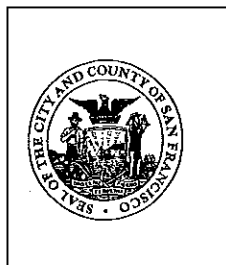


***BIC Special Meeting  
of  
September 23, 2015***

***Agenda Item 7***



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

**REGULAR MEETING**

**Wednesday, March 18, 2015 at 9:00 a.m.**

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

**Aired Live on SFGTV Channel 78**

**DRAFT MINUTES**

The regular meeting of the Building Inspection Commission was called to order at 10:03 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**

Debra Walker, **Commissioner**

Sonya Harris, **Secretary, excused**

Ann Aherne, **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**

Rosemary Bosque, **Chief Housing Inspector**

**CITY ATTORNEY REPRESENTATIVE**

John Malamut, **Deputy City Attorney**

**2. President's Announcements**

President McCarthy made the following announcements:

- Director Hui, Building Inspector Stephen Kwok, Mechanical Plan Review Supervisor James Zhan, Lily Madjus, and William Strawn, participated with Supervisor Katy Tang, the Planning Staff, and more than 60 local residents Feb. 28th at Town Hall. Constituents asked many questions about Planning and DBI permit processes: inspections and code enforcement, steps required in legalizing in-law units, and how to proceed with specific remodeling projects.

- At the request of the editor of *SF Apartment Magazine*, Director Hui is drafting an article for the May issue, with a focus on what building inspection services and code enforcement do to ensure life-safety building elements; especially how fire safety elements are monitored and maintained. The article is timely with the recent spate of multiple-alarm fires in the Mission and Tenderloin neighborhoods. DBI welcomes this opportunity to communicate again with the owners of apartment building's key action items that are owners' responsibilities for resident safety.
- Thanks to DBI staffers who participated in this year's Chinese New Year Festival, celebrating the Year of the Ram. Director Hui and his wife Janet attended, along with the Plan Review staff: Willy Yau and Joseph Chan; Code Enforcer, Teresita Sulit; Plumbing Inspector, Ken Young; and Housing Inspectors: Isabelle Olivares, Dennis Yee, and Liam McCarthy. The DBI booth featured code quizzes, informational handouts, and free smoke alarms with the new 10-year battery.
- DBI is participating once again with Project Pull (the City's High School internship program). Project Pull is an eight-week program where high school students are mentored by DBI staff from June 15-August 7th. In the past two years, DBI has typically had 8-10 Project Pull Interns who have provided invaluable assistance to staff. We are awaiting Staff mentoring applications from all DBI divisions in the next few weeks to confirm the interns we will be having in mid-June at DBI.
- We are once again asking DBI staff and managers to nominate our Quarter One (January-March) Employee of the Quarter. If you know of someone providing outstanding professional services, please send your nomination to [William.strawn@sfgov.org](mailto:William.strawn@sfgov.org). Nominations will be reviewed by the Employee Recognition Committee in late March/early April. The winner will be announced at the April 15th Building Inspection Commission meeting.

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

Secretary Aherne called for public comment and there was none.

Secretary Aherne stated that agenda Item 6 was an Appeal for 1142A Guerrero Street and that the Commission was told that the tenant has hired a new attorney who is trying to work things out without having to come before the Commission.

President McCarthy confirmed that there were no objections and announced that Item 6 would be continued to the next meeting.

Attorney Ryan Patterson for the property owner clarified that the property owner has requested that the Appeal be scheduled at the next hearing, and in the meantime they will attempt to resolve things.

