



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

**REGULAR MEETING**

**Wednesday, April 18, 2012 at 9:00 a.m.**

**City Hall, 1 Dr. Carlton B. Goodlett Place, Room 416**

**Aired Live on SFGTV Channel 78**

**ADOPTED August 15, 2012**

**MINUTES**

The regular meeting of the Building Inspection Commission was called to order at 10:35 a.m. by President McCarthy.

**1. Call to Order and Roll Call - Roll call was taken and a quorum was certified.**

**COMMISSION MEMBERS PRESENT:**

Angus McCarthy, **President**

Frank Lee, **Commissioner**

James McCray, **Commissioner**

Debra Walker, **Commissioner**

Sonya Harris, **Secretary**

Warren Mar, **Vice-President**

Kevin Clinch, **Commissioner**

Myrna Melgar, **Commissioner**

**D.B.I. REPRESENTATIVES:**

Vivian Day, **Director**

Edward Sweeney, **Deputy Director, Inspection Services**

Pamela Levin, **Deputy Director, Administrative Services**

William Strawn, **Communications Manager**

**CITY ATTORNEY REPRESENTATIVE**

John Malamut, **Deputy City Attorney**

**2. President's Announcement(s).**

President McCarthy reported that the Mayor's Budget Town Hall meetings have begun. President McCarthy encouraged some of the other commissioners to attend these meetings.

President McCarthy stated that Deputy Director Pamela Levin would be speaking at the Board of Supervisors Land Use Committee meeting on April 16<sup>th</sup> to discuss the Development Impact Fee Collection Unit. President McCarthy said that he plans to attend and possibly give comment.

President McCarthy announced that May is National Building Safety month; DBI will be providing outreach materials to the public, while both the Mayor and Board of Supervisors will issue supportive proclamations. In addition, and in support of small business, DBI will be waiving awning replacement fees for the month of May.

DBI is participating with the Mayor's request to bring in high school interns as part of the Project Pull Program. President McCarthy expressed his support of the program.

President McCarthy recognized Department staff - Tom Fessler, who had received a letter of appreciation from a constituent.

President McCarthy asked that Item 7 on the agenda be the next item to be heard, as Supervisor Wiener was in attendance to speak. As there was no objection, the next item heard was Item 7.

**7. Discussion and possible action regarding proposed ordinance amending the San Francisco Building Code by amending Section 1208.4 to reduce the square footage requirement for Efficiency Dwelling Units pursuant to Section 17958.1 of the California Health & Safety Code, and making environmental findings.**

Supervisor Wiener stated that this legislation would amend the Building Code to change the definition of an efficiency unit to be in line with what is allowed under the California Health & Safety Code. Specifically, it defines an efficiency unit as being a minimum of 150 square feet of living area, exclusive of bathrooms, closet, and cooking area. The Code Advisory Committee expressed support for the legislation, with one requested amendment which the Supervisor has made. It indicates that the entire area, including closet, bathrooms, etc. total 220 square feet. All other Code requirements such as ADA and Health Code requirements would still be in effect. The total number of occupants will be limited to two people.

Supervisor Wiener stated that many other cities in California have adopted and conformed their Codes to the State minimum. San Francisco is in desperate need of housing for all levels. While the City does its best to provide public subsidies and create affordable housing, there are limits to what they can provide. They talk about affordability by design as a way to supplement more affordable housing programs and giving developers and affordable housing non-profits the flexibility to design housing that is more affordable. This is one of those ways to give that flexibility. No developer would be required to build 150 square foot efficiencies, but they have that option. This legislation will be useful in a number of different contexts. For example, Supervisor Wiener is proposing legislation to encourage more student housing in a way that does not cannibalize the current housing stock. Having this flexibility will encourage educational institutions to create housing. Also, the City is in need of more senior housing, and not just senior housing for low income but for those seniors who may have architectural barriers in their own homes. There is an emerging trend in terms of collaborative/cooperative housing whereby a small living space is provided and common areas are shared.

Supervisor Wiener said that he hoped to have the Commission's support and opened the floor to questions from the Commissioners.

Commissioner Walker asked if this legislation was only for new construction. Supervisor Wiener stated this would be a general change to the Building Code. Commissioner Walker asked if the requirements around inclusionary would flow to these units as well? Supervisor Wiener stated that Commissioner Melgar had raised the same question to him and that is a discussion he hopes to have in terms of how this legislation interacts with the Inclusionary Ordinance. However, this legislation does not affect the Inclusionary Housing Ordinance. Commissioner Walker asked if the

current assumption of affordability is based on size. Supervisor Wiener answered yes.

Commissioner Melgar stated that this legislation is long overdue and praised Supervisor Wiener for putting this forward. The Building Department does not deal with the Inclusionary Housing Ordinance in terms of affordability, but DBI is charged with looking at the units after they are built and checking to see that they are comparable. Commissioner Melgar is concerned with staff having to check off that the units are similar when it is not specified what the relationship is between market units and BMR units. Commissioner Melgar stated that she hoped that in formalizing the legislation, the Commission's concerns would be flagged.

