



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

REGULAR MEETING

Wednesday, October 16, 2013 at 9:30 a.m.

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

Aired Live on SFGTV Channel 78

ADOPTED March 19, 2014

MINUTES

The regular meeting of the Building Inspection Commission was called to order at 9:09 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, excused**

James McCray, Jr. **Commissioner, excused**

Debra Walker, **Commissioner**

Sonya Harris, **Secretary**

Warren Mar, **Vice-President**

Kevin Clinch, **Commissioner**

Myrna Melgar, **Commissioner**

D.B.I. REPRESENTATIVES:

Tom Hui, **Director**

Edward Sweeney, **Deputy Director, Permit Services**

Dan Lowrey, **Deputy Director, Inspection Services**

Rosemary Bosque, **Chief Housing Inspector**

Gaye Revels, **Acting Chief Financial Officer**

William Strawn, **Legislative and Public Affairs Manager**

Hema Nekkanti, **IS Project Director**

CITY ATTORNEY REPRESENTATIVE

John Malamut, **Deputy City Attorney**

2. President's Announcements.

President McCarthy made the following announcements:

1. Congratulations and thanks to Director Tom Hui who received a letter from Mr. Ron Wallace for his help while working in the Plan Check Division. Mr. Wallace also gave a big thank you to the Plan Check staff for doing a careful and professional job.
2. Thank you to two members of Finance Services, Sarah Luu and Cynthia D'Amato who received a letter of appreciation from Ms. Jennifer Roldan for helping her obtain her final

inspection. Kudos for contacting various DBI & Planning Staff and even working through the lunch hour!

3. A customer, Ms. Ilene Dick, sent a thank you letter to Chief Housing Inspector Rosemary Bosque for her help with a DBI project that resulted in the preservation of affordable housing.
4. Congratulations, again, to Director Tom Hui who did a radio interview, in Cantonese, with a local station about the new mandatory seismic retrofitting program – a broadcast that aired on Sunday, Oct. 13 from 5-5:30 p.m.
5. Similarly, DBI had such an overwhelming response on Oct. 3rd to its first Briefing and Workshop on the new retrofitting program – with more than 250 participants showing up at Room 2001 – that a second Workshop has been scheduled for Monday, Oct. 28, from 11 a.m.-1 p.m., in the Koret Auditorium of the new Main Public Library on the corner of Larkin and Grove Streets. The details are on the DBI web.
6. DBI will participate with the Mayor's Director of Earthquake Safety, Mr. Patrick Otellini in a special financing workshop at Fort Mason, Building A, Golden Gate Room, 2 Marina Blvd. on Wednesday, October 23. This is being hosted by the San Francisco Apartment Association and multiple banks and financial institutions will participate in order to explain issues and options to cover the costs of the seismic program.
7. DBI will again participate in the Chinatown Resource Fair at Portsmouth Square on Saturday, November 2nd from 11:00 a.m. until 2:00 p.m. If you have time and are in the area, please drop by at DBI's booth.

There was no public comment on the President's announcements.

3. 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.

4. Employee of the Quarter Winners for Quarters Two and Three – 2013.

President McCarthy called on Mr. Bill Strawn of Legislative and Public Affairs to make the announcements. Mr. Strawn said that the winner for quarter two was postponed due to other Commission business that was going on in the previous months, but said that the winner was Ms. Sarah Luu who was nominated by Ms. Cynthia D'Amato. Mr. Strawn stated that these were two key members of the Department's budgeting and accounting team. Mr. Strawn announced that the winner for quarter three is the BIC Secretary Ms. Sonya Harris who was a unanimous selection. The Commission congratulated both employees and at this time took photographs.

Ms. Harris thanked everyone for the award. Ms. Luu said that she wanted to thank the Commissioners for honoring her with this award and thanked her colleagues for having voted for

her. Ms. Luu gave special thanks to Cynthia D'Amato who nominated her. President McCarthy said that he and Ms. Harris had started with the Commission at the same time and thanked her for keeping the ship moving forward and for taking care of the Commissioners' questions and needs.