**4. Discussion and possible action regarding a proposed ordinance (Board of Supervisors File #141298) amending the Building, Administrative, Planning, and Police Codes to require attenuation of exterior noise for new residential structures and acoustical analysis and field testing in some circumstances in addition to other requirements and regulations.**

Mr. Conor Johnston, Legislative Aide to Board President London Breed, presented the above legislation and addressed the following points:

- Supervisor Breed started looking into this legislation because of a night life venue on Divisadero called “The Independent”. They are facing possibility of the building next door being turned into residential condos.
- Since potential neighbors will be on the side and back of the club, there may be noise complaints and The Independent may have to do additional sound proofing or attenuation, change their hours or worst of all shut down and cease to have live music.
- Supervisor Breed wanted to look at the issue of how to accommodate additional residential growth while trying to maintain the night life venues, especially in neighborhoods where there have not been residences before.
- There is a lot of residential growth in areas like the South of Market where previously there were only commercial businesses.
- A number of night life venues have closed or are facing closure and being replaced by residential developments. Some of which are: Club Cocomo, The Red Devil Lounge, The Sound Factory, Bottom of the Hill, Lexington Club, Elbow Room, and Lucky 13.
- Night life venues are a very important part of what makes San Francisco - San Francisco.
- 16M customers are brought in every year, \$800M in spending, According to the Controller’s report 43% of other residents in the Bay Area come to San Francisco to visit a venue such as a bar or theater.
- Supervisor Breed wants to find a way for these two uses to co-exist as the City expands its residential profile.
- They held a meeting of venue owners, developers, including President McCarthy, the Police Department, Department of Public Health, Planning, DBI, the Entertainment Commission, and OEWD.
- The result of all of the meetings and City Attorney hours that were invested in the process is the legislation before the Commission.
- High level analysis of legislation:
  - When a project sponsor proposes to do a project within 300 feet of a permanent place of entertainment, the Planning Department will notify the sponsor and the place of entertainment that there is a pending application of developing near the venue.
  - The Entertainment Commission will have the opportunity to hold a hearing on the development. Their area of expertise is getting the venue and their neighbors to work together and preempt any issues that may cause conflict down the road.
  - Discuss issues such as: How to coexist, have hours that the neighbors are happy in their homes, patrons would not be wandering outside the building, etc.
  - The second major component of the legislation is if the venue is operating within the

- terms the City has issued it; it cannot be deemed a legal nuisance.
- Third aspect of the legislation is if there is residential development within 300 feet of an existing venue before someone moves in, either as a purchaser or tenant, they will be notified by their landlord or the seller that there is a venue nearby. This will be a disclosure before the person moves in.
  - An example that the Entertainment Commission has seen is a person visits a condo on a Tuesday and buys it and Friday night it is a whole different world, and then they start to complain about the noise and potentially shut the venue down.
  - DBI Building Code 1207.4-1207.9 was adopted from State Codes and moved into local codes, deals with allowable sound level in residential units. Meeting allowable sound limits, field testing, etc. CAC recommended they consult with an outside sound consultant who said the language was standard and had no objections.
  - Goal is to protect the venues and make sure that people are happy in their homes.
  - The reason people move to S.F. in the first place is because of the night life, so that needs to be protected.
  - Mr. Johnston thanked the following for supporting the legislation: Code Advisory Committee, Ben Blimen affiliated with CMAC, Entertainment Commission, Supervisor Wiener, and Small Business Commission.
  - Mr. Blimen set up an online petition a few days ago that already has 29,000 signatures.

Commissioner's Question & Answer Discussion:

There was extensive discussion regarding this item, and following are a few of the Commissioner's comments.