Supervisor Wiener suggested the Commission provide written feedback that he can share to facilitate further discussion.

President McCarthy commented that this legislation is great and was glad to see similar legislation having been tested in other jurisdictions.

Commissioner Walker stated that with SROs versus efficiency units where kitchens and baths are required, the common areas may not be created or maintained. As the City moves forward with the test of efficiency units, the City needs to be careful in its enforcement of common area usage and take into consideration light, air and open space issues. Supervisor Wiener agreed.

Commissioner Lee said that he was supportive of the legislation as a minimum standard, but that he would like to leave it up to the developers and builders to create something that is appealing to the people that will be using these buildings. Commissioner Lee stated that 150 square feet seems a bit tight for two occupants and said that he hoped developers could do more in their designs and use of space. Commissioner Lee expressed his concern over the space allocated for the cooking areas in efficiency units. In the Code, it is required that cooking areas are provided with kitchen sink, cooking appliance, and refrigeration facilities each having a clear working space of not less than 30-inches in front of them; this will cut into the 150 square feet and make the usable space even less. Commissioner Lee asked that this issue be looked into and possibly have the kitchen area be excluded from the 150 square feet minimum. Supervisor Wiener clarified that the units are 220 square feet total including the kitchen and bathroom.

Commissioner Walker inquired about parking requirements for these developments. Supervisor Wiener stated that this legislation does not change the current parking requirements. This item would be left up to the specific zoning of each project.

Vice-President Mar thanked Supervisor Wiener for presenting this legislation and stated that the amendment to expand the space to 220 square feet was helpful. When this legislation was first proposed, there was more emphasis on student housing or for other alternatives of housing. One of the questions that arose was how to enforce this. Commissioner Mar asked if there had been any developments to earmark development of units for a certain population. Supervisor Wiener said at the CAC, there had been a suggestion to limit it to student housing, and it was his understanding that this was illegal and could not be done. Giving options for various types of housing is where they need to go to increase affordability overall in addition to creating housing.

Commissioner Walker inquired if anything is being done to possibly transition current houses or

apartment rooms to tourist rooms. Supervisor Wiener stated that President Chiu is working on legislation for this issue, and as he understands, it would be a fairly global approach. The City already has laws on the books that are not effectively enforced. It is about enforcement, and Supervisor Wiener said that he is looking forward to a dialogue around the President's legislation.

President McCarthy called for any additional comments from the Commission. No further comment was made.

Secretary Harris called for comment from the Department. No comment was made.

Public comment was taken on this item.

Dan Fratton of Reuben & Junius spoke on behalf of his client and as a member of the Housing Action Coalition. The Housing Action Coalition is a strong supporter of a variety of housing types to meet the diverse needs of the people in San Francisco. They are pleased to see this legislation moving forward and think that it will be a tremendous benefit to private sector developers and non-profit developers. There is no doubt that there is a need for this type of housing. More than forty percent of San Francisco households consist of a single person. They would like to see these types of units be available to the wide variety of people who would like to live alone but cannot afford to. These units have been built in other cities, such as Seattle, where there is a 150 square foot minimum living area provision. There have also been several efficiency unit projects built near the University of Washington. Presumably they are popular with students. In San Francisco there are very few dedicated student housing units, and these types of units seem like a logical fit. While there is growing interest in these types of units on the private side, most of the ones built to date in San Francisco have been built by non-profit housing developers. This legislation would make every housing dollar go further. Mr. Fratton pointed out that the small units are often supplemented by a generous common area. In affordable housing projects, it is often a community room where people can access social services. In student housing projects, there would be quiet study rooms and social space.

Patrick Kennedy, a developer, spoke on this item. Mr. Kennedy distributed handouts to the Commissioners outlining his three points. First, the Supervisor's legislation would bring the Building Code into agreement with the Housing Code with regard to allowing units with less than 150 square feet. Secondly, the proposed units would be 220 square feet. If careful attention is paid to design, it is possible to create a comfortable, satisfactory, and economical unit for one or two people. The last point is that in a time of diminishing resources and the absence of redevelopment, the City needs to embrace the production of more affordable housing. Mr. Kennedy added that when he built in Berkeley, 20 percent of the units in his projects were set aside for very low income residents, all done with private funds and with no subsidies from the City. Because the units were inside the projects, by allowing this modification, they were able to insure that these low market rate units stay on the premises where these projects are built and provide revenue for the City. Mr. Kennedy continued to state that this year alone, San Francisco will see 8,000 new employees coming into the technology industry in the South of Market. A majority of those people are single. If the City does not make a concerted effort to provide a landing pad of housing for these people, they will cannibalize existing single-family homes elsewhere. Another benefit of building high-density units is that they can go to places like the mid-Market area where transit is great, there is need for economic development, and people can be happy as they will be close to

work. Allowing smaller units will help the City advance a number of its goals, all without subsidy by the City and harnessing the energy of the private sector. Mr. Kennedy provided an article from the *San Francisco Chronicle* pertaining to SRO units in the City. He commented that if the City is ever going to make a dent in refurbishing that stock, the City needs to embrace refurbishing an innovative idea like this amendment because only then will they start to see units replace the substandard and in many cases, squalid units that many residents live in now.