There was no public comment.

5. Discussion and update of DBI staff briefing on 1049 Market Street.

President McCarthy called on Mr. Bill Strawn of Legislative and Public Affairs to give a brief overview of what has taken place regarding 1049 Market Street. Mr. Strawn said that Director Hui chaired a meeting that included a cross section of DBI senior staff that will deal with some of the building issues. Mr. Strawn stated that the building has both residential and commercial office uses and the current owner has actually begun some eviction notifications and some of the people have accepted the relocation funding that the owners have offered. Mr. Strawn said that the Department had talked to the owners about a week ago and invited them back for one more effort from DBI's point of view to walk them through the steps that would enable them to legalize the residential units and keep people in the buildings; this was once certain fire safety and building safety issues had been addressed. Mr. Strawn said that the owners had agreed to a walkthrough of the building which is going to take place tomorrow afternoon at 2:00 p.m. with most of the staff that were in yesterday's meeting including Electrical Chief, Ron Allen, someone from Fire, Planning and Jeff Ma from DBI's Plan Review staff who has worked with people using Administrative Bulletin 005. Mr. Strawn stated that AB-005 deals with the equivalency that allows DBI to address the light and air issues that the Code technically has specific requirements on in order to give more flexibility. Mr. Strawn said that it was pointed out to the owners that if they want to do a pre-application meeting and take the needed steps with the designer and architect then DBI can memorialize in writing the steps and hopefully be able to save a number, if not all, of the remaining residential units.

Commissioner Walker thanked the Director as the Department is going out of its way to try to work with the owner of this building to protect the occupancy to provide places where tenants can live and work. Commissioner Walker said that this is an ongoing problem in San Francisco as real estate prices keep going up and non-profits, artists and tenants are being evicted; there is an increase in Ellis Act evictions. Commissioner Walker stated that in the 1980's the City came up with the live-work ordinance that was to allow for existing buildings to be used for artists and others that have studios and provide affordable space for people to do their work and live in, however, for many reasons it did not work and was being misused and speculated upon and generally created more evictions. Commissioner Walker said that DBI has to proceed very cautiously to make sure that the City is doing what that ordinance intended. Commissioner Walker stated that the live-work ordinance was supposed to preserve affordable, livable space for people to live and work in the same area and not have to pay exorbitant prices. Commissioner Walker said that one of the things that failed previously was the fact that there was no attention to affordability and said that the BIC does not have that under their purview, but said that hopefully DBI will tread carefully as the process unfolds. Commissioner Walker asked that the BIC be updated on this on a regular basis.

Commissioner Melgar said that she thought that DBI staff has gone above and beyond and said that it was great that DBI was being seen as a problem solving department. Commissioner Melgar

stated that her worry was about the messaging in the media because it seemed the media was saying that people are being evicted because of DBI's rules which is not the case. Commissioner Melgar asked if staff had a strategy for actually telling the story of what happened here in order to have a template for other folks who could bring their buildings up to snuff and provide affordable housing.

Director Tom Hui said that the Department started to work with this owner back in April and so far have not charged the owner one penny to help resolve this problem. Director Hui said that DBI has to work with Planning and has to treat each one of these situations on a case by case basis.

Vice-President Mar said that when this building was converted to live-work it was supposed to have gone through Planning and done legally. Vice-President Mar said that now that a complaint has been filed and the fact that some of this was done illegally he does not have too much sympathy for the owner as the owner has been collecting rent all of this time. Vice-President Mar stated that every owner will say that it is too expensive to bring a building up to Code and will put the blame on DBI, City government or the tenants. Vice-President Mar said that if someone is renting out a residential space it is supposed to be livable.

Commissioner Walker said that she agreed, but said that this is a situation where there is an illegal occupancy and the solution should not be to evict the tenants. Commissioner Walker said that the Department is trying to do the right thing by being creative about helping encourage the owner to legalize it. Commissioner Walker stated that in the case of existing buildings the Department is allowed to use a hybrid approach and said that it is a good policy to have DBI work with all of the different Inspectors to try to apply the Code to the building to help the owner legalize it. Commissioner Walker said that DBI needs to be mindful of the pitfalls of the previous conversations around live-work and hopefully DBI can find solutions to protect affordable housing and workspace.

