

Department of Building Inspection (DBI)

REGULAR MEETING

Wednesday, December 15, 2021 at 10:00 a.m.

Remote Hearing via video and teleconferencing

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PUBLIC COMMENT CALL-IN: 1-415-655-0001 / Access Code: 2498 548 8259

ADOPTED JANUARY 19, 2022

MINUTES

- 1. The regular meeting of the Building Inspection Commission was called to order at 10:22 a.m. Call to Order and Roll Call.**

COMMISSION MEMBERS PRESENT:

Angus McCarthy, **President**

Jason Tam, **Vice-President**

Alysabeth Alexander-Tut, **Commissioner**

Raquel Bito, **Commissioner**

J.R. Eppler, **Commissioner**

Sam Moss, **Commissioner**

Angie Sommer, **Commissioner**

Sonya Harris, **Secretary**

Monique Jones, **Assistant Secretary**

D.B.I. REPRESENTATIVES:

Christine Gasparac, **Assistant Director**

Joseph Duffy, **Deputy Director, Inspection Services**

Neville Pereira, **Deputy Director, Plan Review Services**

Willy Yau, **Supervisor, Plan Review Services**

Taras Madison, **Chief Financial Officer**

Jeff Buckley, **Policy & Public Affairs Director**

John Murray, **Legislative and Public Affairs Manager**

CITY ATTORNEY REPRESENTATIVE

Robb Kapla, **Deputy City Attorney**

2. Presidents Announcements.

- Good morning and welcome to the Building Inspection Commission meeting for December, 2021. I'm Angus McCarthy, President of the Building Inspection Commission, and I am joined today by fellow Commissioners, along with Interim Director Patrick O'Riordan, and senior DBI staff.

- I want to start this meeting by welcoming our newest commissioner, J.R. Eppler, who was recently appointed to the Commission by Board of Supervisors President Shaman Walton.
- J.R. is a seasoned attorney, tireless community advocate and longtime city resident.
- Since 2013, he has served as president of the Potrero Boosters Neighborhood Association, and sits on the boards of the Potrero Hill Democratic Club and the Potrero-Dogpatch Merchants Association.
- J.R.'s unique combination of legal and business acumen, knowledge of community issues, and commitment to equity will make him an excellent addition to this commission. I look forward to working with him.
- Please join me in welcoming J.R. to the Building Inspection Commission.
- Coming up in our meeting today, we'll have a report on the Department's investigation into soft-story retrofits in which a gas line is embedded in a grade beam or foundation element. Thank you to the DBI team, led by Jeff Buckley, who did great work on this issue in collaboration with PG&E. The report is clear and thorough, and should put the public's mind at ease about the safety of these retrofits. Good work DBI team.
- Finally, as we approach the holidays and the end of the year, I want to thank the staff at DBI for their hard work throughout what was again a very challenging year of this pandemic. At the beginning of 2021, the department was still closed and looking for innovative ways to get more permits issued. Now, the Over-the-Counter service is working well, the department offers Electronic Plan Review for all in-house review projects, we've worked through the backlog, we've got a new executive team in place, and we've made so much progress. Great work to the team, and I know next year is going to be even better.
- Thank you for attending our virtual Commission meeting today, and please continue to participate in our public process, wear your mask, keep your social distance, and get boosted. Happy holidays to everyone!

There was no public comment.

RAMAYTUSH OHLONE LAND ACKNOWLEDGEMENT

The Building Inspection Commission acknowledges that we are on the unseeded ancestral homeland of the Ramaytush Ohlone, who are the original inhabitants of the San Francisco Peninsula. As the indigenous stewards of this land and in accordance with their traditions, the Ramaytush Ohlone have never ceded, lost, nor forgotten their responsibilities as the caretakers of this place, as well as for all peoples who reside in their traditional territory. As guests, we recognize that we benefit from living and working on their traditional homeland. We wish to pay our respects by acknowledging the Ancestors, Elders, and Relatives of the Ramaytush Ohlone community and by affirming their sovereign rights as First Peoples.

