



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

REGULAR MEETING

Wednesday, October 15, 2014 at 9:00 a.m.

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

Aired Live on SFGTV Channel 78

ADOPTED January 21, 2015

MINUTES

The regular meeting of the Building Inspection Commission was called to order at 9:13 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**

D.B.I. REPRESENTATIVES:

Tom Hui, **Director**

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

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

Taras Madison, **Chief Financial Officer**

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

Lily Madjus, **Communications Director**

CITY ATTORNEY REPRESENTATIVE

John Malamut, **Deputy City Attorney**

Please Note: President McCarthy and the Commission announced that the agenda items would be taken out of order during this meeting.

5. Discussion of proposed legislation File No. 140954 Ordinance amending the Planning Code to permit exceptions from dwelling unit density limits and other requirements of the Code when adding Dwelling Units to existing buildings undergoing seismic retrofitting; deleting the requirement that a new In-Law Unit constructed in and near the Castro Street Neighborhood Commercial District be limited to 750 square feet; correcting outdated cross-references and Code Language; affirming the Planning Department's California Environmental Quality Act determination; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

Supervisor Scott Wiener presented the legislation and discussed the following points:

- San Francisco is in a housing crisis right now, and needs to add sufficient housing to deal with a growing population.
- S.F. has grown by 85K people and since 2003 added 20K units of housing. S.F. is projected to grow by 150K between now and 2040.
- Legislation was recently passed to legalize existing in-law units to try to stabilize the people in the housing that exists.
- Proposed legislation is to allow people to add new in-law units into their buildings in the Castro area.
- If the unit is added into an existing rent controlled building, that unit will also be rent controlled. One way to add new housing stock.
- Legislation provides a way to deal with the Building Code for legalizing units, and it passed and was signed by the Mayor.
- Some seniors cannot go upstairs anymore, so they move into their garage unit and rent out the upstairs unit.
- If owner is doing mandatory seismic retrofit of their building then they can add additional units, which is a good incentive to do retrofit.
- At the Land Use Committee meeting Supervisor Kim raised the issue that 750 square feet could be a bit arbitrary, so this was removed from the legislation.

Commissioner's & Staff Question & Answer Discussion:

- Commissioner Melgar said that this was a really smart, good public policy and asked if Supervisor Wiener could explain more about the 750 square foot limit.
- Mr. Wiener said the deletion of the 750 square foot limit applies to the Castro legislation, and on this seismic dwelling unit a square foot maximum is not included and if a building has a lot of square footage someone could build huge but chances are that they would benefit more by building smaller units.
- Commissioner Walker said she thinks this is really one part of a good solution/package for creating more housing.
- Commissioner Walker asked if there was a transit consideration, parking, and other fees that usually apply to creating units. Mr. Wiener said the Transit Input Development Fee (TIDF) does not apply to residential in SF, but he hopes in the future to transfer it to market rate housing.
- Commissioner Walker said there could be increasing complications around enforcing short term rentals or in-laws, so how does this fit if the units are not being reassessed by the Assessor's Office. Mr. Wiener said the unit would be reassessed, but not the seismic area.
- Director Hui said this legislation is similar to the in-law legislation, and so far there have been 40 applications but the Planning Department has only approved 3 so far. The problem is everyone is basically waiting to see what happens with these projects first.
- Commissioner Lee said the proposed legislation is wonderful and would be an incentive for owners to do seismic retrofit work, but he suggested opening this up to the rest of the City and not just the Castro area. Mr. Wiener said the legislation applies citywide but it does not apply to RH1 zones. In terms of the Castro legislation, about ten years ago Supervisor Peskin tried to do in-law units citywide and "fought the good fight" but lost, so Mr. Wiener decided to start with the Castro since it is a neighborhood that is more accepting of new housing density, has an aging LGBT population where people are looking for different

kinds of housing opportunities. Also a way people can stay in their neighborhood if they cannot get up steps anymore or if they are displaced from their housing.

- Survey taken in the Castro neighborhood showed that 79% supported the legislation.
- Commissioner McCray said that legislative and code incentives are good, but asked if there were any financial incentives? Mr. Wiener said currently there are not any financial incentives.
- President McCarthy asked when the legislation was scheduled to go to the Planning Commission? Mr. Wiener said it has not been scheduled yet, but hopefully by the end of the year. He plans to bring it to Land Use by December or January.
- Supervisor Wiener asked if Director Hui could put the word out to staff to tell customers that the legislation is pending. There was also discussion of working with Patrick Otellini to get the word out as well.

