



**BUILDING INSPECTION COMMISSION (BIC)
Department of Building Inspection (DBI)**

REGULAR MEETING

Wednesday, March 16, 2022 at 9:00 a.m.

Remote Hearing via video and teleconferencing

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PUBLIC COMMENT CALL-IN: 1-415-655-0001 / Access Code: 2494 694 1052

ADOPTED APRIL 20, 2022

MINUTES

- 1. The regular meeting of the Building Inspection Commission was called to order at 9:15 a.m.
Call to Order and Roll Call.**

COMMISSION MEMBERS PRESENT:

Raquel Bito, **President**, Jason Tam, **Vice-President**
Alysabeth Alexander-Tut, **Commissioner** Angie Sommer, **Commissioner**
J.R. Eppler, **Commissioner**
Bianca Neumann, **Commissioner, arrived at 9:48 a.m.**

Sonya Harris, **Secretary**
Monique Mustapha, **Assistant Secretary**

D.B.I. REPRESENTATIVES:

Christine Gasparac, **Assistant Director**
Joseph Duffy, **Deputy Director, Inspection Services, Excused**
Neville Pereira, **Deputy Director, Plan Review Services**

Taras Madison, **Chief Financial Officer**
Jeff Buckley, **Policy & Public Affairs Director**
Patrick Hannan, **Communications Director**

CITY ATTORNEY REPRESENTATIVE

Robb Kapla, **Deputy City Attorney**

Ramaytush Ohlone Land Acknowledgement:

The Building Inspection Commission acknowledges that we are on the unceded ancestral homeland of the Ramaytush Ohlone, who are the original inhabitants of the San Francisco Peninsula. As the indigenous stewards of this land and in accordance with their traditions, the Ramaytush Ohlone have never ceded, lost, nor forgotten their responsibilities as the caretakers of this place, as well as for all peoples who reside in their traditional territory. As guests, we recognize that we benefit from living and working on their traditional homeland. We wish to pay our respects by acknowledging the Ancestors, Elders, and Relatives of the Ramaytush Ohlone community and by affirming their sovereign rights as First Peoples.

2. FINDINGS TO ALLOW TELECONFERENCED MEETINGS UNDER CALIFORNIA GOVERNMENT CODE SECTION 54953(e). (*Discussion and Possible Action*)

The Commission will discuss and possibly adopt a resolution setting forth findings required under Assembly Bill 361 that would allow the BIC to hold meetings remotely according to the modified Brown Act teleconferencing set forth in AB 361.

Vice President Tam made a motion, which was seconded by President Bito. to continue to meet remotely for the next 30 days. The motion carried unanimously.

3. President's Announcements.

- I'm thrilled to be here and excited about the opportunity to serve in a new capacity. Two to three years ago, I had no idea that I'd be sitting here in City Hall as President of a Commission. Thank you for your trust and confidence.
- When people ask me why I wanted to be a part of this institution, my response is that it's because of people like you who care about the cities in which they live and want to make their communities a better place for today and the future.
- As President, one of my highest priorities will be to help the Department become more efficient because I believe that the processes that produce efficiency - Clear goals and direction, documented procedures and metrics, ongoing training and accountability - will also help address the root causes of some of the other issues we've worked on at the Commission.
- Also, the benefits are substantial - Stronger operations, better morale, increased transparency, consistency in ethical behavior and customer service, and providing the best possible service to San Francisco and our customers.
- I'm honored to work alongside each of my fellow Commissioners and appreciate the many ways they give back to San Francisco, including serving on this Commission.
- We have much work to do in partnership with the leadership at DBI and its employees who continue to serve the City with optimism and an open mind to what the future can bring.
- Thank you again.

4. Director's Report.

a. Director's Update [Director O'Riordan]

- Director O'Riordan gave an operational update relating to Covid-19, DBI staff had returned to the office as of March 7th and the masking requirement ended March 18th. He thanked the essential workers of the Department.
- Over the Counter Permitting data was showing issuance at 60% within two days as of February of 2021 and there was a 30% increase.
- The Permit Center had opened a Small Business Counter, and the Office of Small Business was relocating to 49 South Van Ness (SVN).
- A Print Center had been opened at the Permit Center at 49 SVN.
- The Department was seeking to add an Ambassador to the Small Business Center from the Inspection group to help get customers over the finish line.

b. Update on major projects.

c. Director O’Riordan gave an update on major projects that are greater than \$5 million in valuation.

d. Update on DBI’s finances.

Deputy Director of Administration & Finance Taras Madison presented the February 2022 monthly report as follows:

- Revenues were at \$37 million for the eight months of FY 2022-23 from July to February, \$3M more than the same time the prior year, that was due to steady increases in Plan Checking revenues, Building, Electrical, and Plumbing permits.
- Expenditures were at \$48.2 million for February 2022 compared to \$45M last year, with the increase due primarily to increase in salaries and work order billings.
- DBI submitted its budget to the Mayor’s Office in February, and Ms. Madison would have details in April.

e. Update on proposed or recently enacted State or local legislation.