President McCarthy inquired as to the designs presented of the units. Mr. Kennedy clarified that he wanted to underscore the diminution is not as much perceived as the kitchen, bathroom and closets stay the same. He stated that typically his projects do not provide parking, as the people who rent these types of units, use bicycles or public transportation. As a result, the ground floor is largely given over to uses that enhance the experience of the residents upstairs. These developments are still required to abide by the City's open space requirements.

Secretary Harris asked for any further public comment. There was no further public comment.

***Commissioner Melgar made a motion, seconded by Commissioner Walker that the proposed motion be adopted. The motion carried unanimously.***

### **RESOLUTION NO. BIC 023-12**

Secretary Harris continued to Item 3.

### **3. Discussion and possible action by the Commission to adopt proposed findings regarding 550 Jersey Street**

Edward Sweeney, Deputy Director of Inspection Service provided an update on this item. A CFC for Final Completion has been issued to the property owner. All revisions were reviewed and inspected by staff. BID now considers the matter closed.

Secretary Harris called for public comment on the findings from the appellant in this case.

Nancy Wuerfel, member of the Little House Committee objected to the denial of this appeal. The City Charter requires the Commission to be a supervisory body for DBI. This provides the public with a check and balance on the Department, so the public can be assured that the laws are enforced. The City Administrative Code clearly states that a Department's failure to render a written decision or a determination within 15 days of request is appealable to the Commission. Therefore, when such a request is ignored, as in this case, it is a serious matter; serious enough to allow the public to come before the Commission to make their case. It was the Director's failure to do her job. However, at the appeal hearing, the Commission did not explore the facts presented that should have been the basis to either uphold or reject the arguments. The Commission has compounded the Director's error by not considering the evidence of this case and contributed to the illegal waiving of the provisions of the Building Code. Ms. Wuerfel requested that the Commission continue the discussion of this case at the next Commission meeting to promptly consider its responsibilities under the Charter and Administrative Code.

Joseph Butler, Architect spoke to correct the findings. He requests that the Director investigate and

make a determination as the appellants never asked for a permanent revocation. The City Attorney agreed to hear the appeal. Mr. Butler referred to the revocation of the permit letter of August 3, 2011 signed by Daniel Lowrey, Chief Building Inspector, stating that no work was performed. Mr. Butler cited code section 106A.441 pertaining to permit expiration whereby work cannot occur after more than one year has elapsed. This case has been going on for nine years. Mr. Butler requested that the reinstatement be rescinded. When the permit was revoked, it was subsequently reinstated because Planning had given permission. The Planning Department did not have the authority to enforce Section 106A.441 of the Building Code. At the hearing, it was pointed out that Carla Johnson, Damian Quinn, and Mr. Butler agreed that no work had begun on this permit. As such, when the findings state that Deputy Director Sweeney should have stamped the application to indicate renewal of the permit was to complete work and final inspection, he states there is no such stamp. There is no authority to renew the permit that has expired for nine years. The findings do not address this point, which is the central point of the appellants' argument. Mr. Butler commented that there is a misquote of the Building Code in item number 9 that should have been enforced, and the last word in item number 11 should not have been labeled as a "complaint" but as a respectful request of the Director to look into a permit that had been issued in error. This is a fact admitted to by the Director's own staff.

Secretary Harris asked for additional public comment on this item. There was no further public comment.

*Commissioner Clinch made a motion, seconded by Commissioner Walker, to adopt the findings of 550 Jersey Street. The motion carried unanimously.*

#### **RESOLUTION BIC NO. 023-12**

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

There was no public comment.

- 5. Discussion and possible action to appoint Commissioners to serve on the Litigation Sub-Committee.**

President McCarthy opened the floor to nominations. Commissioner Lee asked for the current members who serve on the committee. Secretary Harris stated the committee was comprised of commissioners Walker and Clinch. There is one available seat.

*Commissioner Lee made a motion, seconded by Vice-President Mar to re-appoint Commissioners Walker and Clinch and appoint President McCarthy to the committee. The motion carried unanimously.*

#### **RESOLUTION NO. BIC 024-12**

- 6. Discussion and possible action to appoint Commissioners to serve on the Nominations Sub-Committee.**

There are currently two seats vacant for the Nominations Sub-Committee. President McCarthy nominated Commissioner Melgar. Commissioner Walker nominated Commissioner Mar. Secretary Harris asked for a motion to nominate commissioners Melgar and Mar and to reappoint Commissioner Lee.