Secretary Harris called for public comment.

Mr. Charley Goss of the S.F. Apartment Association expressed support for the legislation, and said that they feel it is a common sense piece of legislation and a nice piece to the housing puzzle. A lot of their members are going to be doing seismic work in the near future, four to seven years, and they had to evaluate the properties in the past year. The Association is supporting the legislation and urges DBI to get the word out any way that they can, because the work will be done soon.

Commissioner McCray asked Mr. Goss what numbers he was looking at over the next five years? Mr. Goss said that he does not really know, but they have gotten a ton of calls from their membership about this legislation, and probably as many as the in-law legislation. There is a lot of interest in it, and something that is different with the in-law legislation is if someone was legalizing an in-law they could be putting a single family home under rent control and there is not that problem here, so that incentivizes a lot more people to create these units.

2. President's Announcements.

President McCarthy made the following announcements:

- A big thank you to Brenda Yan and Amaris Chan of the Central Permit Bureau, Matthew Ralls of Plan Review Services, and David Ledda of the Plumbing Inspection Division. Kudos to all of them for providing excellent customer service.
- Special thanks to the Soft Story Retrofit Team and Lily Madjus for helping to generate excellent media coverage of the Code Enforcement phase which began on Oct. 7th. With the additional coverage, our non-compliance numbers fell to about 350 and undoubtedly motivated soft story building owners into submitting screening forms.
- Thanks to fellow Commissioners for the Special Joint Meeting with the Planning Commission that was held on Oct. 2nd. The updates provided by staffs from both departments on the new PPTS/Accela project – scheduled to 'Go Live' on Dec. 8th, along

with the discussion on code enforcement issues, including the additional one coming to Planning with passage of the Short-Term Rental ordinance, were helpful to all.

Secretary Harris called for public comment on the announcements and there was none.

8. Discussion and possible action on the Ordinance amending the Health Code, Article 38, to require an enhanced ventilation system for sensitive use projects within the Air Pollutant Exposure Zone, and establishing document review fees; amending the Building code to correspond to the Health Code changes; and making environmental findings, and findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

President McCarthy stated that he would like to table this item, and bring it back at another meeting if there was no objection from the other Commissioners. The Commission has talked about this about six times and it has been kind of a journey for him, because he has really followed this piece of legislation and how it went through the system. He thanked the Fire Department staff for their communication and the outreach of everyone working together. He met with Supervisor Cohen's office and talked to her chief who was not too happy with him, particularly on the communication aspect of things. The Supervisor's position was there was not enough notice given to her and this is their legislation, and they were not involved. President McCarthy mentioned to Director Hui that they live in a world where DBI has to communicate with everybody, and everybody does not understand how the Department gets things done so we always have to take the higher ground and reach out to other departments to make sure that they understand DBI's concerns. There were a number of hearings on this legislation, and it did not seem to be a priority with staff to make sure that the Commission's concerns were addressed with Supervisor Cohen's office. As a leader, the Director has to be sure when there are concerns about certain items that they are followed up on and dealt with, and that the communication is done with other departments. There are a lot of "moving parts" and President McCarthy said that he wants to work closely with Director Hui to figure this out going forward. Mr. Strawn could testify to the fact that they found out information on a Friday and had to react to it on Monday so it was the Department's fault that their office received short notice. President McCarthy said for the record the BIC is tabling the item so that everyone involved could hopefully come to the next meeting. He also said that he would like Director Hui to take the lead on this item, and follow up on additional items that need to be discussed.

Commissioner McCray made a motion to table Item 8 (regarding Health Code Article 38) and continue it to the next meeting, which was seconded by Vice-President Mar. The motion carried unanimously.

RESOLUTION NO. BIC 043-14

6. Discussion of joint building Inspection and Planning Commission meeting of October 2, 2014 and possible next steps in joint code enforcement efforts.