Mr. Jeff Buckley, Policy & Public Affairs Director, gave an update on recently enacted State or local legislation and addressed the following items:

File No. 210198 - Hearing on the City's electric vehicle fleet to determine when the City could be expected to have an all-electric fleet at the current rate, what are the departments' projections for the next four years towards electrifying their fleet, and the status of each department's charging stations; and requesting the Department of Environment, San Francisco Airport, Public Utilities Commission, Police Department, Department of Building Inspection, Port, City Administrator's Office, and Real Estate Division to report. STATUS: The hearing was referred to the Government Audit and Oversight Committee. The item was originally scheduled to be heard on March 3, 2022 but was rescheduled for May 5, 2022.

File No. 220249 - Hearing on the Building Operations Component of the 2022 Climate Action Plan. The Sponsor is Supervisor Mar. The hearing is on the findings, strategies, and supporting actions of the Buildings Operations component of the City's 2022 Climate Action Plan; and requesting the Department of the Environment to report.

No File No. - Ordinance amending the San Francisco Fire Code to require automatic sprinkler systems in existing high-rise buildings STATUS: The proposed ordinance was introduced on January 11, 2022 and has not yet been assigned to a committee. This item is tentatively scheduled to be heard at the April 20, 2022 Building Inspection Commission.

File No. 220241 - Building Code -Construction That Causes Temporary Suspension of Water or Utility Service or Excessive Noise Sponsors: Peskin; Walton Ordinance amending the Building Code to prohibit construction projects in buildings with any residential rental units, where the project would require the suspension of water or utility service to residential 2 tenants, without the property owner providing alternative sources of water and power or reaching agreement with tenants, and to require installation of temporary insulation to mitigate noise and disruption to impacted residential tenants; adopting findings of local conditions under the California Health and Safety Code; and affirming the Planning Department's determination under the California Environmental Quality Act.

File No. 220193 - Settlement of Lawsuit -Dennis Richards, Rachel Swann, Six Dogs, LLC -\$1,800,000. Ordinance authorizing settlement of the lawsuit filed by Dennis Richards, Rachel Swann and Six Dogs, LLC against the City and County of San Francisco for \$1,800,000

f. Update on Code Enforcement.

Director Patrick O’Riordan gave an update on inspections for February 2022 as follows:

- Building Inspections performed January 4,460
- Housing Inspections 602
- 33 Cases sent to Directors Hearing
- Issued 21 Orders of Abatement
- Code Enforcement Inspections 282
- Plumbing Inspections 2,484
- Electrical Inspections 2,710

Director O’Riordan presented the following Building Inspection Division Performance Measures for February 1, 2022 to February 28, 2022:

• Building Inspections Performed	4460
• Complaints Received	372
• Complaint Response within 24-72 hours	370
• Complaints with 1st Notice of Violation sent	61
• Complaints Received & Abated without NOV	163
• Abated Complaints with Notice of Violations	42
• 2nd Notice of Violations Referred to Code Enforcement	49

Director O’Riordan presented the following Building Inspection Division Performance Measures February 1, 2022 to February 28, 2022:

• Housing Inspections Performed	602
• Complaints Received	322
• Complaint Response within 24-72 hours	322
• Complaints with Notice of Violations issued	106
• Abated Complaints with NOVs	280
• # of Cases Sent to Director's Hearing	33
• Routine Inspections	83

Director O’Riordan presented the following Building Inspection Division Performance Measures for February 1, 2022 to February 28, 2022:

• # Housing of Cases Sent to Director’s Hearing	52
• # Complaints of Order of Abatements Issues	21

• # Complaint of Cases Under Advisement	5
• # Complaints of Cases Abated	20
• Code Enforcement Inspections Performed	282
• # of Cases Referred to BIC-LC	0
• # of Case Referred to City Attorney	1

Director O’Riordan said Code Enforcement Outreach Programs are updated on a quarterly as follows for the 2nd quarter:

• # Total people reached out to	50838
• # Counseling cases	695
• # Community Program Participants	6577
• # Cases Resolved	666

Commissioners Question & Answer Discussion:

Vice President Tam asked about an update on the Single Room Occupancy (SRO) hotels, and Director O’Riordan said an updated presentation would be worked on for a future meeting.

Commissioner Alexander-Tut asked if there could there be an overview of the settlement presented to the BIC regarding lessons learned, and checks and balances related to those issues.

Director O’Riordan said that regarding the lawsuit he would defer to the City Attorney and going forward the Department had implemented additional oversight and reforms. Mr. Hannan would be presenting on the reforms as well.

Deputy City Attorney (DCA) Robb Kapla said that he would look into whether a discussion of the lawsuit needed to be done in Closed Session or not and he would provide next steps.

