

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

REGULAR MEETING

Wednesday, November 20, 2013 at 9:00 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 9:10 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, Jr. **Commissioner**

Debra Walker, **Commissioner**

Sonya Harris, **Secretary**

Warren Mar, **Vice-President**

Kevin Clinch, **Commissioner, excused**

Myrna Melgar, **Commissioner, (9:17 a.m.)**

D.B.I. REPRESENTATIVES:

Tom Hui, **Director**

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

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

Rosemary Bosque, **Chief Housing Inspector**

Gayle Revels, **Acting Chief Financial Officer**

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

Hema Nekkanti, **IS Project Director**

John Hinchion, **Senior Inspector of Code Enforcement**

CITY ATTORNEY REPRESENTATIVE

John Malamut, **Deputy City Attorney**

2. President's Announcements.

President McCarthy made the following announcements:

- Many thanks to DBI staffers, Joseph Chan, Bernedette Perez and Ron Dicks, who represented the Department at the Annual Chinatown Community Resource Fair, at Portsmouth Square, on Saturday, Nov. 2, from 11 a.m.-2 p.m. There was an excellent turnout, and many questions about DBI process were responded to by the DBI staff.

- Thank you to Senior Building Inspector Joe Duffy of Inspection Services who received a thank you letter from a customer, Shirley Broussard, for assisting her and presenting himself in a professional manner.
- A big thank you goes out to the Records Management Staff who received a letter from Wilfredo Aquino, commending them for great customer service skills a job well done.
- Kudos again to the Records Management staff who received a thank you letter from Pawel Woloszyn for their exceptional customer service. The letter acknowledged the entire staff under the leadership of Patty Herrera, but also included Benjie Guinto, Maggie He, Heidi Lee, Garland Simpson, Carmela Villasica, and Darren Wu.
- While we will hear more details later in the meeting, I do want to make you aware of the fact that there will be hands-on testing of the new Permit and Project Tracking System on December 17 by members of the Citizens Advisory Group. This Group was established by DBI and Planning last year to obtain user input on features of the new PPTS, to enable fine-tuning prior to our ‘Go Live’ date early next year.
- Please note that on November 21st, from 5-7 p.m., DBI will host its Third Workshop for owners of soft-story buildings that fall under the mandatory requirements of the new ordinance. The workshop will be held in the Koret Auditorium of the Main Library. At the second workshop, which was held on Oct. 28th and attended by 350 people, it was clear that these outreach efforts are helpful ways to educate property owners on the details of the program and the steps they need to take.
- Note that the San Francisco Bay Guardian contacted both DBI and Planning, and published two stories regarding the 1049 Market Street situation, where the owners of the building have been offered additional time and assistance –through the DBI formal Pre-Application Meeting process – to legalize currently illegal residential units, and steps to take to address essential life-safety systems within the building. Planning formally requested on Oct. 28th a suspension of the building permit issued in early August, which the owners have now appealed to the Board of Permit Appeals. That hearing is scheduled for Dec. 18th.
- Fellow Commissioners, please check your calendars and hold a space on December 13th, from 5-7 p.m., for the annual DBI Staff Holiday Party that will be held on the Second Floor of 1660 Mission. Your children will be warmly welcomed, as will unwrapped presents to be handed out on this merry occasion.
- Finally, we are accepting nominations for Employee of the Quarter for Quarter Four, which ends at the end of this calendar year. Please send your nominations to William.Strawn@sfgov.org, by no later than December 30th. We’ll announce the winner at the January 2014 BIC meeting. Congratulations, again, to Christina Wang, our Quarter One Winner; Sarah Luu, our Quarter Two Winner; and Sonya Harris, our Quarter Three Winner.

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.

Commissioner Walker asked that Item #11 be moved forward on the agenda to accommodate the housing staff who were present at the meeting. The Commissioners agreed. President McCarthy stated that the Commission would reopen public comment later in the meeting.

11. Discussion concerning whether DBI should adopt a new policy regarding intake and response of anonymous Code violations and complaints.

Deputy Director Dan Lowrey said that Department staff is discussing new policy options and said that anonymous complaints come into DBI from the phone, 311, the internet and at the counter; the Department does not always know the source as they come in from many directions. Mr. Lowrey stated that the current policy is to investigate all complaints.

Commissioner Walker said that many of the complaints come from people who are in housing units and are afraid of retaliation if they complain about habitability and such. Commissioner Walker said that she would like that situation addressed somehow. President McCarthy asked if changing the policy so that someone would have to put their name forward to lodge a complaint would reduce the number of NOVs. Deputy Director Dan Lowrey said that it definitely would, but it would be very hard to estimate by what number.