Commissioner Walker said that at the October second meeting the Commissioners discussed code enforcement between Planning and Building, and there are many issues that come up for the City around change of use such as PDR to office, housing, and short-term rentals, along with how both departments work together to enforce the rules. Both DBI and Planning staff discussed the process. There was a commitment to have the departments work together and come back some time in January to get an update, since the short-term rental legislation goes into effect in February. Both Commissions wanted to meet again to get an update to the departments about the policies and procedures around that, so she was gratified and appreciative of the Commissioners taking their time to meet together to support their departments with these very important issues. Code issues and violations of Building, Planning, Administrative, and Housing Codes have a major effect on the public, so it is really important for both departments to work together to get it right. Commissioner Walker reaffirmed the request to set up a follow up meeting in January.

Vice-President Mar said that it was good the Commissions had the meeting, but there were more questions than answers especially for the public that was in attendance. He appreciated both the Commissioners and staff since it meant extra work, and he agreed with Commissioner Walker that there should be a follow up joint meeting. He was gratified to hear from the Planning Department that they were also concerned with the gridlock that some of the smaller homeowners and property owners face, and also discussed Over the Counter (OTC) permits. He also agreed that both departments need to work together.

Commissioner Melgar said that it was clear after the meeting that there needs to be a follow up meeting, and it would be great to have a draft process. There was a lot of discussion regarding the short-term rental legislation and she was upset that this did not come before the Building Inspection Commission, before it went to the Board. DBI's Code Advisory Committee's expertise was not taken into account, so she is worried about fire, egress, and safety issues. Hopefully staff will have time to work out details as to what policies and procedures will be put in place in terms of who is going to do what.

Commissioner Walker mentioned that there are already cases that have come to DBI that have complaints around short-term rentals at Directors hearings.

President McCarthy agreed with the previous comments, including that there should have been a discussion at the BIC first, but the advice that he heard was it was still a "moving target". It was a good meeting, but he was concerned that the discussion might get off track. Both Planning and BIC Commissioners were very receptive.

Vice-President Mar mentioned that the short-term rental legislation did come to the CAC once and they raised certain concerns, but the problem was that it did not come back to the CAC again. Most Supervisors are good at vetting legislation through the CAC, but they need to come back if issues are raised.

Commissioner Melgar said the Building Inspection Commission's charge is to guide and set policy for the Department so the affordability crisis requires that the BIC step it up a little. On the short-term rental legislation the Commission's voice was absent. Density and Planning issues are a

concern, but there are a host of building, safety, and health issues that were not addressed. For example a tourist from France is not going to a Director's Hearing.

Commissioner Walker said that she wanted to discuss the short-term rental item at a future BIC meeting.

President McCarthy said that DBI as a Department and Director Hui needs to take the lead and be proactive. The Department needs to focus on legislation, and if there are problems staff should discuss how to resolve them. President McCarthy called for public comment.

Mr. Charley Goss of the S.F. Apartment Association thanked the Commission for their time on October 2, and said that it was a long meeting and a lot of important questions were raised. He was disappointed that the legislation passed in the form that it did. The most fundamental planning was a 90-day gap and it was ignored, and their belief is from a Planning perspective that it is unenforceable so he would like to talk about DBI's enforcement and the legislation. It was required to put signs on the door, the egress, and the location of the fire extinguishers, shut off valves, and that sort of thing to enforce that part of the legislation. There are about 6,000 short-term rentals in the City now and the legislation becomes effective in February, so he was disappointed with the legislation and would like to know the plan.

7. Discussion on Accela Permit and Project Tracking System.

Mr. Henry Bartley, Project Manager for DBI, gave a presentation on the Accela Permit and Project Tracking System and discussed the following points:

- Mr. Bartley has worked with the leadership at DBI and the partners in the project.
- They are working on the data migration and getting the data from the old platform, and migrating it to the new platform and that area needs the most attention.
- There was an extension to the data conversion and a dry run.
- User Acceptance Testing has been pushed out a week, but staff is able to do this without changing launch date.
- Next is the user training and go live preparation and the launch date, so staff is dedicated to staying on this schedule and believe they are over the last hurdle.
- There was a very thorough scrub of all the remaining records.
- Go Live date is December 8, and everything should be o.k.