President Bito asked if the list was of all major projects in process at the Department?

Director O’Riordan said the list was compiled of projects of \$5 million in valuation that had been either filed, issued, or completed in the month of February.

Public Comment:

Mr. Jerry Dratler said he agreed with the City Attorney that when speaking of abuse of power, it was important to go over documents to understand what happened, what abuses may or may not have happened and specifically what steps had been taken to prevent further abuse. If those steps were not taken the credibility of the BIC and the Department would remain in question.

5. General Public Comment: The BIC will take public comment on matters within the Commission’s jurisdiction that are not part of this agenda.

Ms. Mary Dube representing the Climate Reality Project San Francisco Policy Action Team said a letter was sent ahead of the meeting, and she was in attendance to make the Commission aware that it was budget season. The San Francisco Commission on the Environment made recommendations to the City that they allocate 1% of the total City budget toward Climate Equity across all departments, and she urged DBI to make an ask around that and believed the Department was in a position particularly around building decarbonization to make a contribution toward the City Climate Action Plan.

Mr. Paul Wermer said the Climate Change and Building Decarbonization was a big deal and would take a long time. Traditionally, San Francisco departments had taken strategies that were relative. However, there were tremendous transactions when speaking of building carbonization and Building Inspection would have a tremendous role in that issue. For example, the electrical panel in Mr. Wermer's house which was an older house with a 90-amp panel, when remodeled in 2010 the electrician managed to fit all the plugs and wires into the 90-amp and the bill reflects a maximum 12-amp draw, but if he added a heat pump system for hot water and air conditioning he does not have the legal on the panel. This was where the Codes and policies from the past do not align with what the current demand reflects. The panel requirement sets a supply requirement on the electrical grid, so if the electrical grid was oversized it wasted money and increased cost. With new technologies such as smart panels that would share the amperage. The ask was to include in the budget next year to plan for all things that need to happen and use the DBI Community Action Plan for Seismic Safety (CAPSS) for public outreach.

Mr. Jerry Dratler submitted a 150-word statement for General Public Comment. PLEASE SEE ATTACHED

6. Discussion and possible action to appoint Commissioners to serve on the Nominations Subcommittee. (Continued from the February 16, 2022 Regular Meeting.)

President Bito said that she would step down from the Nominations Subcommittee due to other obligations.

Secretary Harris said there would be two open seats. Vice President Tam said that he would be happy to continue to serve.

President Bito said the Building Inspection Commission proposed for discussion that other members such as Commissioners Sommer, Eppler, and perhaps Commissioner Neumann may be interested in serving on the Nominations Subcommittee.

Secretary Harris asked if a Commissioner in attendance wanted to put their name forward, and that she spoke to Commissioner Neumann about possibly joining a Subcommittee.

Commissioner Sommer said that she would be willing to join the Nominations Subcommittee. Commissioner Eppler said he would pass serving on the Nominations Committee, and would be focused on his roles on the Litigation Committee and as Vice President of the Abatement Appeals Board (AAB).

President Bito made a motion for Vice President Tam and Commissioner Sommer to serve on the Nominations Subcommittee, which was seconded by Commissioner Alexander-Tut.

Secretary Harris Called for a Roll Call Vote:

President Bito	Yes
Vice President Tam	Yes
Commissioner Alexander-Tut	Yes
Commissioner Eppler	Yes
Commissioner Neumann	Excused
Commissioner Sommer	Yes

The motion carried unanimously.

There was no public comment.

RESOLUTION NO. BIC 031-22

7. Discussion and possible action to appoint Commissioners to serve on the Client Services Subcommittee.

Commissioner Neumann arrived to the meeting.

Secretary Harris informed Commissioner Neumann that the BIC had voted on the Nominations Subcommittee, and asked if she was interested in serving.

Commissioner Neumann said she was not interested in serving at the time.

Secretary Harris stated that the members on the Client Services Subcommittee were: President Bito and Vice President Tam.

President Bito said that she would continue to serve on the Client Services Subcommittee.

Vice President Tam said he would also continue to serve on the Client Services Committee.

Commissioner Alexander-Tut said that her understanding of the Subcommittee was to create efficiencies in the Department, and members would do some homework and report back to the Building Inspection Commission. She said that the seats should go beyond the President and Vice President of the Commission, not because of the persons in those positions but because of the positions themselves. Also, the BIC's subcommittees should reflect the diverse nature of the Commission.

Commissioner Alexander-Tut put her name forward to join the Client Services Subcommittee.

Vice President Tam made motion, seconded by President Bito, to nominate Commissioners Alexander-Tut, Bito and Tam to serve on the Client Services Subcommittee.

Secretary Harris Called For A Roll Call Vote:

President Bito	Yes
Vice President Tam	Yes
Commissioner Alexander-Tut	Yes
Commissioner Eppler	Yes
Commissioner Neumann	Yes
Commissioner Sommer	Yes

The motion carried unanimously.