Senior Housing Inspector Jamie Sanbonmatsu said that the Housing Division has been looking at what other large cities do and said that the City of Cincinnati screens their anonymous complaints; there are certain anonymous complaints that they will accept and other that they will not. Mr. Sanbonmatsu said that in reviewing 25 different cities most cities do not accept any anonymous complaints including San Diego, Phoenix, Charlotte, Chicago and El Paso. Mr. Sanbonmatsu stated that Cincinnati accepts the anonymous complaints for the exterior of buildings, public stairways or hallways, public elevators, vacant buildings, yards, vacant lots, trees and swimming enclosures; they do not accept anonymous complaints for the interiors of dwelling units, basements, lack of the second egress and illegal apartments or overcrowding. Mr. Sanbonmatsu said that people call Housing Inspection when they need help, but they also call when they do not like their neighbors. Mr. Sanbonmatsu said that many times a two-minute anonymous call or email can result in an eviction or most times a wild goose chase that wastes a lot of time, money and resources.

Mr. Sanbonmatsu said that Chief Housing Inspector Rosemary Bosque had discussed with some neighborhood and community groups that anonymous complaints to Housing would only be accepted for heat, hot water, central alarm systems in apartment and hotel buildings, lead paint removal work practices, common areas of two occupancy and two unit buildings including stairways and elevators, lack of or defective means of egress and imminent life hazards. Mr. Sanbonmatsu said that the second part of this proposal would be that anonymous complaints would not be accepted for the interiors of units, neighborhood disputes and illegal occupancy and overcrowding. Mr. Sanbonmatsu stated that this screening procedure could greatly reduce a lot of the agony and abuse that is seen out in the field.

Vice-President Mar asked what would happen in the case where there is illegal building going on without a permit or work beyond the scope of the permit. Deputy Director Dan Lowrey said that this would be investigated by the Building Inspection Division and the Building Inspector would go out to the property to make sure there is a building permit and that the work stated on the permit

is being done. Mr. Lowrey said that if everything is correct at the site the complaint is abated, but if something is not right then it is investigated.

Commissioner Walker asked about the number of anonymous complaints Housing gets in the year and how many are legitimate. Inspector Sanbonmatsu said that approximately 1,000 anonymous complaints are received and said that with legitimate complaints most people are willing to give their names and telephone numbers as they want to follow up with what happens.

President McCarthy asked Chief Housing Inspector Rosemary Bosque to speak on the issue.

Chief Housing Inspector Bosque said that this is doable as it is a fairly good way of going where it allows the Department a process to make a good faith effort to hone out those particular cases where a great deal of time is spent and where DBI is not getting to the life safety hazards. Ms. Bosque stated that in a lot of these anonymous complaints the Inspectors cannot gain access to the properties or by the time they do things have changed so the Department does not have a good faith basis to proceed to ask for an inspection warrant because there is no probable cause. Ms. Bosque said that Housing gets about 3,000 complaints a year and when 1,000 or 1/3 of them are anonymous it puts a tremendous amount of pressure on the Department's resources. Ms. Bosque said that this happens in other divisions as well and wastes a tremendous amount of time and effort that could be better utilized. Ms. Bosque said that generally the pivotal complaints are filed by occupants who are still on the premises and want something specific resolved. Ms. Bosque said that there should be a process where the property owner gets adequate notification and the Department has made a good faith attempt in writing and in trying to gain access, but if the property owner says no then DBI has nothing to corroborate the complaint; then DBI should close the case as there are many legitimate cases waiting for service. Ms. Bosque stated that this would give the Department more quality time to be able to get the response and the outcome that is wanted and would streamline the process by doing things in a way that is fair and gives adequate notice.

Commissioner Walker asked if there is a stronger argument with the courts on these complaints if there is a name attached to the complaint. Chief Housing Inspector Bosque said yes, and showed the Commissioners a list of the questions that the intake clerical staff asks of a citizen making a complaint. Ms. Bosque stated that the staff person is trying to establish some kind of a probable cause to give the official a reason to go in or to request a warrant. Ms. Bosque said that most of the time the caller has not even been in the unit and are complaining about illegal rooms that may in fact be legal and DBI spends a lot of time trying to get into these buildings. Ms. Bosque stated that it would be helpful if at a certain point in time the Department would be able to close these cases and move onto the next one.

Deputy Director Lowrey said that now the Board of Supervisors is going in a completely different direction with illegal units as they are affordable housing and would like the city to approve these and even took them off of the lien program as the Board did not want those on the tax bill. Mr. Lowrey said that most of the 311 calls that come in are very sketchy and there is not enough information to follow up.

President McCarthy asked how this could be implemented. Commissioner Walker said that she would love to see this go before the CEOP people who deal with a lot of these complaints from

people that are afraid of retaliation. Commissioner Walker said that she would like to get some recommendations from the CEOP people to make sure they are on board. Chief Housing Inspector Bosque said that she had discussed this issue with them, but would be happy to reach out to them again before anything gets finalized. President McCarthy asked what would have to be done to put this in place and make it part of the Housing procedures. Ms. Bosque said that the Director has the power to go ahead and implement this at any time. President McCarthy asked Ms. Bosque to come back at the next meeting and let the Commission know if there are any concerns with the CEOP groups so it could be on the agenda, voted on and implemented before the end of the year.