Commissioner's & Staff Question & Answer Discussion:

- Vice-President Mar asked if Planning Go Live date was sooner? Mr. Bartley said Planning Go Live date is October 20, which would not disrupt DBI's schedule.
- Commissioner Walker thanked Mr. Bartley, Director Hui, and staff for staying on track. She also asked if Planning was doing a pre-test to help DBI also? Mr. Bartley said Planning would not launch public portal part.
- Commissioner Walker said Planning is doing their Go Live date internally at their department, and both departments go live December 8 together.
- V.P. Mar asked if there would be any projected training for the public or for the stakeholders? Mr. Bartley said Lily Madjus from DBI and Gina from Planning have met to work out the details, and have targeted dates in November.

- Lily Madjus said they identified target stakeholders and CEOP groups to sign up for the public access portal.
- President McCarthy asked if there was any media coverage on this? Ms. Madjus said not at this point, but they are looking at a soft launch and will report back in November as to the final details.

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 general public comment.

4. Director's Report.

a. Update on DBI's finances.

Ms. Taras Madison gave an update on DBI's finances and addressed the following points:

- September 2014 year to date financial report is basically a year to date report for the first quarter of fiscal year 2015, which includes January, August, and September.
- Revenues - \$15.2M which is less than the same time last year, primarily due to the fee reduction.
- Permit valuation is down by \$929M, but overall permit activity is up.
- Projecting \$3M shortfall for this fiscal year which includes year to date, and also includes the 7% fee reduction.
- Once the fee study is complete then there will be a change.
- Salaries and spending are up.
- Expenditures – Reduction in expenditures are because of services to other departments. Only billed \$17K so far.
- Salaries are more than \$500K and that is good because DBI has been hiring and recruiting.
- There could be a surplus, but right now based on preliminary projections.

Commissioner Walker asked when the fee study was coming back to the BIC?

Ms. Madison said it was planned to come back this month, but there was a scheduling conflict. DBI and the Controller's Office have some questions regarding the data the consultant is using.

b. Update on proposed legislation.

Mr. Bill Strawn, Legislative and Public Affairs Manager, gave an update on proposed legislation and discussed the following points:

- **File No. 140806 – Amended Chapter 38 in Health Code to Building Code requiring enhanced ventilation systems.** – Supervisor Cohen introduced this legislation. DBI Staff has tried to get a clear understanding of what happens next, and they are working closely with Fire Marshal Michie Wong.
- **File No. 140381 – Supervisor Chiu's proposed ordinance to permit certain short-term rentals of residences under stipulated conditions.** The second final vote is coming up soon, and it will take legal effect Feb 1, 2015.

Commissioner Walker asked if Mr. Strawn could make sure that DBI and the CAC looks at amendments. Mr. Strawn said the City Attorney sent back amendments to Planning and the CAC for further revisions.

- **Ordinance No. 130119 – Mandatory Seismic Retrofitting of Soft Story Buildings –** Director Hui was part of an NBC story regarding the October 17 Earthquake Anniversary.
- Anniversary of Loma Prieta earthquake . San Francisco has done a lot to help with seismic safety.
- 95% have complied with notices.
- 350 buildings posted with Warning/Earthquake Safety placards.
- As a consequence of Inspector postings and media coverage 75 screening forms came in.
- DBI is accepting late screening forms and not penalizing owners.
- DBI issued close to 100 permits for people to start retrofit work.
- **Supervisor Wiener’s File No. 140954 which amends the Planning Code to permit exemptions from dwelling unit density limits when adding dwelling units to existing buildings undergoing seismic retrofitting.**

President McCarthy asked if there could be outreach done to help with Supervisor Wiener’s ordinance? Mr. Strawn said as Director Hui mentioned DBI service staff can help at the counter, and also do more mailings. DBI will double its efforts and work closely with Supervisor Wiener’s staff.