There was no public comment.

RESOLUTION NO. BIC 032-22

8. Discussion and possible action to approve and swear in a member of the Code Advisory Committee (CAC) Member-At-Large Seat. Nominations Subcommittee recommends Brian Caruso for the seat. Term to expire 8/10/25.

President Bito said disclosed that her firm had worked with Mr. Caruso's firm in the past and asked the City Attorney if she needed to recuse herself.

DCA Robb Kapla said this was a nomination for a subcommittee and anything substantively related would need to be disclosed in the future regarding the relationship of the companies that would require disclosure to avoid impropriety, but for the current item President Bito did not have to recuse herself.

Vice President Tam said he made the motion to move Mr. Caruso forward, which President Bito agreed. What stood out about the candidate was his extensive resume and particular areas such as green efficiency and container style of building homes.

President Bito said Mr. Caruso's modular housing experience was part of the reason, and she thought his experience in construction and development would add to the diversity of the Code Advisory Committee. Also, his representation from that industry would be a good addition to that committee.

Commissioner Alexander-Tut said she went over the BIC's commitments and it said to collect current Board and Commissions demographic data and include it in the Department's Annual Report to use data in recruitment efforts. She asked if that was taken into consideration during the nominating process to the CAC.

President Bito said the acceptance of resumes had been extended to ninety days for the purpose of expanding the applicant pool, with an understanding that there would be a dearth of applicants from the industry that would serve the BIC's subcommittees. However, only two resumes were received for the CAC and none were received for the Board of Examiners (BOE). No one disagreed with Commissioner Alexander-Tut regarding the Racial Equity priority, however the Commission did not receive sufficient applications to fill our subcommittee seats with qualified industry candidates.

Commissioner Alexander-Tut thanked President Bito for her comments and said the other candidate, Wendy Aragon, was Latina and she knew of her activism in the community. Ms. Aragon is known in San Francisco, which was shown in her resume. Although she did not know the demographics of the BIC's subcommittees, the At Large Seat gave the BIC flexibility to consider someone without an Engineers License, but had hands on experience in the Construction field. Commissioner Alexander-Tut felt particularly for an At Large Seat, that it should be considered both experience within the local Construction field as well as making sure the BIC's committees do reflect San Francisco.

President Bito said the roster of the Code Advisory Committee was reviewed, but no one from the development community was reflected. Also, Mr. Caruso would add diversity to the CAC given his background that she hoped would provide feedback that would resonate with their deliberations and discussions.

Vice President Tam made a motion to nominate Mr. Caruso to the Code Advisory Committee, which was seconded by President Bito.

Secretary Harris Called For A Roll Call Vote:

President Bito	Yes
Vice President Tam	Yes
Commissioner Alexander-Tut	No
Commissioner Eppler	Yes
Commissioner Neumann	Yes
Commissioner Sommer	Yes

The motion carried 5 to 1, with Commissioner Alexander-Tut dissenting.

Secretary Harris swore in Mr. Caruso, and administered the Oath of Office.

President Bito said to Mr. Caruso that she hoped his service would encourage others in the industry and profession to volunteer and seek out public service through other committees and the Building Inspection Commission appreciated his desire to serve on the Code Advisory Committee.

Mr. Caruso thanked the Commission for the opportunity to serve on the Code Advisory Committee.

There was no public comment.

RESOLUTION NO. BIC 033-22

9. Discussion and possible action to make recommendations regarding current membership and reappointments to the Access Appeals Commission (AAC). Terms to expire 11/1/25.

Secretary Harris said the members that were up for reappointment were Commissioner Alyce Brown and Commissioner Walter Parks.

President Bito said she recommended reappointment of Commissioners Brown and Parks, and thanked them for continuing to serve.

Vice President Tam thanked both Commissioners Brown and Parks for their continued service.

Secretary Harris said due to the wording of the agenda item, Commissioners Parks and Brown would not be sworn in that day. Ms. Harris requested the Commission to state the motion as follows: “To reappoint Commissioners Brown and Parks to the Persons with a Disability Seat on the Access Appeals Commission and recommend that they be sworn in”.

Commissioner Alexander-Tut asked if Commissioner Brown’s and Parks’ terms expired in November? Secretary Harris said both Commissioner’s terms had expired in November 2021 and they were in a hold over period which was longer than usual.

Commissioner Alexander-Tut said she did not agree with the process, and though the Racial Equity Plan was not her personal project it was a commitment of the City and the BIC itself, so she was taking it very seriously and understood now that the BIC was over the sixty-day hold over period.

Secretary Harris said that the seats were for persons with a disability and that was the qualification, which both Commissioners have met. Also, the Commission did not receive any other applicants for those seats.