Commissioner Melgar said that this is complicated stuff as upholding the Code is first and foremost along with providing affordable housing and preserving the residential housing stock. Commissioner Melgar said that it still worries her that once this story got out and gets repeated it becomes fact and said that she is wondering what the Department's strategy is to get the true story out. Mr. Strawn said that he spoke with the *Examiner* and *Chronicle* reporters, but said that they did not get back to him. Mr. Strawn stated that he made it clear to the reporters that DBI does not do evictions and is only responsible for enforcing the Code and that the Department's primary concern is that the building is safe enough for residents. Mr. Strawn said that based on the Department's visit about a week ago the Building Inspector had a great deal of concern about safety and the ability to evacuate tenants in the case of a fire. Mr. Strawn said that the Department can tell a reporter our side of the story, but they do not have to report that message and they chose not to. Mr. Strawn said that he would be happy to put together a letter to the publications to put on record that DBI is taking the steps to work toward legalization.

President McCarthy said that he agreed that this is something the Department has to address as it is his understanding that the owner knew that the air and light issue was a fixable solution because there was legislation drawn up to address that, but said that the article implied that because air and light could not get into the building the owner had to evict everyone and that DBI were the culprits. President McCarthy said that this bothers him because DBI is working hard and are not in

the business of evicting people. President McCarthy said that one of the Deputies met with these owners last year and the owner was given information that he chose to ignore. President McCarthy stated that he was concerned that the owner will say that it is too late to do anything because the eviction notices have already gone out. President McCarthy said that it was important to get DBI's side of the story out there. President McCarthy stated that the Director and the Deputy Directors have been working on this and said that as a person in construction he knows that it would not be that difficult to get this up to Code.

Commissioner Walker asked Tommy Avicoli-Mecca of the Tenderloin Housing Clinic (THC) what was the status of the tenants. He said that a few of the tenants have left, but most have stayed. Mr. Avicoli-Mecca stated that THC was contacted by the tenants in the building and he informed them that they had the right to fight. Mr. Avicoli-Mecca said that there is also a code violation against 1067 Market for the illegal use of commercial space and it is probably a similar situation to 1049 Market. Commissioner Walker asked who initiated this investigation. Mr. Avicoli-Mecca said that he believed it was an anonymous phone call to DBI. Director Hui said that the complaints started in 2007.

President McCarthy called for public comment.

Mr. Randy Shaw, Director of the Tenderloin Housing Clinic said that he wanted to commend the BIC for making Tom Hui the permanent Director and Dan Lowrey a permanent Deputy Director. Mr. Shaw said that he appreciated the mention of the article he wrote about this issue as he said that the *Chronicle* did an article that was in over a three day weekend and only interested people were aware of it. Mr. Shaw stated that affordable housing could be removed from the market and said that to make things right the owner has to take out permits that would not be appealable to the Board of Appeals. Mr. Shaw said that there was a representative present from Supervisor Kim's office and said that perhaps there needs to be an immediate moratorium on change of use on Market Street to halt any evictions or loss of residential housing. Mr. Shaw stated that things should be frozen until everyone can figure out how to preserve housing in these commercial buildings on Market Street.

President McCarthy said that the other aspect of this is that if everyone was to keep their unit and the improvements were done what would happen to the rent. Mr. Shaw said that if the owner went out and got a new Certificate of Occupancy then under State law there would be no rent control so the only way to protect the tenants would be to not issue a new permanent Certificate of Occupancy on this building. Mr. Shaw said that there is probably more profit to be made in residential sites rather than commercial as there is a lot of competition in this area and there is a new building at 25 Taylor Street so it would be better for the owner to keep it residential.