*Commissioner Walker made a motion seconded, by Commissioner Clinch to nominate Commissioners Melgar and Vice-President Mar and to reappoint Commissioner Lee. The motion carried unanimously.*

**RESOLUTION NO. BIC 025-12**

**8. Discussion on Code Enforcement and update on blighted property ordinance.**

Deputy Director Ed Sweeney reported that there are 10,000 outstanding complaints, of which, 5,000 have outstanding NOV's. This is over a 20 year period. During the same time span, there were 151,000 complaints made and 68,000 NOV's issued. Roughly half of these complaints belong to Housing Inspection Services, and the other half belongs to BID. Staff is reviewing these complaints and are finding that a good portion of them can be abated, meaning that someone obtained a permit, the work was inspected, and the District Inspector never abated the complaint. In a few months, these numbers will change greatly. As with any large organization such as DBI, there is always room for improvement; there needs be more oversight and a better system of checks and balances. Mr. Sweeney has instituted a few changes such as adding staff in Code Enforcement to speed up the process of Notice of Violations and Order of Abatement. Out of the 5,000 Orders of Abatement, over 1,000 are at the end of the process. Additionally, there are 80 cases that have been referred to the City Attorney's Office. Mr. Sweeney stated that out of the 151,000 complaints, staff will not be able to get in to every unit. In order to obtain an inspection warrant, they would need probable cause. Current policy is that when a complaint is received, the District Inspector goes out to the site two times to investigate and gain entry. Also, Mr. Sweeney stated that Inspectors rotate districts every two years, so the new rotating Inspector may not be aware of the previous case's activity. One of the things Inspection Services is instituting is printing out outstanding complaint lists to redistribute to staff and have them identify cases that need follow-up action such as Orders of Abatement and Notices of Violations. Management is also putting an emphasis on Code Enforcement.

Commissioner Walker asked for an explanation of the DBI process from complaint through its resolution. Mr. Sweeney stated that most of the complaints are received through the 558-6570 DBI phone number; however, they are also received via the internet and through referrals from 311. Commissioner Walker asked if these complaints are received in one central location. Mr. Sweeney stated that 311 referrals are handled on the 4<sup>th</sup> floor and distributed to the correct divisions for further action. All complaints are reviewed and assigned. The assigned Inspector is expected to respond or gain entry within 48 hours. If there is no access on the first attempt, Inspectors leave a notice informing property owners that an Inspector was at the property and the owner is requested to call the Department to schedule an inspection. If on the second attempt Inspectors do not gain entry, a letter is sent. If the issue does not involve life safety and the Inspector drives by and notices some action, they are expected to stop and issue a violation with specified timelines to correct the issue. If the violations are not corrected in a timely manner or no action is taken on the part of the owner, a second Notice of Violation is issued and the case is transferred to Code

Enforcement for further action and to be scheduled for Director's Hearing. At the Director's Hearing, the property owner is to show cause for why they have not complied with the Notice of Violation(s). If the hearing officer does not feel that there is compelling argument, an Order of Abatement is issued. Orders of Abatement make it difficult to sell a property or to refinance. The vast majority of property owners will obtain a building permit to correct the violation(s) and abate the complaint. With regard to inspection warrants, DBI is in the process of obtaining one. Warrants are costly and time consuming, but will be obtained if there is a life safety issue at the property.

Commissioner Walker asked if complaints are tracked and updated on the tracking system so that the public can view the information. Mr. Sweeney stated yes.

Commissioner Melgar thanked staff for putting the complaint numbers into context. She is concerned about the public's perception. Commissioner Melgar said that she looks forward to staff updates on this item and getting the information out to the public, so that everyone is aware that these complaints are being addressed.

President McCarthy added that he looks forward to the staff update as well on this item in the next 60 days.

Chief Housing Inspector Rosemary Bosque spoke on the Code Enforcement process. Ms. Bosque said that Housing Inspection Services does not have 5,000 open complaint cases. There are approximately 4,700 open cases; a portion of which is related to complaints and systematically, there are routine inspections or referrals from other agencies. There are approximately 2,700 open complaints and 1,900 that are routine inspections. Six hundred routine inspections are open due to no-shows on the part of the property owner despite the fact that notices were sent to property owners informing them of the inspection procedures.

Ms. Bosque reported Housing Inspection receives an average of 3,200 complaints per year. With the addition of 311, there is an additional 626 new complaints. Up until July 2010, the Code states that the Department could impose assessment of costs and obtain reimbursement at an hourly rate for the time it takes for extended Code Enforcement. On the basis of those cases that have received Orders of Abatement, Housing Inspection Services has received over \$3M since the program started in 1995. There is \$200,000+ that is pending whereby if the property owner does not pay, it will be brought forth to the Board of Supervisors to have a lien put on the property tax bill. While awaiting the new computer system, staff has developed a detailed billing system. Staff outlined all actions the Department performs that could be billable. A spreadsheet was created, discussed with MIS and the Director, and subsequently approved to implement billing the assessment of costs. The division looks forward to working with the Director and the Accela team to make sure that this becomes a much more efficient situation in the future. With staff shortages in both the Inspector and clerical positions, HIS still hopes to increase output in the future.

President McCarthy inquired about the \$3M collected since 1995. Ms. Bosque clarified that this amount is based on an hourly rate of \$55 for administrative costs. On a yearly basis, the Department would have collected approximately \$176K per year since 1995 depending on how property owners reacted. Ms. Bosque stated in 1995 they started with 35 cases and began building support with the Board of Supervisors. Now, staff goes before the Board annually and very few cases are taken off the list.



Commissioner Walker thanked staff for their presentation. The Department is focused on prioritizing the Code Enforcement process and making it understandable for the public. Commissioner Walker said that she hoped the new computer system will help improve the monitoring process.