President Bito made a motion, seconded by Vice-President Tam, to reappoint Commissioners Alyce Brown and Walter Parks to the Access Appeals Commission, and stated that they would be sworn in at another date.

Secretary Harris Called For A Roll Call Vote:

President Bito	Yes
Vice President Tam	Yes
Commissioner Alexander-Tut	Yes
Commissioner Eppler	Yes
Commissioner Neumann	Yes
Commissioner Sommer	Yes

The motion carried unanimously.

RESOLUTION NO. BIC 034-22

Commissioner Brown thanked the BIC and Director O’Riordan and said that she took the opportunity to come to the first in-person meeting, since the pandemic. She realized that almost all of the Commissioners were new and congratulated the new members and thanked them for their service.

10. Discussion and possible action to allow BIC Subcommittees to meet remotely.

Secretary Harris said the subcommittees to meet remotely included the Access Appeals Commission (AAC), Board of Examiners (BOE), Code Advisory Committee (CAC), Litigation Committee, Client Services Subcommittee, and the Nominations Subcommittee.

President Bito said she recommended that all of the named committees continue to meet remotely to encourage attendance and volunteerism to those committees.

Commissioner Sommer said she attended a Code Advisory Committee meeting and there was some discussion of wanting to return to in-person meetings.

Deputy City Attorney Robb Kapla said the Building Inspection Commission could require that the subcommittee meet in person not necessarily a hybrid meeting, and there were logistical issues of building space and the difficulty of securing the rooms for those subcommittees to meet both in person and remotely. The BIC needed to choose in-person and require it where Commissioners would appear remotely, but there would be a physical building for the public to appear and make comments or continue to be completely meet remotely and there would be a lack of meeting space for some time, as all major Charter Commissions go back to in person. It would be prudent to allow the baseline remote meeting and once more space became available the BIC could require those subcommittees to go back to in person by a vote of the Commission.

President Bito asked if the option was either all remotely or all in person meetings, not a hybrid?

DCA Robb Kapla said the way the hybrid meeting would work is to require all meetings to be in person, but individual Commissioners that cannot make in person for illness, which were the findings the BIC made earlier, would allow any member presently to attend remotely if there was reason to social distance but does not allow the committee to choose either or for that week. The default would be the norm if the BIC required remote meetings of all subcommittees.

President Bito asked if the status of building space was new?

DCA Robb Kapla said that historically the subcommittees had met in spaces around the City; However, those spaces had not been confirmed available and that it was difficult logistically to confirm if those

spaces were also open to the public.

Commissioner Sommer asked if there was a possibility for the subcommittees to move back to in person meetings or would they continue having to meet remotely?

DCA Robb Kapla said ideally when or if the City returned to an endemic or normal stage, certainly the goal would be to meet in-person because the City was under Emergency Orders that have kept the meetings remote. The order had been altered to have the Charter Commissions meet in person and for any reason that a Commissioner could not attend in person the BIC's findings were in agenda item number 2 and the default for Charter Commissions were in person.

Commissioner Alexander-Tut said many of the subcommittees were not able to meet due to lack of quorum, so continuing to allow remote meetings may help that quorum issue. It seemed that each subcommittee would decide to meet remotely or in person, and the BIC allows each committee to make that decision on their own but would it not be difficult for staff monthly to go from meeting remotely and then the next month needing a room?

DCA Robb Kapla said the subcommittees would not make the decision of meeting remotely or in person on their own, but it was for the BIC to decide and require of those committees and they would not be able to change the determination of the Commission.

Commissioner Neumann asked if the item would preclude members from meeting in person, but provide the option for the subcommittee to meet remotely?

DCA Robb Kapla said the meeting would be completely remote and there would not be a meeting where the subcommittee would meet in one room that would not be able to accommodate the public at the same time. The requirement was the meeting had to take place where the public had a chance to be in person with the Commissioners, and the logistic issue was if the meeting was in a room only big enough for the Commissioners there would be no room for the public to attend other than remotely. To be on a fair footing and allow the public to be in the same space the meetings would have to be either all remotely or default in person with limited remote appearances by the subcommittee.

Vice President Tam said with respect to the subcommittees and people's time, we are still experiencing a pandemic and to have the subcommittees meet remotely was his recommendation.

President Bito made a motion to require the subcommittees to continue to meet remotely, which was seconded by Commissioner Alexander-Tut.

Secretary Harris Called For A Roll Call Vote:

President Bito	Yes
Vice President Tam	Yes
Commissioner Alexander-Tut	Yes
Commissioner Eppler	Yes
Commissioner Neumann	Yes
Commissioner Sommer	Yes

The motion carried unanimously.

RESOLUTION NO. BIC 035-22

11. Discussion and possible action to decide whether third-party presenters, parties, or participants in any hearing or proceeding at that in-person meeting may appear remotely.

President Bito asked what was meant by third party presenters?