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

Mr. Ross Levy, Architect and resident of San Francisco for 25 years, said he was calling to address the movement to eliminate the Administrative Bulletin (AB) from the Building Code to get special dispensation, the removal would render buildings in the City not in compliance with the Code and would make future projects next to impossible because of the unique conditions in this dense city of San Francisco. Mr. Levy strongly encouraged the Commission to consider that ABs are important and should not be removed without the public’s input and due process.

President McCarthy called Agenda item #6 to be heard at this time, and all Commissioners were in agreement.

6. Discussion regarding Information Sheet EG-02 – Emergency Escape and Rescue Openings to Yard for Existing or New Building of R-3 Occupancies.

Mr. Neville Pereira, Deputy Director of Plan Review Services, gave a presentation and update as follows:

- Background of Section 1030 Emergency Escape and Rescue (EER)
- What is Affected
- Info Sheet EG-02
- What Changed
- What Now
- Options Under Consideration

Public Comment:

Email by Ms. Georgia Schuttish was read by Secretary Harris as follows:

“This is a very important issue. I became aware of this in a real-world experience with a project across the street from me at 463 Duncan Street. This project is an expansion of a 1927 Marina style house by adding a unit below the existing garage. To do this required a full lot, 12 ft. deep excavation. The project was approved by the Planning Commission after a Discretionary Review hearing. During DBIs review it was discovered that two of the three bedrooms did not have legal egress. The architect changed their designation to non-sleeping rooms. At the Board of Appeals, it was required that the unit have at least two bedrooms. The rear yard was reduced to near the 25% line and became a cement patio...and was 12 feet below grade. The first solution was an internal spiral staircase into the garage area but that didn’t fly. The second and ultimate solution was a ladder in the light well from each bedroom up to the roof of a setback for the upper unit and then into the backyard or possibly the deck of the upper unit. Even without rescinding DBI Information Sheet EG-02, this seems very minimal and dangerous. As I said at the hearing today, I don’t think anyone would really want their children or elders sleeping in such a room. I use this example because, it is a real world example being constructed right now and major excavations like this are not considered by the Planning Commission, but are considered DBI’s responsibility.”

Mr. Jeremy Paul, a Permit Consultant working in San Francisco over 30 years, said that there was no basis for this or sudden uptick in injury or death, or hazard to firefighters, or residents. San Francisco needs to protect its housing resources and opportunities to create more housing resources and to continue the type of pattern that has proved safe for so many decades, otherwise San Francisco would lose the urban aspects we love. We need to staunchly defend our ABs that were put together with thousands of hours of time of

developing solutions to live in a fully developed environment and to not have the ABs tossed aside by what seemed to be a whim.

Mr. Ross Levy, Architect and resident, agreed with the previous caller regarding unique conditions in San Francisco. We do not want to compromise life safety and at the same time we want to encourage the urban development that San Francisco is known for and required to produce housing in accordance with new state mandates and new regulations, SB9 and SB10. We encourage continued public conversation of this Administrative Bulletin. He thanked Deputy Director Neville Pereira for engaging the design community in productive conversation to produce viable alternatives or modifications.

Mr. Les Weisbach said the decision made by Mr. Pereira and the Deputy Fire Marshall was short sided and had caused trouble with plan checkers now having to reject renovation work due to work triggering this access requirement and the suspension should be immediately revoked and the public should have been included in the decision.

Ms. Heidi Levis, an Architect in San Francisco, said the revocation of EG-02 affects the majority of her projects and asked if there had been an issue of life safety that caused implementation of the revocation? Ms. Levis was also concerned that homeowners would call a rear bedroom an office by not allowing rear facing bedrooms.

Mr. Yakuh Askew, an Architect in San Francisco, said that single family homeowners would misinterpret what they are using their homes for. For example, calling bed rooms studies or libraries. The suspension of EG-02 does not make anything safer, but it would make things worse. In surveying the City, there is a lot of impracticality of trying to connect the rear to the front on a lot of properties.