Commissioner Walker said that a moratorium may not be the vehicle to use in this case because the existing use is primarily commercial; the better approach would be to attach the moratorium to any displacement because of upgrades or something similar. Commissioner Walker stated that a moratorium would prevent any housing use on that one stretch of Market Street. Mr. Shaw said that he did not realize until today after seeing what the owner wants to do that no matter how cooperative DBI is being this owner wants this to be a win-lose or lose-lose situation.

Ms. Shandra Reddick said that she has been a resident of 1049 Market Street for nine years and said that she is an artist. Ms. Reddick said that the tenants have been very active in trying to get this issue resolved and have held several meetings as many of the people want to stay in their residences at their current rent. Ms. Reddick thanked DBI for helping with the light well situation which allowed the tenants to be able to stay, but said that she was told that depending on how many improvements that the owner might have to make, if there is a certain dollar amount involved the building may not be under rent control. Ms. Reddick said that she wanted to know what that amount would be. Ms. Reddick stated that there had been a great deal of media coverage about this building and said that many of the residents have spoken to members of the media in order to keep this issue alive. President McCarthy asked if Ms. Reddick or any of the other residents could please let the media know that DBI has been very helpful on this issue as this fact seems to fall on deaf ears.

Mr. Tory Antone, a tenant for 16 years, said that the tenants are concerned about what will happen if there is a temporary displacement of tenants and what exactly needs to be done to the building to make it safe and Code compliant. Director Tom Hui said that DBI was suggesting a light court in the middle of the building and alterations similar to those used in live/work spaces; however, DBI is still talking to the owner and there are still specifics to be resolved with detailed plans to be submitted. Director Hui stated that DBI Inspectors, including building, plumbing, electrical and Fire would be going out to the property tomorrow to do an inspection and asked that the tenants allow this taskforce into the individual units. President McCarthy stated that the tenants could be a real help to the Inspectors by giving them access and as much help as possible to identify the life safety and fire issues; the “no windows” issue has already been resolved.

Many tenants and tenant organizers expressed their concerns especially those tenants who had already received eviction notices. Mr. Manuel Rodriguez, Mr. Ben Keating, Mr. Chris Baker, and Ms. Sarah Sherbins expressed the following concerns:

- Stopping the evictions
- Those who have been evicted being able to come back
- Changes were made with no notification
- No compensation to many of those who have already moved
- Tenants do want to provide access for inspection
- Revoke existing permit to demolish
- Appeal timelines already past
- Unlawful demo
- Rent Control
- Loss of affordable housing
- Commercial rents being more profitable than housing in present market
- Not an isolated case; there are more buildings facing the same problems in this area
- Those evicted will leave San Francisco

Commissioner Walker said that this issue is out of DBI’s jurisdiction and has to be dealt with by Planning and the Board of Supervisors. Commissioner Walker stated that DBI is doing everything possible to work with the tenants, tenants’ rights groups and the owners and said that there could be an appeal granted by the Board of Permit Appeals under extenuating circumstances. Commissioner Walker said that there should be a legislative response as soon as possible.

Ms. Ivy Lee of Supervisor Jane Kim's office thanked the Commission and DBI for their response to this issue and said that there needs to be a survey done to determine how many of these types of buildings exist and what can be done to stop the loss of affordable housing. Ms. Lee stated that there should be a moratorium to hold off on any units being removed from residential use.

President McCarthy said that he was all for the revitalization of Market Street, but not in this way and said that owners now know that they can make more money renting their space out for commercial purposes. Vice-President Mar said that the tenants groups that work with DBI in the CEOP program need to let DBI and the BIC know about these types of situations as soon as possible so that everyone can work together.

Code Enforcement Inspector John Hinchion said that this case is an example of everyone calling for the backlog of NOV's to be cleared as this case was being held in order to work things out with the owner. Mr. Hinchion said that this case was now set for a Director's Hearing and could result in an Order of Abatement.

President McCarthy said that more information would be available after the joint inspections were done tomorrow and asked Director Hui to send an update to all of the Commissioners. President McCarthy said that this would be on the next agenda, if necessary. Commissioner Walker asked if the Director's Hearing could be delayed and Director Hui said that it could.