Deputy City Attorney John Malamut said that this is not a matter that the BIC has any authority to enact and said that the Commission could ask for any reports it wants, but the decision is ultimately that of the Director. Mr. Malamut said that there are various local, state and federal privacy laws so the Department should work with the City Attorney's Office to see if this is a good policy. Mr. Malamut stated that this might be okay in Cincinnati, but San Francisco has Sunshine laws and other things so that should be vetted. President McCarthy asked if that could be done in the next month. Mr. Malamut said that he thought that it could if the staff in the City Attorney's Office could put in the man power to see if something could be worked out.

President McCarthy said that he wanted to thank everyone for thinking outside the box on this issue and said that it would be great to see something finally accomplished. Commissioner Melgar stated that she was concerned about the role of the CEOP groups in this new system as it seems that the people who make complaints to the CEOP groups are tenants who sometimes want to remain anonymous. Chief Housing Inspector Bosque said Housing usually refers these people to the CEOP groups and then they work with DBI and the tenants so that the Inspectors can gain access to the property; the complainant still remains anonymous. Ms. Bosque stated that DBI helps the CEOP groups with the history of the building and the permit history. Commissioner Walker asked if 311 refer people who make anonymous complaints to the CEOP partners. Ms. Bosque said that she did not believe so as those calls come to DBI.

President McCarthy said that this would be presented again and that the Commission would vote on it.

There was no further public comment and the order of the meeting went back to Item #4.

4. Director's Report.

a. Update on DBI's finances.

Ms. Gayle Revels, Acting Chief Financial Officer, said that the revenues and expenses are right on track for where they should be for this time of year. Ms. Revels reported that the revenue for this year is slightly more than last year, but there were a few big projects this month. Ms. Revels said that the other revenue that DBI collects is for property taxes and that is cyclical and have not been received yet. Ms. Revels said that other revenue is from the fund balance so there are no real surprises for revenue. Ms. Revels stated that with the expenses they are much higher than this time last year mostly due to the fact that the Department transferred the capitol and because has hired more staff; Code books have been ordered for the Code cycle. Ms. Revels said that the Department is waiting for new chairs that have been budgeted for, but have not yet arrived. Ms. Revels said that she wanted to give the Commission an update on the new cashiering system and

said that there have been no large problems. Ms. Revels thanked staff and the customers for their patience in dealing with the implementation of the new system. President McCarthy thanked Ms. Revels for her presentation and her hard work.

b. Update on proposed legislation.

Mr. Bill Strawn, Legislative and Communications Manager said that the formal conveyance has taken place from the Board of Supervisors to the preceding Judge of the Superior Court on the Department's Grand Jury Report and response. Mr. Strawn said that the Department is working on several pieces of legislation that are addressing in-law units and how to legalize them. Mr. Strawn stated that DBI is working on 1049 Market Street and legislation that would suspend the issuance of building permits subject to a Planning review to make sure that commercial buildings that have accessory residential units or buildings that for many years have had residential units are not suddenly being converted to commercial and office use in order to protect existing residential units. Mr. Strawn reported that the workshop on the mandatory seismic retrofitting will be taking place tomorrow in the main library from five to seven in the evening.

c. Update on Permit Tracking System.

Ms. Hema Nekkanti, IS Project Director said that the Department has started the user acceptance testing this week and full testing will start on Monday and will go on until the middle of December. Ms. Nekkanti stated that the subject matter experts from DBI as well as from planning will be working together all day; there are two rooms set up and the vendor is also participating. Ms. Nekkanti said that the issues are being logged and being solved day to day and those that are not will be solved in the next week. Ms. Nekkanti said that towards the end of the testing the citizen advisory group members will be participating along with the Commission in order to provide feedback. Commissioner Melgar asked if any of the Grand Jury members were involved in the citizen advisory group. Ms. Nekkanti said that when the citizen advisory group was formed the Grand Jury was not involved, but said that they could be invited to the stake holders meetings.

d. Update on major projects.

Director Tom Hui said that the volume of major projects is down about 2% and said that there are now 25 cranes operating in the City as opposed to 35 last year. President McCarthy said that he would like to know the volume that the Department is doing versus other major cities and where DBI has done a good job in managing such a large volume. President McCarthy said that it would be something for him to highlight rather than just the number of cranes and said that he wanted to quantify the amount of permits and volume of business compared to Chicago or New York. Mr. Strawn said that this could be done and said that he would make it a priority. President McCarthy stated that he did not want this to become a huge burden, but said that he would like to publicize how well the Department is doing because he believe that DBI does more volume per square mile than any other city.

e. Update on code enforcement.