Ms. Cary Bernstein said she is an owner and lives in a 2-unit building, and the lower unit is entirely in the back. There is no front option for egress but the property has a direct stair down to the backyard. The removal EG-02 would deem her unit to not have any bedrooms and would no longer be an apartment, which would take away from the housing stock.

Commissioner's Questions and Comments:

Assistant Fire Marshall Rich Brown gave some background on Information Sheet EG-02 and how it became suspended. Mr. Brown explained that it was an agreement between the Fire Marshall and a previous Department of Building Inspection Director. Another agency requested a Code interpretation at the State Fire Marshal level. Plan Checkers noticed some creative designs that were not meeting the Fire Department access requirement around the COVID closures. The Fire Marshall requested to remove the information sheet from the website in order to have further discussion on it.

7. Update and discussion on the Department's oversight and safety of construction conducted under the mandatory soft-story retrofit program.

Policy & Public Affairs Director Jeff Buckley gave a presentation on the Gas Lines Through Grade Beams in Soft-Story Retrofits and discussed the following items:

- Audit Process – Reviewed 4,942 properties subject to the program
- Audit Process step 1 – Reviewed all inspection records
- Audit Process step 2 – Partnered with PG&E

- Audit Process step 3 – Compared foundation layouts and details
- Audit Process step 4 – PG&E visits properties
- Audit Process step 5 – DBI conducts site inspections
- Next Steps

Mr. Derek Kent of PG&E said some of the troubles with running 75 service replacements would not be outside of the typical dealings with San Francisco; However, the ask of DBI was if the meter needed to be relocated to get assistance with inspecting those buildings and encroachment permits from the Department of Public Works. PG&E planned to do a joint letter with DBI which had lists of resources for the property owners to be able to speak to a live person once the work is underway.

Public Comment:

Mr. Francisco DeCosta said he had been following the program for ten years and about five years ago the Department of Building Inspection and some of their advocates found this program was a very slow process. Mr. DeCosta explained he was involved with two properties at 4917 3rd Street and 5021 3rd Street and it cost a lot of money to work with PG&E. He said they are not very cooperative, sent inspectors and took a long time, it is very important to address as for needs assessments and those can be done in many ways but inspectors only do them in one way, but there are thousands of homes that were not incorporated in this inventory. Mr. DeCosta said there was a similar issue in the Presidio he had experience with and the Department should have empathy with the San Franciscans, because it costs a lot of money and not everyone will be able to afford it.

President McCarthy closed Public Comment.

Commissioner Alexander-Tut asked if the Department had the number of ‘OK to pour’ without PG&E sign off?

Mr. Buckley said that the Department did not have that number.

Commissioner Alexander-Tut said that she was not hearing in the report if the Department did anything wrong, if there was a problem, and how widespread the problem was. She said she understood the solution and that DBI was taking next steps to work with PG&E; However, there was not much in the report in regard to how the Department got to this place initially, and she was looking for lessons learned and possibly what not to do.

Mr. Buckley said what the Department understood from the Board and the public was a concern of safety and the way that DBI was able to address the safety issue was based on the data available to first identify where a pour occurred, and then finding where this condition existed within the City. Ultimately, the safety issue was addressed knowing how PG&E upgrades their gas lines which provides a more flexible pipe that is installed and runs through the older pipe. As a result, the Department felt that addressed the issue would the pipe withstand an earthquake. Increased coordination with PG&E has been identified as one of the next steps along with providing training. The information sheet contains clear instructions to contact PG&E.

Commissioner Alexander-Tut asked if the property owners or tenants knew of the list of 75 properties.

Mr. Buckley said that the investigation from the DBI side did not include gaining access to the

properties, and staff had not contacted the 75 building owners, but would do so in coordination with PG&E at a time to be determined. Also there would be an effective construction work time of notice for each site, and as of today no tenants had been notified.

Commissioner Alexander-Tut said that she wanted to remind everyone that at the last meeting regarding this topic there was public comment from the tenant community requesting to be notified, then asked if the construction work was external and how much burden would be left upon the owners and tenants?

