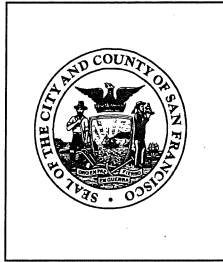


***BIC Meeting of  
August 15, 2012***

***Agenda Item #9***



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

**REGULAR MEETING**

**Wednesday, May 16, 2012 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 10:35 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, **Commissioner**

Debra Walker, **Commissioner**

Sonya Harris, **Secretary**

Warren Mar, **Vice-President**

Kevin Clinch, **Commissioner**

Myrna Melgar, **Commissioner**

**D.B.I. REPRESENTATIVES:**

Vivian Day, **Director**

Edward Sweeney, **Deputy Director, Inspection Services**

Pamela Levin, **Deputy Director, Administrative Services**

William Strawn, **Communications Manager**

**CITY ATTORNEY REPRESENTATIVE**

John Malamut, **Deputy City Attorney**

**2. President's Announcement(s).**

President McCarthy thanked Howard Zee and Neil Friedman for receiving letters of appreciation from the public. He also thanked Brett Howard, Bernadette Perez, Ron Dicks and Vice-President Mar for their representation of DBI at Cinco de Mayo. President McCarthy said that the Commission was joining Director Day in wishing staff all the best during the month of May which is Building Safety Month. The President reported that with the help of Patty Herrera, Hemma Nekkanti and their staff the 3-R reports were now able to be ordered on line.

President McCarthy stated that he had spent a few hours in the Department with the 3-R staff to get a better understanding of the submission process. The President said that he spent a few hours at the Department and came away with a good understanding of how intense that work is and how specialized it is due to legal aspects. President McCarthy said that he would highly recommend that other Commissioners visit this division to get a better insight into what goes into getting a 3-R

and updating records.

President McCarthy announced that DBI is taking part in Project Pull which is the project that hires high school students as interns during the summer and said that he looks forward to hearing how that program works out.

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

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

There was no public comment.

**4. Presentation by the Department of Human Resources and the Department of Building Inspection on the City's hiring process, and status of vacant positions within DBI.**

Deputy Director Pamela Levin said that she was happy to announce that a number of staff from the Department of Human Resources (DHR) was going to be giving a presentation on the City's hiring process and the status of vacant positions at DBI. She introduced staff from DHR, Director Micki Callahan, Deputy Director Ted Yamasaki, Kerry Ko of client services and John Kraus who is over exams; Minish Goyal the Mayor's Budget Analyst who is also involved in the process was also present.

DHR Director Callahan said that under the Charter DHR is responsible for insuring that all selections and appointments are done pursuant to civil services and merit rules and principles. DHR does open and competitive hiring and all must be done on a merit basis. Director Callahan stated that she was turning the presentation over to Mr. Kerry Ko for the first phase of DHR's report.

Mr. Ko gave a general overview of the hiring process which included:

- **Budget** – Annual Salary Ordinance; Funding for each position identified; Position authority
- **Requisition** – Review for availability of funds; Review for appropriate use of class; Authority to fill
- **Examination** – Governed by Civil Service Rules
- **Referral** – Governed by Civil Service Rules; "Eligibles" referred for consideration
- **Post Referral Process** – Best fit among reachable eligibles; Panel Interview; May include written exercise
- **Onboarding** – Employment History and Reference checks; Conviction History Checks; Appointment Processing

The Department usually does a panel interview and a rather informal interview which is different from the oral examination or there may be a written exercise or performance exercise as well. This is rather flexible and the Department does have some discretion on that; this is a process by which the Department has made its selection of who it thinks is the best match for the position and will

then do a check of references, a background of work, a conviction history, the final appointment processing and signing of paper work.

Commissioner Walker asked about the eligible lists. Mr. Ko said that with eligible list there is a certification rule attached to that list and in many cases, the default certification rule is the rule of the three highest scores which really does address the issue if a candidate has to be taken from the top down. In that case, if there is only one position available a candidate from the top three has to be hired. As the number of positions increases and the referral is issued to two or more positions the Department gets to reach more people or more scores on the eligible list.