Deputy Director Dan Lowrey said that he wanted to commend the Building Inspectors for doing

5,640 inspections last month along with doing the complaints and NOV's. Mr. Lowrey presented the following BID Performance Measures for October 1, 2013 to October 31, 2013:

- Building Inspections Performed 5640
- Within 48 Hours of request date 5400 96%
- After 48 Hours of request date 240 4%
- Number of Inspector Days 0
- Inspections Per Inspector Day 0

- Complaints Received 327
- Complaint Response in 24 HR 218 67%
- Complaint Response in 72 HR 74 23%
- Complaint Response Over 72 HRS 35 10%
- Complaint No Response 0 0%

- Complaints Received and Abated
 - Within same period 159
- Complaints Referred to CED 17
- Complaints with 1st NOV sent 77
- Complaints with 2nd NOV sent 1
- Complaints Received and Abated
 - Without NOV for same period 150
- Abated Complaints with No NOV's 270
- Abated Complaints with NOV's 44

Deputy Director Lowrey called on Senior Building Inspector John Hinchion to speak on the Code Enforcement Division. Mr. Hinchion presented the following numbers:

- # of Cases Sent to Director's Hearing 112
- # of Order of Abatements Issues 23
- # of Cases Under Advisement 32
- # of Cases Abated 219

Vice-President Mar asked if there was a time limit on the cases under advisement. Inspector Hinchion said that there was a thirty day time limit and if a permit is not issued and the property inspected and signed off during that period then the Department moves forward and issues the Order of Abatement and assesses fees.

Chief Housing Inspector Rosemary Bosque was not present at this time so Deputy Director Lowrey gave the statistics for the Housing Division.

- Housing Inspections Performed 895
- Complaints Received 412
- Complaint Response in 24-72 HRs 363
- Complaints with NOV's Sent 168

- Abated Complaints with NOVs 596
- # of Cases Sent to Director’s Hearing 33

5. Discussion and update regarding October 17, 2013 inspections and Planning Department request to suspend pending permits at 1049 Market Street.

Mr. William Strawn, Legislative and Public Affairs Manager reported that in the middle of October a number of DBI Inspectors from Building, Electrical and Plumbing went to the building where a number of the tenants, through the CEOP program, actually let them enter the building to see the condition of the units. Mr. Strawn said that a couple of Fire Department Inspectors were part of this investigation and provided feedback and notes as they saw that there were a number of life safety issues. Mr. Strawn stated that overall the building was in better condition than expected and said that the owners could make the changes needed if they would come into DBI and do the formal pre-application meeting and walk through the process. Mr. Strawn said that this has been explained to the owners several times, but said that the Department has not heard back from the owners. Mr. Strawn said that on October 28, the Planning Department sent DBI a letter to request a suspension of the Building permit that had been issued in early August which was a conversion to office permit. Mr. Strawn stated that there will be a Permit Appeals Board Hearing on this matter on December 16th. Mr. Strawn said that it was his understanding that while the owners have issued another round of eviction notices there cannot be any formal action on that before the Appeals Board meeting. Mr. Strawn said that DBI remains open to the owners coming in to meet with the Department, but DBI has not heard anything from the owners in several weeks.

President McCarthy asked if anyone from DBI would be representing the Department at the Board of Permit Appeals Hearing. Mr. Strawn said that one of the Senior Inspectors will be representing the Department and will be up to speed on the issue.

There was no public comment.

6. Discussion and possible action regarding proposed revisions to Administrative Bulletins AB-032, Site Permit Processing and AB-084, Guidelines for the Structural Review of Continuous Tiedown Systems Used to Resist Overturning of Light-Framed Wood Shear Walls.

Mr. Kirk Means of DBI’s Technical Services Division and Secretary to the Code Advisory Committee stated that he would be discussing a couple of administrative bulletins that have proposed revisions which are semi-minor. Mr. Means gave a presentation on AB-032 and AB-084 and discussed the following points:

Commissioner’s & Staff Discussion:

- Administrative Bulletin, AB-032 is the site permit and administrative process explanation.
- There are two sections of AB-032 that were revised and primarily one is section #6 the “Addenda Submittal” and applicants are required to collect their issued site permit prior to them submitting their addenda to keep the open permits from dragging on, and from them not paying up the fees to certain stages in the permit process.