Mr. Derek Kent replied that impact to the customer would be a temporary outage and disruption in gas service depending on the time of year and type of building. The financial component now that PG&E is aware of the conditions and its due diligence to upgrade these pieces to current Code, and are not looking for the City to fund it.

Commissioner Eppler asked if there was a difference in the type of way gas lines were upgraded and what would be happening with these lines going forward.

Mr. Kent from PG&E said that one of the first questions asked was can the meter be moved to a safer location, and typically it was found that some meters had been installed during the 1920s and 1930s and not in a necessarily preferred location. The casing was mostly for risers inside the structure and if moved outside no casing or sleeving is required, but space in the City would be a factor to move meters outside. When relocation is found not possible then next steps were to pull the meter apart, deactivate old steel pipe, insert plastic pipe through the steel at the riser to the curved valve.

Commissioner Eppler asked of the 246 properties upgraded by PG&E going to 148, were those not entered into the system properly or were those different from the ones identified through the database?

Mr. Kent stated that when talking of the gas line replacement program they are speaking of replacement of the main and service laterals where typically the whole block is replaced. If there is a hazardous leak PG&E will replace the service and a lot of the replacements were through other programs not necessarily the Gas Pipeline Replacement Program (GPRP). Generally, the scoring for the block being hot will trigger a main replacement which would not be under the GPRP.

Commissioner Eppler asked about the data being mismatched.

Mr. Kent replied that PG&E used their service records and not necessarily the GPRP records, which has been electronic for the last 9 to 10 years. Any cased pipes that would have been done on the wrong side of the service would have been flagged during the digitization for further investigation.

Commissioner Eppler asked Mr. Buckley who deferred to Senior Inspector Matthew Greene, if during an inspection if concrete had been poured incorrectly, should that have been noted and remediated even though new concrete is not being poured at the time.

Senior Inspector Matthew Greene responded that the Inspector would be looking at the job at hand and not necessarily a previous pour, however a Notice of Violation may be served if a hazard were found.

Commissioner Eppler asked regarding the 16% identified Retrofit Program buildings not in compliance, were they in the enforcement process.

Mr. Buckley said the Department tracked that information and distributes it monthly that non-compliant

buildings are in Tiers 2, 3, and 4 and would be able to further explain those processes at another Commission meeting.

President McCarthy thanked PG&E and DBI for their presentation and delivering the report due to the spectacular hearings around the subject as Commissioner Alexander-Tut pointed out. Next steps were to make comments on the report to be finalized and then have the report brought back to the Board of Supervisors. President McCarthy asked regarding the 75 buildings if it was possible that those would pass the safety inspection or the findings are positive that all 75 needed upgrades.

Mr. Kent said PG&E has fielded those and concluded that replacement was necessary.

4. 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.**

Commissioner Alexander-Tut asked about an issue before the Planning Department regarding 628 Shotwell for converting a residential building into a one-unit building.

Interim Director O'Riordan stated that a change of use typically goes to Planning before it goes to the Department of Building Inspection.

- 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 stated that the next Regular Meeting would be on January 19th, and there may be a Special Budget hearing the week of January 25th, but she would reach out to coordinate schedules.

Commissioner Bito asked about the follow up regarding EG-02 prescriptive method presentation by Deputy Director Neville Pereira.

Commissioner Alexander-Tut asked if the Board would meet in person beginning January 2022 or continue virtual meetings.

Secretary Harris said the meeting was still being held via virtually in January.

Public Comment:

Mr. Francisco DeCosta, The Director of Environmental Justice Advocacy, said they had been addressing quality of life issues, housing, and transportation. This was addressed at the Planning Department and Land Use and they had found missing was in view of climate change role of DBI was important and should be in sync with Planning and Board of Supervisors, Land Use, Permitting, and most importantly San Francisco should be embracing its young people. There are gallons of water leaking into the ground. The Department knows you need concrete for a building, which is where the carbon dioxide comes from but the Department does not know that one ton of methane gas equals 22 tons of carbon dioxide. The agenda items need to be outside the box, and the chairperson is a good person and knows some of the Inspectors. We need to do our best for the children.