Vice-President Mar said that there should be a better approach to handling the backlog of NOV's.

6. Director's Report.

a. Update on DBI's finances.

Ms. Gayle Revels, Acting Chief Financial Officer gave the following report on finances:

- DBI is doing very well with its revenue as charges for services are at 33% of the year and the year is only 25% completed
- This is slightly behind last year, but there have been more permits issued, but with a lower valuation
- The revenues are still more than was budgeted
- Apartment rental unit license revenue will be coming in a few months
- Transfer from fund balance and interest have not yet occurred and will be \$21M - \$22M
- Expenses are doing well
- DBI has hired more people this year than last
- Employee salary numbers are better than last year
- The Department is still trying to hire more employees
- DBI is right on track with the expenses
- Expenses are up due to one large work order from Real Estate as the Department was charged rent for the entire year up front
- DBI will be launching a new cash management system on October 28
- The Department will go from having 7 registers in the building to having 42
- There are no more shared cash drawers

b. Update on proposed legislation.

Mr. William Strawn, Legislative and Public Affairs Manager reported that there was not a great deal of activity since the last meeting, but said that the Department did have a very strong interest in the first workshop regarding the mandatory soft story retrofitting. Mr. Strawn said that some 300 people attended and a second workshop has been scheduled for October 28th; it will take place in the auditorium of the main library and will accommodate another 230 people. Mr. Strawn said that the Manager of this program, Mr. Robert Chun, has reported that there have been more than 100 of the screening documents returned even though the owners have a year to do so. Mr. Strawn stated that the San Francisco Apartment Association is hosting a special financing workshop at Fort Mason on October 23rd at 8:00 p.m.

Mr. Strawn reported that the Department made a presentation last week at the Government Audit and Oversight Committee; this committee looks at all of the Grand Jury reports. Mr. Strawn said that DBI and the BIC turned in the response to the presiding judge on time and there has been no communication since. Mr. Strawn stated that DBI will be following up on the BPR program and are looking for a consultant to make this happen. President McCarthy said that the Department might need to ask for an extension on that recommendation as it would be hard to find a consultant before the middle of January.

c. Update on Permit Tracking System.

Ms. Hema Nekkanti, IS Project Director reported that IS has been reviewing the configuration with the business experts, the manager, chiefs and staff and are making changes as the reviews are done. Ms. Nekkanti stated that IS has been preparing for user acceptance testing and round two that is scheduled to begin in mid November and take place over four weeks through mid December. Ms. Nekkanti stated that IS has begun the process of planning for training before going live and said that extensive training will be done throughout the entire Department. Ms. Nekkanti said that there will be more advanced training for the line staff and the daily users along with training for the stakeholders and access for the on-line permitting.

Vice-President Mar asked about the training for the online users. Ms. Nekkanti said that the testing is going to begin in November internally and toward the end of that testing stakeholders who do the day-to-day online permitting will be brought in to give their feedback. Ms. Nekkanti stated that this will be their testing/training that is somewhat informal, but said that the formal training is going to begin in March of next year.

d. Update on major projects.

Director Tom Hui said that the major projects are similar to last month with \$6 Billion in construction costs. Vice-President Mar asked if Director Hui could include public projects that staff worked on in this report and Mr. Hui said that they were included. President McCarthy asked how San Francisco compared to other cities and Mr. Hui said that San Francisco has the most rapid growth at present.

e. Update on code enforcement.

Deputy Director Dan Lowrey gave the following statistics for the Building Inspections Division:

- 4,292 Inspections
- 276 complaints received, response within 24 hours was 241
- 765 Complaints for the First Notice of Violation (NOV)
- 611 Complaints without NOV
- 86 NOVs abated
- 46 Second NOVs referred to Code Enforcement

Deputy Director Lowrey commended his staff for their response to complaints and said that 69% were responded to within 24 hours. Mr. Lowrey stated that 100% of complaints were responded to for the second month and said that this was a great effort. Mr. Lowrey called on Chief Housing Inspector Rosemary Bosque for the report on the Housing Division.