Deputy City Attorney Robb Kapla said the Building Commission had not had presenters as often, but an example would be in other Chartered Commissions an applicant or person appearing before the Board would need to present remotely, and this item would give that party the ability to present. Also, if the Director's staff would need to present remotely while the BIC was sitting in person this item would allow for that third party person to present remotely and public comment would be allowed remotely while the BIC met in person.

Commissioner Eppler said he thought affording the public and presenters the flexibility that the BIC would take themselves and the various subcommittees as things were still uncertain. He noted at the BIC's fully remote meeting there was not a vast number of public commenters, and a threat of crowding of remote meeting with public comment was not impending so he recommended third parties to present remotely.

Commissioner Sommer said she agreed with Commissioner Eppler, and that the item went along with the prior item allowing subcommittees to meet remotely and recommended allowing the third parties to present and the public to comment remotely.

Commissioner Eppler made a motion for third party presenters and participants be able to join meetings remotely, which was seconded by Vice President Tam.

Public Comment:

Mr. Jerry Dratler said he thought the item was a good idea, but had been frustrated because when meeting remotely the public did not have the ability to present materials. It was important that the people who were in person and who attended remotely were on the same level and remote presenters should be allowed to present their materials.

Secretary Harris Called For A Roll Call Vote:

President Bito	Yes
Vice President Tam	Yes
Commissioner Alexander-Tut	Yes
Commissioner Eppler	Yes
Commissioner Neumann	Yes
Commissioner Sommer	Yes

The motion carried unanimously.

RESOLUTION NO. BIC 036-22

12. Quarterly update on DBI's reforms initiatives.

Mr. Patrick Hannan, Communications Manager, presented the following item:

- Reforms Initiatives
- DBI Reforms Touch Every Decision
- DBI Reforms – Completed
- DBI Reforms – Underway
- DBI Reforms – Pending
- DBI Reforms – Next Steps

Commissioner’s Question & Answer Discussion:

Vice President Tam thanked Mr. Hannan and the Executive Team for working on this project, and it was a culture that was being built and the transparency and everything the team was doing would set forth a proud department and to keep up the good work.

Commissioner Eppler said he wanted more detail regarding the staff reporting tool and the process that came from that. He had worked for a large organization and felt those systems were a little perilous, despite the safeguards and protections that were in those. He asked what those looked like, how it worked, when was it implemented and how many reports were received so far?

Mr. Hannan said first this was to augment the tool used for the Whistle Blower protection program the City provides, but the Department wanted to identify and give staff a tool to report more minor situations. For example, someone was not using the correct tool or staff did not believe their manager made the correct decision in a particular case and someone could take a look at it. The questions had been divided into two areas: Questions related directly to the work would go directly to the Director’s Office and the Director would review all of the questions. If someone said the work may not have been Code compliant and if there were ethical behavior questions by management, by the Director’s Office those would be sent directly to Human Resources (HR), as would questions about people’s behavior if it did not rise to the quality of work. Those options were bifurcated so staff would know there was a safe and anonymous way to report concerns of their own managers or above them and the Department wanted to give staff a way to report smaller issues that may not have been appropriate for the whistleblower program. The links were provided on the Department’s intranet homepage and staff worked with the City Attorney’s Office and the Department’s technology team to be sure anonymity was guaranteed. No reports have been received to date and a suggestion box had been implemented about one year ago.

Commissioner Eppler said this was a situation of too many people reporting being a bad thing, but also no one reporting at all being a bad thing as well and looked forward to an update to see if staff was availing themselves of the tool as things come up.

Commissioner Alexander-Tut said she had looked into the Whistle Blower program and it was very specific in the kind of complaint that could be submitted, and staff would have to name the person that was thought to have done an improper action so she asked was there a way to enter a more general complaint in the case names were not known

Mr. Hannan said the Department made the reporting tool as general and open as possible and tried to remove every barrier that existed that had potential to prevent someone of reporting something of

concern and there could be follow-up if contact information was provided. Also, the staff member would receive a record number from the system stating that a report had been made, and if no contact information was provided the staff member would get a confirmation number that it had been received. Human Resources was brought in to be sure the reporting tool was not going to be an undue administrative burden and it had not been to date.

Commissioner Alexander-Tut asked where would the records be kept?

Mr. Hannan said the complaints would be sent individually to either the Director's Office or the HR Manager, and all would be managed individually.

Commissioner Alexander-Tut asked if there was a way for the Department to pull complaints from specific period.

Mr. Hannan said the problem was if there were an HR issue or if it needed referral to other authorities then the Department was limited in what could be said. For example, if someone said another person had done something they thought was bad then that would be an HR issue, which could not be publicized and staff would have to be mindful of how the record was tracked due to being a personnel issue. There was a fine line to balance those and the way it would work was Human Resources would manage those as individual records and the Director's Office would manage it as individual records would keep a log.