Ms. Bosque explained a change in legislation that was approved in 2010 as to when the assessment of costs would be imposed. In Ordinance 180-10, it is specified that the timeframe for compliance of the Notice of Violations has lapsed and the work is still outstanding that DBI can begin assessing not only an hourly rate but a monthly \$52 fee. Staff has revised its boilerplate language on notices to inform property owners of this. As a result, people are responding more quickly.

President McCarthy asked how fast the turnaround is for reinspection when a property owner has stated they have complied. Ms. Bosque stated that Inspectors conduct their reinspection as soon as possible. The case is not scheduled for an administrative hearing or the property owner is not billed if staff is unable to get out to the site.

There was no public comment on this item.

## **9. Discussion on what DBI can do to help small businesses to put an ADA plan in place.**

Deputy Director Tom Hui spoke on this item. DBI has always enforced Title 24, but this involves only 9% of ADA requirements. Staff will be attending upcoming training on the ADA requirements. DBI's Technical Services is available to answer any questions for the public. Generally, for small business, most of the complaints involve problems with the entrance even though there is no construction.

Vice-President Mar stated that this issue was raised due to several lawsuits that have come about. One of the problems is owners have had to hire private ADA specialists to put together a plan. However, the plan was only as good as the next lawsuit. The public wants DBI or some other government agency to tell them how to comply. Deputy Director Hui stated that this would be difficult at this time due to limited staff. Staff can only provide recommendation/advice to the public. Perhaps in the future, staff will be able to conduct a "brown bag lunch" seminar, which is open to the public, to inform them of what can be done. DBI has one ADA specialist on staff that is also certified as a CASp Inspector.

Commissioner Melgar stated it was her understanding that the State requires DBI to have a certain number of CASp Inspectors trained within the Department. Commissioner Melgar inquired about DBI's plans to have more Inspectors CASp certified. Deputy Director Hui responded that the Department will be conducting extensive training to prepare for this certification. Commissioner Walker asked when the deadline was to comply with the requirement. Director Day responded 2014 is the deadline to have a large percentage of field inspectors trained for field inspections, not to provide any plan. Staff can only inspect and advise the public, not provide plans. Doing so would be a conflict of interest.

In some cases, there are projects that may encroach into the public right of way. This involves other City agencies that DBI has no jurisdiction over. DBI can tell owners that they need to build a ramp to provide access, but if they cannot obtain permission from the other City departments, it

does not do any good. DBI staff is working internally with other agencies to resolve these issues. Some businesses may never be able to comply as it is just the way San Francisco is built. The City Agencies do the best they can, but it is the property owner or tenant that completely ignores requests for access who are liable to the wills of attorneys and disabled people who are out there that legitimately need access to these properties.

Commissioner Lee stated that ADA is not just related to building construction. Some of the issues cannot be resolved with construction. From his understanding, if a business gets an inspection from a disabled access specialist, that could hold off lawsuits. Director Day stated the courts will take this into consideration and forestall the litigation for a while, but it will not stop a person from filing. Sometimes it will be enough incentive for the person to not go forward if the courts are cognitive of the fact the owners have a plan in place. Commissioner Lee inquired if the Department will be training Inspectors as disabled access specialists, could DBI offer to conduct the inspections and tell the property owner what they need to do to resolve access issues. Director Day stated that this is what private CASp Inspectors do. Commissioner Lee asked if DBI could offer this service. Director Day stated that this was not the intent of the program for the Inspectors. Staff can go out to sites if there is construction going on, but they cannot go out to every business in the City and tell them what they need to do. Commissioner Lee stated he was not suggesting that staff proactively go out to conduct inspections, but that property owner could come to the Department to request such an inspection and perhaps DBI can charge a fee. Director Day stated that a typical inspection conducted by a private party is approximately \$1,000 depending on the size of the building. Once an inspection is conducted, they are required to create a plan for their customer. It is not just going out to inspect as though they are inspecting construction. There are two classes of CASp Inspectors – private sector and the building Inspectors who check private Inspector's work. It is a double check point, so to speak.

Commissioner Melgar stated that she hoped to have clarification from Regina Dick-Endrizzi from a small business perspective of what has been going on. Commissioner Melgar said that it is her understanding that the actual complaint from the business community is that many of them just do not know the procedures and what is involved. Commissioner Melgar said she believed the requests are not for a full CASp inspection, but for when an Inspector goes to a job where there are other improvements being done, then the Inspector could inform the owners of other issues and refer them to the private sector.

Executive Director Regina Dick-Endrizzi, Office of Small Business commented that the issues they have seen in their office are

1. Many are turnkeys, so they never engage with the Department of Building Inspection because they are not doing tenant improvements.
2. Most of those that are receiving lawsuits have been in business for a while or have been in business since pre-1992 and have not done any tenant improvements.
3. Those who are doing improvements under the valuation threshold.