5. Discussion and possible action to adopt a Ramaytush Ohlone land acknowledgement resolution. Commissioner Alexander-Tut made a motion, seconded by Vice President Tam, to adopt the

Ramaytush Ohlone Land Acknowledgement.

Secretary Harris called for a Roll Call Vote.

President McCarthy	Yes
Vice-President Tam	Yes
Commissioner Alexander-Tut	Yes
Commissioner Bito	Yes
Commissioner Eppler	Yes
Commissioner Moss	Yes
Commissioner Sommer	Yes

The motion carried unanimously.

RESOLUTION NO. 058-21

8. Update regarding the Client Services Sub-Committee.

Commissioner Bito updated the Board on the presentation given by Megan Wall Shui and Assistant Director Christine Gasparac regarding Building Inspection Permit Applications as follows:

- Delivering the highest level of customer service.
- Perform inspections to enforce codes and standards to ensure safety and quality of life
- Proactively engage and educate customers, contractors, and stakeholders on DBI's services, functions, and legislated programs.
- Review plans and issue permits safeguarding life and property in compliance with city and state regulations.
- Utilize efficient and effective administrative practices.

9. Director's Report.

a. Update on DBI's finances.

Deputy Director of Administration & Finance Taras Madison gave an update on DBI's finances and discussed the month of November 2021 items:

- Revenues are similar to prior months and have a steady increase.
- Expenditures are at same level as last fiscal year, usually flat in first six months of fiscal year.

b. Update on proposed or recently enacted State or local legislation.

Mr. John Murray, Legislative and Public Affairs Manager, gave an update on recently enacted State or local legislation and addressed the following items:

- Supervisors Melgar, Peskin, Ronen, and Mandelman introduced a Charter Amendment to change DBI's mission, removing dedicated seats, and having the Mayor select the Department's Director; will be on the June 2022 ballot.
- Supervisor Haney introduced an Ordinance to combat wage theft in the construction industry, requiring sponsors for particular residential projects to post a bond with the Controller's office to cover potential determinations of violators of City Labor protections, would require Department of Building Inspection to check with the Controller that the requirements had been met before

issuing a permit for those projects.

- Supervisor Preston introduced an item de-appropriated \$200K from the Mayor’s Office of Housing and Community Development and re-appropriated to DBI for tenant outreach in HUD funded buildings as an expansion of the SEAONC program.

c. Update on major projects.

Mr. Patrick O’Riordan, Interim Director, gave an update on major projects as follows:

- 12% increase in November for Construction valuation
- .87 decrease in units or 396 units

d. Update on Code Enforcement.

Mr. Joseph Duffy, Deputy Director of Inspection Services, gave an update on inspections for November 2021 as follows:

- Building Inspections performed November 4,557
- Housing Inspections 684
- 53 Cases sent to Directors Hearing
- Issued 20 Orders of Abatement
- Code Enforcement Inspections 168
- Plumbing Inspections 2,739
- Electrical Inspections 2,568

Deputy Director of Inspection Services, Joseph Duffy, presented the following Building Inspection Division Performance Measures for November 1, 2021 to November 30, 2021:

- | | |
|---|------|
| • Building Inspections Performed | 4557 |
| • Complaints Received | 383 |
| • Complaint Response within 24-72 hours | 380 |
| • Complaints with 1st Notice of Violation sent | 52 |
| • Complaints Received & Abated without NOV | 186 |
| • Abated Complaints with Notice of Violations | 28 |
| • 2nd Notice of Violations Referred to Code Enforcement | 18 |

Deputy Director of Inspection Services, Joseph Duffy, presented the following Building Inspection Division Performance Measures November 1, 2021 to November 30, 2021:

- | | |
|---|-----|
| • Housing Inspections Performed | 684 |
| • Complaints Received | 322 |
| • Complaint Response within 24-72 hours | 311 |
| • Complaints with Notice of Violations issued | 134 |
| • Abated Complaints with NOVs | 238 |
| • # of Cases Sent to Director's Hearing | 15 |
| • Routine Inspections | 54 |