Chief Housing Inspector Rosemary Bosque said that some of the numbers for Housing were lower this month due to training and the integration of new Inspectors into their assignments. Ms. Bosque said that there were 372 complaints and ten cases that were for illegal units filed under anonymous complaints. Ms. Bosque stated that it was very hard to gain entry into these units. Ms. Bosque said that now that the seven new Inspectors had been assigned to Supervisors and were out in the field that the numbers would increase.

Senior Building Inspector John Hinchion of Code Enforcement said that 99 cases went to hearings and 51 of those had either Orders of Abatement or advisements; 88 cases were abated.

Secretary Harris called for public comment.

Mr. Robert Davis a resident of the Bayview said that he was present to ask for help on the case at 4801 Third Street/corner of Third and Oakdale. Mr. Davis said that money was lost by not collecting the multiplier and said that the case has gone on for many, many years; he would like some help with resolution.

President McCarthy asked if Mr. Davis could get the information about a particular address to the Commission before the meeting. Mr. Davis said that he would be happy to, but said that he had been talking about 4801 Third Street for four years. Mr. Davis said that he would be bringing up 5122 Third Street to the Commission in the future.

Vice-President Mar asked if there was any way that the complaints could be categorized so that the complaints that are for illegal decks or anything to do with overbuilding could be separated from those dealing with tenants or landlords. Deputy Director Lowrey said that this was being worked on right now as complaints come from so many different directions such as phone calls, the counter and 311. Mr. Lowrey said that this is very difficult for staff to deal with and stated that the Department is looking at some policy changes to deal with this issue. President McCarthy stated that it would be helpful if sometimes a seasoned Inspector is aware of problems that could be dealt with proactively and could bring it to the attention of the Commission. Mr. Lowrey said that it

would be helpful to have a discussion regarding guidelines as to when a case could be closed and how long it should be kept open.

Commissioner Walker said that she would be asking for discussion at a future meeting as to how the Department assesses the response to input from the public and when the Department charges the nine times penalty and when it does not. Deputy Director Lowrey said that it would be helpful for the public to know what the criteria are.

Senior Inspector John Hinchion said that 4801 Third Street was brought up earlier by Mr. Davis and said that this case has been referred to the City Attorney's Office and is no longer under DBI's jurisdiction.

7. 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.**

- 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.**

President McCarthy said that he watched the Board of Supervisor's meeting where the grand jury report was discussed and said that he thought that it was a little bit unfair as one of the Supervisors kept making an issue of money not being collected. President McCarthy said that it does translate into a lot of money, some \$900,000, but said that the error has been corrected and the Department is trying to do the right thing. Commissioner Walker said that she wanted to see a report at a future meeting. President McCarthy said absolutely, but said that the Department is now staffed up and are trying to make everybody keep on top of these issues and said that was the important thing.

Vice-President Mar said that he wanted to revisit the whole NOV issue; how the Department breaks down the type of NOV's; how to clear the backlog; how long an NOV stays open, etc. and said that he would like staff input on all of this. Vice-President Mar said that the CEOP people should be involved in this discussion.

Commissioner Melgar said that she wanted to give kudos to the staff for hiring the new Housing Inspectors as the civil service process is difficult and said that the Department hired some very good people.

Secretary Harris said that the next regular meeting would be held on November 20, 2013.

There was no public comment.

8. Adjournment.

Commissioner Walker made a motion, seconded by Commissioner Melgar, that the meeting be adjourned. The motion carried unanimously.

RESOLUTION NO. BIC 050-13

The meeting was adjourned at 10:44 a.m.

Respectfully submitted,



Ann Aherne
Commission Secretary (Retired)

SUMMARY OF REQUESTS BY COMMISSIONERS OR FOLLOW UP ITEMS	
Regular updates on 1049 Market Street. – Commissioner Walker	Page 3
Agenda item to discuss Processes for NOV's. – President McCarthy, Vice-President Mar and Commissioner Walker	Pages 10-11
Report on monies not collected as mentioned in Grand Jury Report. – Commissioner Walker	Page 10