- **Supervisor Kim’s Proposed Land Use Hearing on Construction Noise and DBI’s issuance of Night Noise permits.** – Supervisor Kim held a Land Use meeting to look at Night Noise permits.
- Some work cannot be completed during regular work hours. Uniform support to build more housing, and some contractors cannot do work during normal 7 am – 8 pm work hours.
- One contractor wanted to start work at 3 am and DBI said no, that he could start at 5 am.
- Inspection staff is stingy with these kinds of permits, and do not hand them out like candy.
- Inspectors look at night noise permits to see if they are needed or if the work can be done during regular hours.
- **AB 2188 – Expedited Solar Rooftop inspection/permitting signed by Governor.** – Solar has been expertise of Electrical Inspection Division for some time.
- Legislation now requires all other items be dropped, and do solar item first but concerns have been raised.
- DBI Electrical Inspection Division will make sure expedited permits are implemented.
- Director Hui said that he has been working with Chief Electrical Inspector Ron Allen even before the Code was passed by the state.
- Big issue was alteration of buildings with solar panels. Chief Allen worked with solar contractors to work out major issues and have easier approval process.
- DBI also hired more Electrical Inspectors.

- c. Update on major projects.

Director Hui gave an update on major projects and said that projects are coming in, and small permits are rising. The forecast is the Arena project would be starting construction next year. DBI has been trying to help do parallel plan check with the Planning Department.

d. Update on code enforcement.

Dan Lowrey, Deputy Director of Inspection Services, gave an update on code enforcement and said that there was 100% response to the complaints for last month.

Deputy Director Lowrey presented the following Building Inspection Division Performance Measures for September 1, 2014 to September 30, 2014:

Deputy Director Lowrey presented the following Housing Inspection Services Performance Measures for September 1, 2014 to September 30, 2014:

Deputy Director Lowrey presented the following Code Enforcement Services Performance Measures for September 1, 2014 to September 30, 2014:

Chief Housing Inspector Rosemary Bosque gave an update on the "Permit Status of Unit Legalization per Ordinance 43-14", and the chart listed the following items:

- Number of Permit Application
- Property Address
- Block/Lot #
- Status of Permit Application
- Screening Form Filed Y/N
- NOV Y/N
- Approved by DBI Y/N

- Approved by Planning Y/N
- Quadrant or Kate Conner (KC)
- Remark by Planning
- Remark by DBI

A few points Chief Bosque discussed are:

- Some buildings are not posting an address, so Inspectors are sent to the site to identify if it is an Airbnb building with no address.
- Ms. Bosque met with Christine Ha from the Planning Department.
- Commissioner Walker said hopefully issues can be raised through the Director.
- Due to amendments, holding a meeting may be premature. Almost every supervisor had an amendment and department needs time to analyze this.
- DBI can assist Planning department with training.
- Commissioner Walker said that she hoped DBI and Planning are included instead of the “tail wagging the dog”.

Secretary Harris called for public comment on items 4a-d and there was none.

9. 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.

Commissioner Walker wanted to agendize the item regarding short-term rentals, and PDR to office change of use. Include staff process and plan check.

Vice-President Mar said that by December or January he wanted to discuss the item of permit fees changing for difficult projects, and mentioned doing an internal audit. Mentioned making sure DBI adheres to Federal guidelines.

Commissioner Melgar wanted to follow up on scheduling a Joint Meeting with DBI and Planning. Mentioned role of code enforcement, and possibly invite Supervisor Kim and Jane Yee to come to meeting.

Vice-President Mar requested that the item regarding H.U.D. housing being contracted out to non-profit management. He asked if there was a list from the Mayor’s Office of Housing of properties that have been contracted out to private housing managers. Concern about how DBI would deal with it.

10. Review and approval of the minutes of the Regular Meeting of July 16, 2014.

Commissioner McCray made a motion, seconded by Commissioner Walker to approve the minutes of the Regular Meeting of July 16, 2014.

RESOLUTION NO. BIC 044-14

11. Adjournment.

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

RESOLUTION NO. BIC 045-14

The meeting was adjourned at 11:00 a.m.

Respectfully submitted,

Sonya Harris
Commission Secretary

SUMMARY OF REQUESTS BY COMMISSIONERS OR FOLLOW UP ITEMS	
Request to set up a follow up Joint Building Inspection and Planning Commission meeting. – Walker , Melgar	Page 5, 10
Agendize short-term rental legislation at future BIC meeting. – Walker	Page 6, 10
Agendize item regarding PDR to Office change of use. – Walker	Page 10

Discuss item of permit fees changing for difficult projects, and possibly doing an internal audit. – Mar	Page 10
Agenda item regarding H.U.D. housing being contracted out to non-profit management. – Mar	Page 10