Deputy Director of Inspection Services, Joseph Duffy, presented the following Building Inspection Division Performance Measures for November 1, 2021 to November 30, 2021:

• # Housing of Cases Sent to Director’s Hearing	53
• # Complaints of Order of Abatements Issues	20
• # Complaint of Cases Under Advisement	0
• # Complaints of Cases Abated	63
• Code Enforcement Inspections Performed	168
• # of Cases Referred to BIC-LC	4
• # of Case Referred to City Attorney	4

Deputy Director Duffy said Code Enforcement Outreach Programs are updated on a quarterly basis, so there is no change in data until next quarter:

• # Total people reached out to	79,976
• # Counseling cases	1,099
• # Community Program Participants	5,548
• # Cases Resolved	478

Public Comment:

Mr. Francisco DeCosta said contractors are having a hard time with bonding. A lot of legislation was passed but nothing is being done, for example to continue building skyscrapers but where would the water come from. Mr. DeCosta said he represented the first people of San Francisco, the Muwekma Ohlone and stated the website as a reference. Mr. DeCosta also said he wanted to recognize Joe O’Donahue for his role in creating the Department of Building Inspection.

10. Review and approval of the minutes of the Regular Meeting November 17, 2021.

Vice President Tam made a motion, seconded by Commissioner Moss, to approve the minutes of the Regular Meeting of November 17, 2021.

The motion carried unanimously.

There was no public comment.

RESOLUTION NO. 059-21

11. CLOSED SESSION (ACTION ITEM)

Public Employee Appointment – Director of the Department of Building Inspection.

a. Public Comment on all matters pertaining to the Closed Session.

Secretary Harris called for Public Comment and there was none.

b. Possible action to convene a Closed Session.

Vice-President Tam made a motion, seconded by Commissioner Moss to convene a Closed Session.

Secretary Harris called for a Roll Call Vote:

President McCarthy	Yes
Vice-President Tam	Yes
Commissioner Alexander-Tut	Yes
Commissioner Bito	Yes
Commissioner Eppler	Yes
Commissioner Moss	Yes
Commissioner Sommer	Yes

The motion carried unanimously.

RESOLUTION NO. 060-21

- c. CLOSED SESSION: Pursuant to Government Code Section 54957(b)(1) and the San Francisco Administrative Code Section 67.10(b).**

The Commission convened a Closed Session at 1:13 pm.

- d. Reconvene in Open Session to vote on whether to disclose any or all discussions held in Closed Session (Administrative Code Section 67.10(b)).**

The Commission reconvened in Open Session at 1:55 p.m.

Vice-President Tam made a motion, seconded by Commissioner Moss, to reconvene in Open Session and to not disclose discussion held in Closed Session.

Secretary Harris called for a Roll Call Vote:

President McCarthy	Yes
Vice-President Tam	Yes
Commissioner Alexander-Tut	Yes
Commissioner Bito	Yes
Commissioner Eppler	Yes
Commissioner Moss	Yes
Commissioner Sommer	Yes

The motion carried unanimously.

RESOLUTION NO. 061-21

President McCarthy mentioned that the process for the Director of the Department of Building Inspection would continue.

12. Adjournment.

Commissioner Alexander-Tut made a motion, seconded by Vice President Tam, to adjourn the meeting.

The meeting was adjourned at 2:00 p.m.

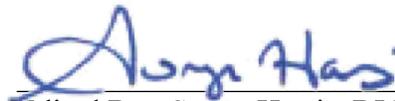
RESOLUTION NO. 062-21

SUMMARY OF REQUESTS BY COMMISSIONERS OR FOLLOW UP ITEMS	
Commissioner Eppler asked where the 16% of non-compliant buildings were in the enforcement process, and Mr. Buckley advised going over that process going forward during another Commission meeting. –Eppler	Page 6

Respectfully submitted,



Monique Jones, Assistant BIC Secretary



Edited By: Sonya Harris, BIC Secretary