In terms of the discussions of Certified Access Specialist and private inspections versus the Department of Building Inspection with the City Attorney, the question is whether it is appropriate for the City to be doing CASp inspections. One of the things Ms. Dick-Endrizzi hears from businesses is when they go to make improvements, they want assurance that what they are doing,

even though they have a CASp Inspector making recommendations, that there is some sort of stamp of approval that they are doing what is right and readily achievable so that it is not up to the individual interpretation of an individual who wants to take advantage of the situation. There is potential for the Department of Building Inspection with SB1608 and the CASp Inspectors to be involved in the private realm if there are conflicts. Senator Feinstein has directed the State to help reduce these predatory lawsuits. If they need to strengthen SB1608 around the CASp inspections with the Department of Building Inspection having some authority, the Office of Small Business are interested in exploring this.

Commission Walker stated DBI has a process which involves the Access Appeal Commission, who reviews equivalencies that come up around disability and asked if it made sense to obtain their input in reviewing this issue. Director Day stated the Department does review issues within the property lines of the building. Most of the complaints received involve the front entrances of the properties. This is an item the Director will need to work with Planning and Public Works to come up with a solution for these property owners that will meet Federal laws. Director Day sent an email on this subject and is willing to Chair the committee to get this going. It helps that she serves on the California Building Official's Access Committee in that she receives access legislation as it comes through. It is trying to get all of the entities together now that this has become a major issue with the Historical Preservation Society and the public right of way. Director Day would also like to involve the Mayor's Office on Disability. A member from the Access Appeal Commission would also be invited. Director Day will work with Ms. Dick-Endrizzi to schedule a meeting.

Director Day stated 40 DBI staff will be trained for the CASp program, but there is no guarantee that all will pass. There are also new ADA laws going into effect July 1 that staff will be trained on. Building inspectors and plan check engineers are required to have 8 hours of accessibility training as part of their certifications.

Commissioner Lee inquired about the services DBI's Disabled Access Section provides. Director Day stated that 95% of the work completed in this division is related to complaints on existing properties. Technical Services has a CASp Inspector available to help customers that want advice. This is what they are required to do by law.

Vice-President Mar thanked the Director and the participation of the Office of Small Business in clarifying the issue as it is a concern that was raised by some businesses that have been hit with these lawsuits. Anything that DBI can do, including having more staff certified or holding brown bag seminars will be helpful.

Commissioner Lee stated perhaps the private Inspectors are also looking for an approval method whereby there is a process that they can perform the inspection and then seek assistance from DBI.

Director Day reported that building officials have taken a stand on this issue. City Inspectors will not review private Inspector's plans, but will review plans surrounding the construction issues. Staff will be trained in order to advise customers on non-construction issues.

President McCarthy stated that he agreed with Director Day regarding staff providing support on this issue. He stated it would be difficult for the Department to get into actually drawing plans as

there needs to be a separation.

President McCarthy hopes to see a bigger discussion on strengthening SB 1608 and requests further discussion on this item for a future agenda.

There was no public comment on this item.

## **10. Director's Report**

### **a. Update on DBI's finances**

Pamela Levin reported that DBI is seeing a steady flow of revenue from charges for services. The Department is still receiving large projects. DBI has received \$4.8M of the \$8.5M of apartment rental fees as this comes through property taxes. Next month DBI should receive better figures if the funds go to fruition. DBI is projecting 96-97% revenues for charges for services. In terms of expenses, 75% of the year has gone by and most of the expenses have been for salaries and fringes. There are currently 33 requisitions and the Department is moving forward with the recruitment process. DBI is projecting a \$1.4M surplus. The Department will be under budget by \$1.7M which combined with the revenues will result in \$5.3M. Much of this will need to go into deferred credits. After further analysis, DBI is looking at five months worth of expenditures through its fund balance; however, it is below where it wants to be in terms of covering unforeseen circumstances. Vice-President Mar asked what figure the Department is looking for in order to cover emergencies. Ms. Levin responded six months; the Department would like to have funds be greater in case there is a downturn in the economy or if there is a major emergency.

President McCarthy asked if the value of new construction impacts DBI in any way. Pamela Levin responded that many of the fees received are based on valuation to the extent that if the valuation of projects goes up, the more revenue the Department receives. President McCarthy asked if staff saw a trend in this item. Director Day stated that fees are not based on valuation but based on time attributed to projects of a certain valuation. When DBI conducted its fee study, consultants sat down with staff, took projects of different sizes and analyzed the time it took from plan check to inspection. Therefore, fees are based, under California law, on a fee study/nexus. Valuation is a term the Department uses to determine the level of service a project receives based on an hourly rate.

Commissioner McCray made an inquiry on the expenditure recovery fund. Pamela Levin stated that this is when DBI performs work for another City department. Commissioner Walker asked why this was showing as a negative. Ms. Levin responded it is treated as a reduction to expenditures instead of revenue.

### **b. Update on proposed legislation**

Bill Strawn, Legislative Affairs gave a brief update. The Public Arts Trust Fund has passed and expects it to go in effect in May and will involve additional work by the fee collection unit at DBI. Supervisor Carmen Chu also put forth legislation for small business owners to improve facades. This legislation passed on its second reading. As a result, during the month of May, there will be a pilot program to see how many small business owners come in for a permit to replace awnings.