Commissioner Alexander-Tut said that she did not think the records should be published, except possibly some of them and she understood the HR protection. She asked would the HR Manager be able to pull up records from maybe five years ago or would someone within the Department have access to records that may be five years old?

Mr. Hannan said the idea was that HR would keep their own log as would the Director's Office and the reason the computer was not tracking the reports was because it would become a public record. The advisement was if it became a solid log produced by technology it would not be protected even if it was a personnel issue. The idea was the log would keep track of the receipts by the individual manager who received the complaint, but not centrally through the Department's system.

Commissioner Alexander-Tut said it seemed that those records should be kept externally, perhaps at the Controller's Office or City Attorney's Office because if one complaint is received as vague but later the Department received ten over a period of time that may trigger a further look into the reports to find a context and said in the Departments considerations that those records be monitored and kept externally. She appreciated the consideration of the Sunshine requirements and HR protections.

President Bito said she understood there was still a public forum for people to call in to talk about their issues and complaints, and asked Mr. Hannan to define and expand on the mentioned next steps, Request For Proposal (RFP), and enhanced public outreach.

Mr. Hannan said one thing that was imperative was to up the Department's transparency and in doing so the Department's website had been updated along with beginning the public advisory forum, which were very well attended. Also, due to the pandemic outreach had been narrowed to online and through meetings; However, the plan going forward was to go out into the communities and speak with the public to assess their access and knowledge of requirements and begin to remove any obstacles of inclusiveness. As the RFP will be built out the Department will update the BIC and have the overall goal

to reform the infrastructure to engage the community after the pandemic shutdown.

Public Comment:

Mr. Jerry Dratler said it was an oversimplification to characterize the DBI corruption problem was due to reporting and training weaknesses and whistleblower complaints were handed over to the department where the infraction occurred by the Controller's Office and that was a serious weakness. The September 2021 DBI Controller's Report identified serious control weaknesses at DBI. One of the more serious weaknesses was the lack of adequate system controls over the database that drives the permit tracking system, this was a technical weakness that could have been easily fixed. What did it mean that a record could not be changed once finalized? This was nonsense, why would a record need to be finalized before becoming permanent. Mr. Dratler recommended Director O'Riordan include an update of actions taken to address the specific findings in the Controller's Report in future monthly Director updates. Also, Director O'Riordan mentioned DBI was conducting an extensive review of Bernie Curran projects and would those preliminary findings be shared with the public. Mr. Dratler believed that the Bernie Curran problems were not due to reporting and training weaknesses.

Mr. Dennis Richards said in the past two years he learned an enormous amount about DBI, how it worked, the corruption, nepotism and cronyism. He said Director O'Riordan was taking good next steps, however there was a lot more that needed to be done. The fact that there had been no reports or respondents to the Whistleblower Hotline told him a lot. If the depositions that were on Mission Local were read it could be seen there was a culture of fear and retaliation throughout DBI and the individuals Mr. Richards was referring to were still employed with the Department though some had left. He recommended random audits of individual employees. For example, in the deposition an employee admitted to not responding to Sunshine requests, and abused personal calls for business. He said there were numerous items in the Department's handbook that were regularly clouded. There should be random audits of all employees and zero tolerance for those who broke the rules and those employees should be fired. Mr. Richards added there should be a duty to report not only if someone felt like it. There were Whistleblower comments at the end of the Mission Local article which were made by employees who were afraid to come forward and he wanted the local authorities to look into those. He hoped the Department truly got back to serving the public, and not special interest and his intent was to pursue that over the next few years and work with the Department so that those changes would be implemented.

13. Discussion regarding Information Sheet EG-02 – Emergency Escape and Rescue Openings to Yard for Existing or New Building of R-3 Occupancies.

Mr. Jeff Buckley, Policy & Public Affairs Director gave presentation as follows:

- Revised EG-02: Issue and Impact
- Existing Issues
- Timeline

Public Comment

Mr. Jerry Dratler questioned why are the updates only for the R3 projects and what about R1 and R2 projects. There are a lot of R2 houses in the City and if the Department were going through a densification program the egress should apply to R1, R2, and R3.

Ms. Georgia Schuttish said she sent an email ahead of the meeting to be provided to the Commission and asked the following questions:

1. How specifically was the Department reviewing projects on a case by case basis per the revised sheet dated December 13, 2021?
2. How many projects had been reviewed on a case by case basis since the publication of the revised sheet?
3. Was the revised sheet truly in compliance with the state Fire Marshall? As the previous sheet EG-02 dated August 2013 was withdrawn and replaced with the December 2021 revision.
4. Was DBI staff working with Planning in early phase of project application to meet the requirements?
5. Was Building Code Interpretation Egress 013 from March 2009 up to date with the state Fire Marshall for R2 occupancy?
6. Would there be enforcement for some R projects, R3 specifically and what would trigger the enforcement?

Ms. Schuttish said she had real world experience with this and the project across the street from her probably should not have been approved and it was a place someone would put their child or mother in law.