- V.P. Mar said that he was involved in a similar issue with Slim's Night Club that was located South of Market. There were complaints after the new condos went up. Legislation was much needed and they did a good job of pulling all of the parties together.
- Commissioner Walker said many people have been involved for the last 20 years, and have lost so many of the entertainment venues. She asked about existing buildings because most buildings around 11<sup>th</sup> street have an NSR on their title, but there have still been complaints lodged. Is there anything that deals with existing buildings in this location?
- Mr. Johnston said the ordinance has a no nuisance provision for any building constructed after January 1, 2005.
- Commissioner McCray said he looked at Section 116.10 re; no private right or action against the City. He asked if Planning was the only City oversight or if there would be any oversight by DBI?
- Mr. Johnston said DBI will be receiving recommendations from the Entertainment Commission that may recommend thicker walls, more insulation, etc. Notification process is a public document and landlord has to sign affidavit that information was given.
- Commissioner McCray said 10 years down the road enforcement becomes an issue, and he asked whose responsibility it was to follow up. Mr. Johnston said Ms. Joselyn Cain of the Entertainment Commission was present, and they have the onus and opportunity to do so.
- President McCarthy said as a former bar owner in the City he enjoyed the business. Ongoing situation of people moving in then objecting, and the legislation captures that. There was no consensus on sound levels, so is that open for appeal?
- Mr. Johnston said there are local standards in place already, but the Entertainment

Commission can exercise its oversight and discretion on a case by case basis.

- Pres. McCarthy gave an example of a developer doing a project and has a sound report that says windows need to be fixed. He is concerned about project being appealed if complaint that sound proofing was not done on building.
- Mr. Johnston said Appeal process exists in S.F. regardless of whether legislation passes or not.
- President McCarthy said that he supports the spirit of the legislation, but still had concerns.
- Commissioner Melgar said sometimes it is appropriate to have more hurdles.
- V.P. Mar said a lot of venues spent a lot of money on sound proofing warehouses, etc.
- President McCarthy asked if it would be possible for Mr. Johnston to follow up to see how legislation working in future.
- Director Hui said that the legislation already went through the CAC and new buildings have to comply with the State law.
- Commissioner Walker asked if there were protected zones around entertainment venues where people cannot complain?
- Ms. Jocelyn Cain said that she was hopeful that this legislation will help. New housing is needed, and legislation is at very early stages. Conflicts and complaints will still come. Hope is that legislation will prevent conflicts and create more happy people.

Secretary Aherne called for public comment and there was none.

***Commissioner Melgar made a motion, seconded by Commissioner Walker, to support the legislation regarding attenuation of exterior noise. The motion carried unanimously.***

Secretary Aherne called for a roll call vote:

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

#### **RESOLUTION NO. BIC 011-15**

#### **8. Discussion regarding concerns with the removal of debris during the demolition of Candlestick Park.**

President McCarthy called item 8 out of order since there were a number of people present to speak on the item.

There was extensive discussion regarding concerns with the removal of debris during the demolition of Candlestick Park.

Following are the members of the public who spoke regarding the item:

- Ms. Shirley Moore of the Clean Air Initiative and the Candlestick Point Neighborhood Committee
- Dr. Andrew Graf of Golden Gate University (Environmental Division)
- Dr. Tompkins of the Clean Air Health Alliance

- Ms. Julia Barber of the Clean Air Health Alliance
- Ms. Karen Cohn, Department of Public Health
- Mr. Green Harrison
- Ms. Marlene Tran from Visitacion Valley
- Ms. Marie Green of the Clean Air Initiative
- Mr. Charlie Walker

Some of the points discussed by members of the public were:

- Dr. Tompkins report addressed the dust and asbestos concerns at the Candlestick stadium. The issues he reported on were: 1) Location of dust monitors 2) Effectiveness of the dust monitors 3) Number of monitors installed and if they were installed correctly 3) Proper reading of the monitors.
- Dr. Graf reported on Statistics so far that have been gathered from the monitors. Discussed the dust control plan and concern of materials received. Mentioned reports have not been signed by the Independent evaluator. (Ms. Moore mentioned that the community has not had access to that information but has received it under the Public Information Act.)
- Residents are concerned about the asbestos and dust that would travel into the neighborhood.
- Would like to protect the residents and the community from the deconstruction while the project is ongoing.
- Inspector at site and complaints can come to DBI. 3<sup>rd</sup> party reports should be done.
- Board meetings are useless. Something is wrong in area where black people live and Lennar will not follow specifications. Someone has to have power to stop the job.
- Residents of Hunters Point had dealings with head contractor. Residents wanted to review data and there were no asbestos or particulate readings.
- The implosion of Candlestick Park was discussed and this was a \$6B project, yet no information was given to the community. South East Community briefed them about the Sunshine Law and Brown Act.
- API supports clean air, but not through emails in English only.
- District 10 has high respiratory problems.