DBI will be waiving its normal fees, based on a three year review. This will be monitored for actual cost and to see if this will be made into a regular program.

The Commission already heard from Supervisor Wiener in regards to legislation on efficiency units. Mr. Strawn is waiting for an update from Supervisor David Chiu on ADA related legislation. With regard to State legislation, there has not been much change since the last report. The Commission may be interested in AB-801 related to increasing training standards for Code Enforcement officers. The State had dropped the proposed idea of wearing identifiable uniforms due to opposition from California Building Officials; however, Code Enforcement officers are required to be trained and pass an exam to perform some peace officer duties. This is still in the works. California Building Officials (CALBO) will be meeting tomorrow to review additional legislation proposed by the State. Mr. Strawn hopes to have more details at the next BIC meeting.

AB 1994 is another State measure dealing with ADA. It is oriented to have Planning Departments make decisions that are currently under Building Department jurisdiction. As such, CALBO and other State building officials are opposing this measure. Mr. Strawn stated to his knowledge, that this measure will not be pushed forward this year by the author. Mr. Strawn reported that the Mayor issued a press release encouraging legislation Attorney General Kamala Harris is pushing forward on behalf of mortgage protection. One part deals explicitly with fighting blight. This will give Building Departments more tools and the ability to charge up to three times penalty in order to provide incentive for properties to be maintained.

Director Day added to Mr. Strawn's report on Code Enforcement officers. Under the Code, every Inspector and Engineer is designated as a Code Enforcement officer. For this reason, building officials are opposed to the idea of uniforms.

Commissioner Melgar brought up an item that was in the paper pertaining to legislation brought forth by Supervisor Cohen expanding the definition of foreclosed properties. Bill Strawn acknowledged this and stated it is tied in with the legislation by Kamala Harris. Supervisor Cohen's legislation will serve the local level.

#### **c. Update on Permit Tracking System**

Pamela Levin reported that the project is going well. Staff met with the vendor to review configuration requirements and documents. The Department is ready to sign off for the vendor to begin programming.

Ms. Levin also reported on the Cash Management System and said that DBI has been working with the Treasurer/Tax Collector. This will add additional cash drawers at payment stations. Staff is meeting with the vendor to ensure this new system works with the current and future PPTS system.

#### **d. Update on Major Projects**

Tom Hui, Deputy Director of Permit Services provided an update on Major Projects. The good news is that there is more money coming into the Department. DBI recently received \$500K for the 505 Howard project.

President McCarthy inquired about DBI staffing levels during periods of increased workload, such as in year 2007. Mr. Hui responded DBI had roughly 60 plan checkers. That included Engineers and Inspectors. Currently, the program is operating with half the staff that DBI had in 2007. President McCarthy asked if DBI experienced having 54 major projects in 2007. While he could not give an exact number, Mr. Hui approximated having 10-20 percent more projects now versus the workload in 2007.

**e. Update on Q-Matic and Status of Activation**

DBI was to launch Q-Matic back in November 2011. Since then, staff worked on making sure there was enough staff available and a plan was in place. Management has been working to resolve hardware and software issues that have come up. Currently, staff is in the process of finalizing documents that will be provided to the public and translated into Spanish and Cantonese, as required by the City. Ms. Levin estimated three to four weeks down the line for launch.

Vice-President Mar inquired if by translation services, staff meant to translate the instructions on how to use the system. Ms. Levin clarified it does not only apply to the instructions but for the Frequently Asked Questions handout as well. Staff was also re-trained on the system. Director Day stated that the reason for software changes was due to the institution of express lines for sign offs and “no plans” permit projects.

**f. Update on Other Technology Projects**

Pamela Levin stated DBI has been focusing on improving customer services on the web. 3R requests will now be accepted over the web.

DBI is the model department in terms of combining server services between HSA, Planning, and DBI. It is a slow process with regard to obtaining approvals. To date, there is an executed Memorandum of Understanding between all participating departments outlining equipment requirements and the general scope of project.

Ms. Levin also announced DBI will be receiving a small number of mobile devices for testing. Director Day stated that these mobile devices will also be used for disaster preparedness functions. This is a FEMA approved program, and the Department will receive six tablets to be field tested.

Commissioner Lee inquired if the Department had technology related to providing notifications to customers of when services are completed or to provide status. Ms. Levin stated that at this time the Department does not have notification type technology, but DBI recognizes the need and will look into this.

**g. Update on New Hires**

Director Day reported DBI has hired 28 staff members since the beginning of the fiscal year. The positions have been distributed throughout the Department in various categories. Interviews were held for the 1406 entry level clerical positions. With the new hires, temporary positions will transfer into permanent positions. There have been issues with the clerical positions in that employees laid off from other Departments have bumped into DBI positions. In most cases, this

has been a benefit to DBI.

President McCarthy asked the status of the 5214 engineer positions. Director Day stated there is no list for the 5214 position. The City will be testing for this classification. DBI currently has two employees serving as Acting 5214. DBI is hiring for the lower positions that these staff vacated.