14. Commissioner's Questions and Matters.

- a. **Inquiries to Staff.** At this time, Commissioners may make inquiries to staff regarding various documents, policies, practices, and procedures, which are of interest to the Commission.

Commissioner Alexander-Tut thanked DBI staff for providing supporting documents earlier than usual when she requested those to be available the Friday before the Regular Meeting.

Commissioner Sommer asked about the fee study and if there was an update.

Deputy Director Taras Madison said the fee study may not be conducted until the next fiscal year and a Request For Qualifications (RFQ) would be released to start work on the study. Ms. Madison said she wanted two to three years of data to use and not only have data reflecting 2021 which would drive the fee up and the goal was to have the fee study done before the end of the two-year budget cycle. Before 2024 the Department expects to have the fee study done and a new fee table adopted. The Department has two years of funds before it will not be able to cover the budget if revenues and expenditures stay the same. The Department would use the next two years to take time to see what the real expenditures are outside of 2021 which was a full year of the pandemic.

Public Comment:

Mr. Jerry Dratler said permit fees were based on a table of construction costs that were from 2016 and were out of date and DBI had a revenue problem and should not more than a year to fix it. Another issue that plan checkers found the cost submitted were grossly understated and there were two leakages that didn't need a fee study to fix but management and leadership.

- b. **Future Meetings/Agendas.** At this time, the Commission may discuss and take action to set the date of a Special Meeting and/or determine those items that could be placed on the agenda of the next meeting and other future meetings of the Building Inspection Commission.

Secretary Harris said the next Regular Meeting of the BIC would be April 20, 2022.

Commissioner Alexander-Tut said the BIC previously had a Racial Equity Committee and because the other Commissioner was no longer serving, the committee was only of herself. She wanted to agendaize the Racial Equity Plan because there were six items that are Commission items and those were on a timeline to be added to the Director's Report for May. Secondly, to discuss and/or review the Climate Reality Project and said she was curious of the code implications and if there were actions that could be taken or recommendations that could be made.

President Bito said to Director O'Riordan that it was understood the Department had initiatives and policies and ordinances that were part of the Racial Equity Plan, but she wanted a holistic view to possibly augment it and give the BIC a better understanding of the green or sustainability policies the Department was implementing or pending adoption.

Director O'Riordan said that the staff would present that information at a later date.

President Bito said there would be a Client Services Subcommittee meeting on March 24, 2022 and she was looking forward to Deputy Director Neville Pereira's presentation, specifically the backlog issues and clarifying some of the data in order to refer back to the Commission.

15. Review and approval of the minutes of the following meetings:

- **Special Meeting of January 14, 2022**
- **Regular Meeting of January 21, 2022**
- **Special Budget Meeting of January 26, 2022**
- **Special Budget Meeting of February 10, 2022**
- **Regular Meeting of February 16, 2022**

Vice President Tam made motion to approve the Meeting Minutes from 1-14-22, 1-21-22, 1-26-22, 2-10-22, and 2-16-22, which was seconded by President Bito.

RESOLUTION NO. BIC 037-22

16. Adjournment.

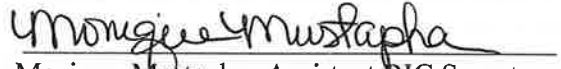
Vice President Tam made a motion to adjourn the meeting, which was seconded by Commissioner Sommer.

RESOLUTION NO. BIC 038-22

The meeting was adjourned at 11:12 a.m.

SUMMARY OF REQUESTS BY COMMISSIONERS OR FOLLOW UP ITEMS	
Request to amend the BIC portion of the Racial Equity Plan. Alexander-Tut	Page 17
Item to amend and review the Climate Reality Project and any Code implications. – Alexander-Tut	Page 17

Respectfully submitted,


Monique Mustapha, Assistant BIC Secretary


Edited By: Sonya Harris, BIC Secretary

5. General Public Comment: The BIC will take public comment on matters within the Commission's jurisdiction that are not part of this agenda.

Mr. Jerry Dratler submitted the following statement:

At the March 16, 2022, BIC meeting Jerry Dratler stated the February 16, 2022, election of BIC officers was improper. Former BIC President McCarthy was impaired during the election process.

Mr. McCarthy began the process by asking for nominations for president and vice president and then proceeded to nominate Ms. Bito and Mr. Tam for president and vice president before entertaining officer nominations from other BIC commissioners.

President McCarthy abused his position as BIC president and violated Section 2.03 of the Building Code by submitting his candidates for BIC officers before entertaining nominations from other BIC commissioners.

After many procedural mistakes Mr. McCarthy acknowledged his impairment and asked Ms. Harris to take over the election of BIC officers.

Future officer elections should require voting for all nominees for president and vice president at the same time, voting on nominations in the order received makes the election process vulnerable to abuse.