- There are circumstances where the site permit cannot be issued and the project needs to go on and staff needs the flexibility to be able to approve that if there is a good reason for it, and the language allows staff to do so.
- The second item is section #7 “Revision after Planning Approval” which is required and DBI has already entered into an agreement with the Planning Department. This changes the timing when DBI sends things to Planning and in some cases this administrative bulletin memorializes that, and in particular in this section, for new buildings the architectural addenda needs to be routed back to Planning. The plan checker will not necessarily look at the site permit and look at the addenda and if they match up then it would continue on and Planning wants to make sure that things that are within their purview that DBI may not be looking at do not get changed as well so that is a good time for them to look at it.
- President McCarthy asked what was the time frame that the Planning Department said they would do a plan check on the addenda to the architectural plan that is the exact same as the site plan? Mr. Means said he had not been given a time frame, and imagines that if there is no change it would be fairly quick perhaps a couple of days but if there is a change, then it could be quite some time and then it is justified because that would keep the client from spending a lot of time building something that is going to have to be un-built later.
- President McCarthy said that he has quite extensive experience with site plans and the site plan is relatively almost as good as the architectural addendum, because of the high standards that a site plan is put through right now – It literally goes to every department and goes through Fire and literally there is a major plan check done. Why does staff have to send a drawing that DBI staff can verify to Planning to have a set of drawings that they have had for a couple of years to plan check. Mr. Means said he did not have an answer because that decision was made at a level higher than his. One example could be that there is now required bike parking and on the addendum there is no bike parking and DBI would go through the approval process without it, even though it was a Planning requirement.
- President McCarthy clarified that Planning had not given a commitment of the time frame.
- Director Tom Hui said that this was discussed at a Public Advisory Committee meeting and Planning promised that they would turn them around fast, but his experience is their pace is not as fast as DBI’s. Planning’s estimate was 2 weeks to 30 days. He is going to try to move the addenda that require Planning approval to the last stage in order to determine how long their process takes.
- President McCarthy said he has experienced his plans being held in the Planning Department for 2 years, being checked and re-checked. He understands the spirit of this bulletin, and if someone is trying to make a change that is visually different than what was approved he understands, but a licensed architect with fiduciary responsibility is supposed to highlight it and in that case it would go back to Planning. This bulletin would be burdensome to the Planning Department who has said that they cannot plan check what they have right now.
- Director Hui said there are roughly 2,000 permits backlogged in Planning. The problem is he even tried to eliminate the routing to Planning if there was a single family addition at the back of a house, but they still want to see it.
- President McCarthy said the problem he has is that the Planning Department will not commit to a 5 to 10 day turnaround of their plan check. He has received calls from a lot of smaller contractors who are feeling the burden of this.

- Commissioner Walker said she agreed and that in fairness to both departments DBI could accommodate doing this, but only if Planning gives a definite turnaround time to determine if there are changes or not. Commissioner Walker said she has also had calls from customers who have experienced long delays in Planning for over a month, and the plans came back with no comments.
- President McCarthy asked Director Hui if he was satisfied with this policy being in place right now? Director Hui said that he was not satisfied, but he would address the problems at the PAC Meeting this afternoon.
- President McCarthy asked if this was an action item? Mr. Means said yes it is an action item.
- President McCarthy asked if the BIC was symbolically being told about a policy that is going to affect the industry and as Commissioners they have no control and Planning could still go forward with this bulletin?
- Commissioner Melgar asked for clarification and questioned if the BIC has the authority to just change this policy and asked if the CAC was an advisory committee.
- Mr. Means said that the Commission could do what they wish.
- President McCarthy said the policy is already in place now. Director Hui said yes it has been in place for the last two years.
- Commissioner Melgar asked what is the Planning Department's authority in instructing the Building Department to do this, and if it was in the Planning Code?
- Commissioner Walker said the issue is who has the jurisdiction.
- Mr. John Malamut, Deputy City Attorney, said that he would explain the Building Inspection Commission's authority: The way that the charter is written is the Building Inspection Commission is required to hold a hearing on all code changes, but the charter does not say that you have to approve code changes before they can go to the Board of Supervisors to be enacted. The charter requires a hearing, and we have treated administrative bulletins, in the same way as we have treated the code changes where they are brought to the Building Inspection Commission and typically, the way that it has been set up is you vote on them and you can vote up or down. If anything, while a vote up or down, on a building code change administrative bulletin is not necessarily binding, it is direction to the staff that the Building Inspection Commission does not support it and maybe then they would need to go back and make further amendments. The administrative bulletins do not go to the Board of Supervisors, they are not a legislative thing and so it sort of begins and ends with this action by the Building Inspection Commission.
- Vice-President Mar said if the process now is that these permits go back to Planning why did DBI do so and do we have to or can DBI just stop that practice?
- Mr. Malamut said in the same way that the Building Inspection Commission and DBI has jurisdiction both under the charter and local law to administer certain codes, the Planning Commission and the Planning Department also have the authority to administer the Planning codes. The issue is while the Planning Department may have approved from a Planning Code standpoint, changes that they have seen through site permit or that they say they are okay with it and then subsequent changes occur, after it leaves the Planning Department and before DBI gives its final approval there is a re-referral process to insure that the Planning Code provisions are being satisfied, because the Department of Building Inspection does not have jurisdiction over the Planning Code, because it is a safety valve to make sure that the project, even though there are minor changes, still complies with the

Planning Code historic research protection and things like that, the Planning Department has jurisdiction over.

