The motion was unanimous.

3. **ADJOURNMENT** *The hearing was adjourned at 11:32.*