Following are the members of the Department of Building Inspection who spoke regarding the item:

- Dan Lowrey, Deputy Director of Inspection Services
- Tom Hui, Director of Department of Building Inspection

Some of the points discussed by Department of Building Inspection staff were:

- Mr. Lowrey said that he was in contact with Stephanie Cushing of Department of Public Health (DPH), and Senior Building Inspector Donal Duffy is at site on daily basis and has gone over the dust plan. Mr. Duffy checks job site regularly and also makes sure that they are doing regular watering and that proper procedures are being followed. Ms. Cushing notifies DBI if there is a dust complaint, and to date there has not been a complaint from DPH.
- Silverado Construction provided the log regarding watering.
- There are 7 sets of monitors.
- DBI relies on the Health Department regarding dust control and environmental monitors, but DBI makes sure the dust is watered down.

Commissioner's & Staff Question & Answer Discussion:

- President McCarthy asked about the reports not being signed, because the work was done? Mr. Graf said the Independent evaluator inspects dust monitors daily and is supposed to submit report to DPH at end of week. None of checklists were signed. Candlestick Point group is working with DPH as well.
- Commissioner Walker asked who is responsible for dust monitoring and taking readings? Mr. Lowrey said Bay Area Air Quality Control and they are working with DPH also.
- Mr. Lowrey said if dust control plan is not being properly followed then DPH will file a complaint and notify DBI, and Inspector would respond.
- Commissioner McCray asked if DBI can ask BAAQM for reports if they are not being made available to public? Mr. Lowrey said that is not DBI's area, but DPH's.
- Vice-President Mar thanked DBI for sending out an inspector to look for visible dust. Since demolition permit was issued someone should make sure that demolition practices are followed, including watering.
- Mr. Lowrey said DBI inspectors look at visual dust and the sequence of operations and watering.
- Commissioner Melgar said DBI issued the demolition permit, but when does department take action?
- Mr. Hui said the Health Department sends an inspector out and if there is a problem they send a request to DBI for suspension of the permit.
- Staff will reach out to the Health Department and Bay Area Air Quality Management.
- Commissioner McCray said DBI cannot rely on them because they are not reporting. What is done when people are dying of particulates and asbestos?
- Commissioner Walker suggested that permit be halted until reports are made available. Empower the Director to make sure demolition done in healthy way.
- President McCarthy said at the end of the day the contractor is supposed to follow guidelines that are set forth, and is responsible for not meeting criteria.
- Karen Cohn and Stephanie Cushing of Department of Public Health know about community concerns. There will not be an implosion, and staff is doing casual inspections.
- V.P. Mar said the reports are incomplete or inadequate. There are monitors but how many and are they even functioning. Community wants DBI to top work. Need health inspector to look at 7 monitors and make sure they are functioning.
- Commissioner McCray asked that this item be put on next month's agenda, and that some action is taken to clear things up.

**5. Director's Report.**

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

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

- As of February 2015 the Department has \$2.3M more than budgeted.
- Revenues - There was a significant drop in revenues. February 2014 was \$52M but now it is \$44M, which is over a \$7M drop.
- Permit activity is robust but the valuation is down.



- Expenditures – There have been some savings, but Department continuing to hire and there have been new exams on the building trades side.
- Fee study – Draft was developed and the BIC should have information in a few weeks on schedule.
- 7% fee reduction passed the first reading in January and that keeps it retroactive.