After much discussion between staff and the Commission, there was a motion to continue AB-032. *President McCarthy made a motion, seconded by Commissioner Melgar to continue AB-032 - Site Permit Processing to the call of the Chair.*

There was no public comment on this item.

Secretary Harris called for a roll call vote:

President McCarthy	YES
Vice-President Mar	YES
Commissioner Lee	YES
Commissioner McCray	YES
Commissioner Melgar	YES
Commissioner Walker	YES

The motion carried unanimously.

RESOLUTION NO. BIC 051-13

Commissioner Walker made a motion, seconded by Commissioner Lee to approve AB-084 Guidelines for the Structural Review of Continuous Tiedown Systems Used to Resist Overturning of Light-Framed Wood Shear Walls.

There was no public comment on this item.

Secretary Harris called for a roll call vote:

President McCarthy	YES
Vice-President Mar	YES
Commissioner Lee	YES
Commissioner McCray	YES
Commissioner Melgar	YES
Commissioner Walker	YES

RESOLUTION NO. BIC 052-13

7. Discussion and possible action regarding a proposed new Administrative Bulletin AB-107, Application of Engineering Criteria in SFBC Chapter 34B.

Mr. Robert Chun and Mr. Eric Gee of the Building Department gave a short summary of the soft story program, and said that they would be asking the Commission to approve AB-107. The following points were discussed:

- 6,000 screening forms were sent out in September and 341 forms were accepted.

- 219 of the forms are in the program and 122 are exempt from the soft story program and 59 forms have been rejected because they need additional information.
- 6 permits have been issued since September, and 4 are in Plan Check right now.
- AB-107 gives the technical provisions for the soft story program, and there are two main components: 1) Provides building code language for FEMA P-807, and 2) A minor change is being made to the other engineering criteria (IEBC A4, ASCE 31, and ASCE 41).
- AB-107 is listed in the following manner:
 - A. General (p. 2-5)
 - B. FEMA P-807 (p. 6-23)
 - C. ASCE 41-13 (p. 24)
 - D. ASCE 41-06 (p. 25)
 - E. ASCE 31-03 (p. 26)
 - F. 2013 IEBC A4 (p. 27-29)
 - G. Other rational bases (p. 30)

- Part A applies to all of the engineering criteria.
- The “meat” of AB-107 is Part B – FEMA P-807 – The publication was written in commentary form and not in Building Code language, so that is why this section was dedicated to putting it in a Building Code format so architects and engineers could use it.
- There are minor modifications to the engineering criteria.
- A picture of a soft story building was displayed and Mr. Chun explained how adding a piece of plywood in between the opening would improve the performance of the building, and when an earthquake came there would be less damage on the first floor. If a second piece of plywood was added the building would be improved a little more, but eventually if another piece of plywood was put in the performance would not improve because the damage would be shifted to the second floor so that is why there was a change made to the other engineering criteria.
- Mr. Chun said the two main components again are: 1) Add FEMA P-807 2) Limit the strength of the retrofit of the first story.
- Mr. Chun requested the approval of AB-107 by the Commission.
- Commissioner Walker said she gets the concept of transferring the damage up to the second floor, but asked does it necessarily flow that there would be increased damage on the first floor. Commissioner Walker went on to ask for clarification about strengthening the first floor.
- Mr. Chun said that the idea is if you could retrofit the whole building, you are better off putting plywood on the second floor basically. He also explained the purpose of this ordinance is to restrict the work to the first floor.
- President McCarthy commended Mr. Chun and everyone who is working on the soft story program.

Secretary Harris called for public comment on this item and there was none.

Commissioner Walker made a motion to approve Administrative Bulletin AB-107, seconded by Vice-President Mar. The motion carried unanimously.

RESOLUTION NO. BIC 053-13

8. Update on status of abatement of Notices of Violation.

Mr. Dan Lowrey, Deputy Director of Inspection Services, gave an update on the status of abatement of Notices of Violation that addressed the following report:

January 1, 2013 to November 19, 2013

- BID Complaints Filed: 2703
- BID Complaints & NOVs closed and abated: 1911 = 71%
- BID NOVs from complaints still active: 98 = 3%
- * Complaints still being investigated: 694 = 26%

*Complaints where inspector is still trying to gain access or may be researching city records for appropriate actions.

President McCarthy said that this was a good report and had good statistics. He also clarified that a lot of the NOVs were just “housekeeping” and a decision needed to be made on them.

Chief Housing Inspector Rosemary Bosque said that she wanted to add to the report, and that Housing Inspection Services monthly statistics showed that they have abated a lot of cases. There is also a significant increase in the amount of inspections because the seven new inspectors are now in their districts a couple of months, and writing Notices of Violation quite frequently so staff is trying to keep on top of them.