Pamela Levin stated DBI is working to hire engineers. Ms. Levin will be meeting with DBI Personnel and the Director to review hiring priorities. She is working closely with the Deputy Directors on those positions that have a list because of the one month timeframe to hire as set by Civil Service Rules.

President McCarthy requested a timeline to get these positions in place. He does not want projects to suffer due to the time it takes to get staff on board. President McCarthy asked to hear the urgency from Deputy Director Tom Hui on his program's staffing situation. Mr. Hui expressed his thanks to Director Day and Ms. Levin for their continued help. Mr. Hui reported that Jeff Ma will be returning to DBI next week. A 5207 position that was previously laid off will be coming back next month. With regard to urgency, Mr. Hui hopes to fill the 5241 classification first. A month later, they can look at hiring 5214, Senior Building Inspector, and Chief Building Inspector positions. President McCarthy asked if Mr. Hui will be charged with creating the test for the 5241. Mr. Hui stated once the list is created, applications will be reviewed, and interviews will be held. Director Day continued that upon completion of interview offers would be made and notices would need to be given that may take a couple weeks. President McCarthy asked for the approximate time when these positions would be on board. Mr. Hui hopes to have them by June.

Pamela Levin clarified the process once interviews are complete:

- Selection is made and reviewed by DHR
- Job offer is made to the applicant.
- Applicant goes through employment process requirements by DHR – conviction history, etc.

Best case scenario is staff would be on board by the end of May/beginning of June. Ms. Levin stated that there is one designated personnel staff at DBI. There is some assistance from DHR. Ms. Levin and the Director will be meeting with DHR management to discuss issues such as additional assistance they may be able to provide to DBI.

President McCarthy questioned if DHR understood the urgency faced by DBI. It is crucial to the City's inner structure that staff is placed and projects move forward. Ms. Levin stated the Mayor's Office has made it extremely clear to DHR the necessity of DBI to have staff. What takes time is the canvassing of applicants for these positions and is something that could be done by DHR. President McCarthy asked if having a special hearing would help things move forward. Ms. Levin stated that this is more of an internal issue and would report back to the Commission on any developments.

Commissioner Lee asked DBI to stress to DHR that the Commission is anxious to have these positions in place and is willing to entertain ideas of making this happen. Ms. Levin stated she has expressed these concerns to DHR and the Mayor's Budget Analyst.

Director Day reported that there is an internal work order with DHR that can be reduced if services are not provided and DBI needs to obtain outside consultants to assist in hiring. Director Day will be meeting with the DHR Deputy Director to see how they can speed things up. Director Day understands that DHR is under the same constraints DBI is under such as being short staffed but it does not help when more projects come in on a daily basis. DBI needs to prepare to address the impending workload.

Pamela Levin stated that a solution she was exploring was paying another department's HR to assist DBI. So far, everyone is maxed out.

President McCarthy asked the name of the Deputy Director in DHR. Ms. Levin responded that it is Ted Yamasaki.

Pamela Levin informed the Commission that the City has been in union negotiations for the past month. With 40 or more unions, it has tapped out many of the people in DHR and DBI who must participate.

There was no public comment on this item.

#### **11. Commissioner's Questions and Matters**

##### **a. Inquiries to Staff**

Commissioner Lee asked for a report on the upcoming fee waivers issued related to awning replacement. Director Day stated this will be provided as part of the agreement DBI has made with the Supervisor to report on its results. This will happen in July.

There was no public comment on this item.

##### **b. Future Meeting Agenda**

The next meeting of the Building Inspection Commission is May 16, 2012.

Commissioner Walker announced the Litigation Committee will be meeting at 2:00 pm on May 15, 2012.

There was no public comment on this item.

#### **12. Review and approval of the minutes of the regular meeting of October 19, 2011.**

*Commissioner Walker made a motion to approve the minutes, seconded by Commissioner Lee. Seeing no public comment, the minutes were approved unanimously.*

#### **RESOLUTION NO. BIC 026-12**

#### **13. Review and approval of the minutes of the regular meeting of November 16, 2011.** *Commissioner Mar made a motion to approve the minutes, seconded by Commissioner Walker.*



*Seeing no public comment, the minutes were approved unanimously.*

**RESOLUTION NO. BIC 027-12**

**14. Adjournment**

*Commissioner Lee made a motion to adjourn, seconded by Commissioner Walker. The meeting was adjourned at 1:06 pm.*

**RESOLUTION NO. BIC 028-12**

Respectfully submitted,

\_\_\_\_\_  
**Ann Marie Aherne**  
**Commission Secretary - Retired**

<b>SUMMARY OF REQUESTS BY COMMISSIONERS OR FOLLOW UP ITEMS</b>	
Report on Complaint process to be given in 60 days. – McCarthy	Page 8
Meeting to include DBI, Small Business Commission and Access Appeals Commission regarding handling of complaints. – Walker	Page 11
Discussion on strengthening SB1608 regarding ADA issues and plans. – McCarthy	Pages 11-12
Update on State legislation regarding efficiency units. – Strawn	Page 13
Update on when key DBI positions will be filled (June). - McCarthy	Page 15
Update on fee waivers for permitting of awnings. – Lee	Page 16