**b. Update on proposed legislation.**

Mr. Bill Strawn, Legislative & Public Affairs Manager, gave an update on proposed legislation and addressed the following items:

- **File No. 140592 – Temporary Seven Percent Reduction in all building code fees for six months, pending new fee study results now under way.** The Board will have the 2<sup>nd</sup> reading of the fee reduction extension, and will take effect April 18<sup>th</sup>.
- **File No. 140805 – Supervisor Cohen’s Clean Construction Ordinance.** – New clean construction emissions plan could cause delay in permit issuance.
- **File No. 140954 – Supervisor Weiner’s ordinance to add in-law units during either a mandatory or voluntary seismic retrofit.** Allowed to add one or more additional units if feasible. Passed unanimously and take effect 18<sup>th</sup> or 20<sup>th</sup> of April.
- **Ordinance No. 130119 – Mandatory Seismic Retrofitting of Soft Story buildings.** Down to 7 screening forms that have not been submitted. Have 2 years to complete work. 247 permits. Retrofits are underway.
- **File No. 131148 – Authorization of Dwelling Units Installed Without a Permit.** 8 submittals, 3 were approved, 60 under review at Planning. Planning waiving density and parking not coming in.

**c. Update on major projects.**

Director Hui gave an update on major projects and said that there was a slight increase of 2% on major projects.

**d. Update on code enforcement.**

Dan Lowrey, Deputy Director of Inspection Services, gave an update on code enforcement and presented the following statistics.

Deputy Director Lowrey presented the following Building Inspection Division Performance Measures for February 1, 2015 to February 28, 2015:

- |  |      |
|--|------|
| • Building Inspections Performed                           | 5089 |
| • Complaints Received                                      | 329  |
| • Complaint Response within 24-72 hours                    | 281  |
| • Complaints with 1 <sup>st</sup> Notice of Violation sent | 53   |
| • Complaints Received & Abated without NOV                 | 162  |
| • Abated Complaints with Notice of Violations              | 82   |

- 2<sup>nd</sup> Notice of Violations Referred to Code Enforcement 30

Deputy Director Lowrey presented the following Housing Inspection Services Performance Measures for February 1, 2015 to February 28, 2015:

- Housing Inspections Performed 943
- Complaints Received 389
- Complaint Response in 24-72 hours 374
- Complaints with NOV's issued 148
- Abated Complaints with NOV's 316
- # of Cases Sent to Director's Hearing 39
- Routine Inspections 110

Deputy Director Lowrey presented the following Code Enforcement Services Performance Measures for February 1, 2015 to February 28, 2015:

- # of Cases Sent to Director's Hearing 83
- # of Order of Abatements Issues 26
- # of Cases Under Advisement 6
- # of Cases Abated 112
- Code Enforcement Inspections Performed 136
- # of Cases Referred to BIC-LC -
- # of Cases Referred to City Attorney -

**6. APPEALS PURSUANT TO SECTION D.3750.4 OF THE CITY CHARTER**

**Appeal by Satish K. Gupta - Represented by Zacks & Freedman, P.C. regarding property located at 1142A Guerrero Street, and Director Tom Hui's decision to revoke a Certificate of Final Completion and Occupancy ("CFCO").**

- a. Report, discussion and possible action regarding the Building Inspection Commission's jurisdiction pursuant to Section D3. 750-4 of the City Charter and Administrative Code Section 77.3(b) over this appeal.**
- b. Presentation by parties including witnesses.**
- c. Deliberation and possible decision by the Building Inspection Commission.**

Agenda Item number 6 was continued to the next hearing.

**7. Discussion and update regarding routine inspections performed by the Housing Inspection Division.**

Chief Housing Inspector Rosemary Bosque gave an update regarding routine inspections performed by the Housing Inspection Division, and addressed the following points:

- There are 5 vacancies in Housing Inspection Services (HIS), but the Department has been proactive in interviewing for Housing Inspectors so Chief Bosque thanked Deputy Directors Lowrey and Madison for assisting with the interview panel.