Secretary Harris called for public comment on this item and there was none.

9. Discussion of how fees and penalties are assessed for DBI enforcement actions under the Building, Electrical, Plumbing, Mechanical, and Housing Codes.

Mr. Edward Sweeney, Deputy Director of Permit Services, gave a presentation of how fees and penalties are assessed for DBI enforcement actions and discussed the following points:

- Building, Plumbing, and Electrical Inspection have three kinds of assessments:
 - Nine times penalty for work without a building permit, and that is if someone absolutely has no building permit. (San Francisco is the only jurisdiction in California that charges the nine times penalty.)
 - Work beyond the scope of a permit. (Example: If there is a permit to do a foundation only and inspectors see that you have a small addition going on and an extra kitchen then those penalties are assessed at times two.)
 - In the case of fires, floods, landslides, cars crashing into buildings, or acts of God – There are no penalties but a Notice of Violation (NOV) is usually issued for an unsafe building. (DBI usually gets called out by the fire department, police department or DPW)
- On the third floor where the Building, Plumbing, and Electrical divisions are they issue a Notice of Violation and the Building Code does not give any specific time to do so, instead staff gives people a reasonable amount of time.
- The amount of time given varies and is vast depending on the situation. Some cases call

for a permit to be issued in 30 days and some permits could take 2 years, especially if there is an alteration to a historical building or complaints by neighbors or other departments then it could be stuck in Planning, Building, Board of Appeals or Abatement Appeals for a period of years.

- The time clock really starts when a second NOV is issued. The code says after a second NOV the person is scheduled for a Director's Hearing within 30 days.
- The code is specific and it says at the Director's hearing the hearing officer has some discretion, but he/she cannot give someone more than 365 days and not more than one extension of that, and that is not to be more than 365 days.
- It is extremely rare for someone to be granted 365 days, usually customers are given 30 to 60 days and it involves the permit.
- With all of these permits a person can go to the Board of Permit Appeals or the Abatement Appeals Board.
- The code allows that if the person who is doing the work was unfamiliar with the code or can prove that one of their employees was negligent, then staff could take that into consideration and the nine times penalty can be reduced. (Example: New homeowners may not really understand what NOV's are and may be charged times nine and if it is \$100K worth of work then that is \$900K. Therefore they can ask for relief and the code allows it to be reduced to times two or \$200K.)
- If the work is particularly bad DBI has the ability to go into the repair and demolition fund, but that is not done often because it is very hard to get the money back from the owner.
- After the Director's hearing DBI has the option to issue an Order of Abatement which basically lets everybody know that there is a problem with the building.
- After an Order of Abatement is issued for buildings that staff consider unsafe and hazardous, there is the option of sending it to the City Attorney.
- At the end of the year everybody who has not taken care of their Orders of Abatement goes to the Board of Supervisors where a tax lien is placed on their property.

Commissioner's & Staff Question & Answer Discussion:

- Vice-President Mar said he knows the goal is compliance and not just fees or penalties. If people started to work without permits and beyond the scope of work there seems to be little effort to return the building to as/is or to take it down. It is easier to apply for a permit to legalize it, which can take years going through Planning, and the problem could be resolved if staff says take down the illegal addition.
- Mr. Sweeney said the Building Code is specific and it says that you must legalize or remove, and customers get that option. Staff cannot tell someone where the building code says that you must remove it. Customers will be issued fines or tax liens while they are in code enforcement.
- Vice-President Mar asked if staff had a pretty clear assessment of some projects where they know it is impossible to legalize.
- Mr. Sweeney said most cases are beyond the scope of the permit and it happens on small jobs, but they are the ones that will be difficult. (One example is a person had to put in a second means of egress and it was determined during the course of investigation that they needed a partial easement through a neighbor's property so the job was stopped.)
- Commissioner Lee said he is not sure if Commissioner Mar was alluding to the fact that if the violation is found during construction and the work is stopped, then it takes years for

the owner to get the approved permits to finish building then the construction site just sits there and it might look blighted. He asked if there is any flexibility to instruct the property owner what needs to be done to secure the site and make it not look blighted.

- Mr. Sweeney mentioned the example of such a case that has been before the AAB on El Camino Delmar. Neighbors complained four years ago and case went to Planning and they said tear it down but the owner refused and now the case is at the City Attorney which is DBI's only recourse.
- Commissioner Lee clarified after a second NOV is issued that it would go to a Director's Hearing, so he asked if there was any way to speed up the process.
- Mr. Sweeney said it could be but he doubts if customers would agree to do that, because it would take them time to get plans and permits. The only way it could be done is to change the code.
- Customers have the option of going straight to the Board of Permit Appeals and 99 out of 100 they reduce the penalties from times nine to times two, unless one of the commissioners feels it is egregious.
- Commissioner Mar said it seems like the Department has the discretion from two times to nine times and he thinks if owners sit on their projects for two or three years they should get the nine times penalty since it is the only "hammer" DBI has. If they are going to take their time they should get the maximum fees.
- Director Hui said the Department has sped up the Director's hearings and there are two hearings per week. Director Hui and Mr. Sweeney concurred it may be an incentive to get it put in the code that if someone came in within 30 days to apply for the building permit then staff could work with them on the penalties.
- Director Hui said staff could start with an information sheet for the public and it could be posted online.
- President McCarthy said it would be good to put the information sheet together and the Commission could review it at the next meeting.

Secretary Harris called for public comment and there was none.

10. Discussion of DBI's assessment of the \$52.00 per month monitoring fee, in accordance with SF Building Code Fee Schedule Table 1A-K, including estimated budget cost.

Deputy Director of Inspection Services, Dan Lowrey, gave an update on DBI's assessment of the \$52.00 per month monitoring fee and discussed the following information:

- Both the Housing Inspection Division and Building Inspection Division are enforcing the \$52.00 per month monitoring fee.
- Everyone is aware that the fee has to be charged and there is some confusion, but staff is working with the City Attorney right now and it is difficult sometimes when an NOV is issued, as to when the date of the monitoring takes effect.
- One example is: If a Notice of Violation is issued and they are allowed 30 days before the monitoring fee starts, but if someone comes in and gets a permit and is beyond the 30 days and they are performing the work then the monitoring fee is still assessed. The problem is that it does not go to code enforcement. Also when staff goes to final the job, they cannot do so until the monitoring fee is paid.

- This is going to cause a huge backlog in Inspection Services because staff will not be able to final a job until the fee is paid.
- Staff is working with the City Attorney's Office because the language is vague, but staff is performing the monitoring fee per the code and the ordinance.
- President McCarthy said that this was an issue with the grand jury so he wants it to be spot on. He asked if Mr. Lowrey got a handle on that number.
- Mr. Lowrey said the grand jury came up with the \$900K figure and staff went back and looked at all of the NOVs from August 2010 to 2013 for the Building Inspection Division.
- There were a lot of NOVs for safety hazards, fires in building, cars into building, and landslides where no fees were assessed so those were pulled out as they should not have the monitoring fee charged.
- Mr. Lowrey said the correct figures are as follows:
 - Building Inspection Division was \$210,652 after eliminating the hazard fees, which were NOVs for unsafe conditions but there is not a penalty on them.
 - Electrical Inspection Division was \$14,560
 - Plumbing Inspection Division was \$80,621
 - Code Enforcement Division was \$319,280
 - The total was \$625, 113 which was the figure that staff came up with when they looked at everything.
- President McCarthy said it is important to start off with the proper figures, especially with the new program DBI is going to be diligent in making sure that it is enforced. There was a bad number thrown out there and he wanted to know what the data was.
- Mr. Lowrey said that he and the staff did a lot of work to come up with the correct numbers, and the program is now in place where Code Enforcement and Housing are collecting the \$52 monthly monitoring fee.

Secretary Harris called for public comment and there was none.

12. 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.

There were no inquiries to staff.

- 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 that the next meeting would be on December 18, 2013.

Secretary Harris called for public comment and there was none.

13. Review and approval of the minutes of the Regular Meeting of August 21, 2013.

Commissioner Walker made a motion, seconded by Commissioner Lee that the minutes be approved. The motion carried unanimously.

RESOLUTION NO. BIC 054-13

14. Review and approval of the minutes of the Special Meeting of September 5, 2013.

President McCarthy made a motion, seconded by Commissioner Melgar that the minutes be approved. The motion carried unanimously.

RESOLUTION NO. BIC 055-13

15. Review and approval of the minutes of the Special Meeting of September 10, 2013.

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

RESOLUTION NO. BIC 056-13

16. Review and approval of the minutes of the Regular Meeting of September 18, 2013.

Commissioner Melgar made a motion, seconded by President McCarthy that the minutes be approved. The motion carried unanimously.

RESOLUTION NO. BIC 057-13

17. Adjournment.

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

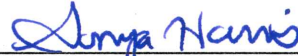
RESOLUTION NO. BIC 058-13

The meeting was adjourned at 11:05 a.m.

Respectfully submitted,



Ann Aherne
Commission Secretary (Retired)



Sonya Harris
Commission Secretary

SUMMARY OF REQUESTS BY COMMISSIONERS OR FOLLOW UP ITEMS	
AB-032 - Site Permit Processing was continued to the call of the Chair, so it will be revisited at a future meeting. – McCarthy	Page 11
Create an Information Sheet: If someone came in following an NOV within 30 days to apply for a building permit then staff could work with them on the penalties. BIC to review Information Sheet so that it can be given to the public and posted online and possibly added to the Code. – Hui, Sweeney, McCarthy	Page 15