- Even though short staffed HIS still has to address complaints such as: Routine inspections, Task Force inspections, HCO inspections, etc.
- Complaint generated inspections are citywide.
- Regarding fires in the Mission district – HIS staff has identified 128 buildings throughout the Mission Corridor, from 3<sup>rd</sup> Street to Crocker Amazon, and notified property owners that staff are coming to do routine inspections because concerned with safety, loss of life, loss of property, serious bodily injury, and displacement that has been going on.
- Inspectors looking for fire safety issues. 35 inspections have occurred and 2 cases have gone to the Litigation Committee as a result of this effort.
- Showed a picture of a padlock gate that leads to the roof door. Case has been referred to City Attorney because message is “You (owner) need to stop so nobody is injured”.
- Property owners are concerned about unauthorized entry, but Central alarm systems cannot be out of service.
- Staff is working with CEOP as well to gain entry to buildings.
- Staff is working on code enforcement focused areas in addition to other duties.
- Staff is aware of what is going on in Mission district and being proactive regarding lack of housing, fires, and so on.
- Ms. Bosque congratulated new Senior Housing Inspector Jose Lopez who was very instrumental in making this happen. His experience of working as an Inspector in the Mission district was very helpful in getting things done quickly.

Commissioner’s & Staff Question & Answer Discussion:

- Commissioner Walker mentioned looking at outreach programs to increase (Illegal secondary units).
- V.P. Mar said routine inspections are paid for by property owners, and they say routines not punitive just resolves problems. Also said HIS should go back to all district Inspectors doing routines when staffed up.

**9. Discussion 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 Aherne stated that the next Regular Meeting would be April 15, 2015.

Vice-President Mar said that he would like a more detailed update on the ACCELA Project and Permit Tracking System. He also said testing with the clerks and staff seems to be going well, so “there is light at the end of the tunnel”.

Commissioner Walker said that she would like the ACCELA item on the meeting each month until the Department goes live.

Secretary Aherne mentioned the request to agendize Candlestick Park item as an action item if it was under the BIC's jurisdiction

Commissioner McCray asked for clarification from the City Attorney.

Deputy City Attorney John Malamut stated that the process for issuing and carrying out permit, plan check, and inspection along with administrative services that are under the control of the Director, are items that the Commission can urge a certain type of action or form a consensus, but the Commission cannot change how the department administers the process.

Commissioner McCray said the Commission is asking for the project to be administered.

Commissioner Walker clarified that the BIC can make a recommendation to the Department, but it would not be binding.

Mr. Malamut said that he would work with the Commission Secretary on the wording of the agenda item to make sure that it is a recommendation, and not treading into administration of the permit process.

Secretary Aherne said that it would be helpful to get Commission items in by April 8<sup>th</sup> otherwise it is too hectic to get things out on time. Commissioner Walker thanked Secretary Aherne for filling in for Secretary Harris. Secretary Aherne said that it has been nice filling in, and she has spoken to Secretary Harris who is doing well and expected to return on April 6<sup>th</sup>.

There was no public comment on item 9.

#### **10. Adjournment.**

*Commissioner McCray made a motion, seconded by Vice-President Mar, to adjourn the meeting. The motion carried unanimously.*

#### **RESOLUTION NO. BIC 012-15**

The meeting was adjourned at 12:28 p.m.

Respectfully submitted,

  
\_\_\_\_\_  
Sonya Harris, BIC Secretary

<b>SUMMARY OF REQUESTS BY COMMISSIONERS OR FOLLOW UP ITEMS</b>	
Request to re-agendize Discussion regarding concerns with the removal of debris during the demolition of Candlestick Park. – McCray, Walker	Page 7,11
Request to have a more detailed update on the ACCELA Permit and Project Tracking System. – Mar, Walker	Page 11