Mr. Ko, Mr. Kraus, Mr. Yamaski and Mr. Goyal proceeded with the presentation to explain DHR processes:

### **REQUISITIONS**

- Must be issued against an approved funding source in the Annual Salary Ordinance (ASO)
- Temporary requisitions may be issued against temporary salaries
- Review by Mayor and Controller for availability of funds
- Review by DHR for appropriate use of class
- Once approved, provides authority to begin examination process

### **RECRUITMENT AND EXAMINATION**

#### **Laws, Regulations, Rules, Guidelines, Standards**

- Civil Service Commission Rules & City Charter
- CA Regulations – Local Gov't Personnel Standards
- Civil Rights Act 1964 (Title VII)
- Landmark Supreme Court Decisions
- Federal Uniform Guidelines on Employee Selection Procedures
- Principles or the Validation and Use of Personnel Selection Procedures – SIOP
- APA Standards – Educational & Psychological Testing

### **RECRUITMENT AND EXAMINATION REQUIREMENTS**

- Testing must be based on merit and fitness
- Test makers must conduct a suitable job analysis
- Test content must be job related and representative of content of the job (also a business necessity)
- Testing must be competitive – the test must use a scoring system that can select from among the applicants those who can perform the job better
- All applicants and candidates must be treated in a fair manner and be given an equal opportunity
- Test should not discriminate against protected class members
- Applicants and candidates must be provided with due process

### **RECRUITMENT AND EXAMINATION PROCESS PHASES**

- Job Analysis
- Develop Exam Plan

- Document & Spec Update (Respond to Protests if any)
- Announce Job and Recruit
- Develop Exam & Rating Criteria
- Determine Applicant Eligibility (Respond to Protests if any)
- Schedule & Administer Test (Respond to Protests if any)
- Score Examination
- Issue List (Respond to Protests if any)

### **Job Analysis Process**

- Recruit and select job experts (SMEs)
- Gather job information & develop preliminary job analysis (JA) questionnaire
- Finalize questionnaire with (SMEs)
- SMEs rate job tasks & knowledge, skills and abilities (KSAs) on questionnaire
  - Frequency
  - Criticality
  - Differentiate
  - Identify what is needed at entry vs. learned on job
- **Data Analyzed and Used to Help Decide**
  - What to Measure (e.g., important entry KSAs)
  - How to Measure (e.g. Test type, direct/indirect)
  - Linkage of KSAs to Help Assure Close Match Between Test & Job Elements
  - Test Weights – Based on Task and KSA Importance
  - Ranking/Qualifying Instrument
- **Documentation**

## **RECRUITMENT AND EXAMINATION PROCESS PHASES**

### **Process Phases**

- Job Analysis
- Develop Exam Plan
- Document & Spec Update? (Respond to Protests if any)
- Announce Job & Recruit (Respond to Protests I any)
- Develop Exam & Rating Criteria
- Determine Applicant Eligibility (Respond to Protests if any)
- Schedule & Administer Test (Respond to Protests if any)
- Score Examination
- Issue List (Respond to Protests if any)

### **POSITION-BASED TESTING (PBT) – Department or CLASS-BASED TESTNG (CBT) – Citywide**

- Position is unique within a job classification
- Urgency to fill position(s)
- Expected size of applicant pool & number of positions to fill

- Citywide hiring activity in the class
- Resources to develop and conduct exams
- Is it a pre-approved PBT class
- Job analysis current?

### **CBT/PTB COMPARISON**

#### **Class-Based Tests**

##### **(Done mostly by DHR)**

- Broader job analysis
- 10 day minimum announcement
- 5 day inspection period
- Referral notice after 30 days
- Appeal anything to CSC
- Tentative eligible list
- Promotive points – limited
- List life 6 months minimum
- No sharing of eligible lists

#### **Position-Based Tests**

##### **(Done mostly by Individual Depts)**

- Position targeted job analysis
- 5 day minimum announcement
- 3 day inspection period
- Referral notice after 15 days
- Limited appeals to CSC
- No tentative list
- Promotive points – if 6 months exp.
- List life 3 months minimum
- Agencies can share eligible lists

### **DBI PRIORITY EXAMINATIONS**

#### **The following lists to be developed by September 2012:**

- 5214 Building Plans Engineer
- 6331 Building Inspector
- 6333 Senior Building Inspector
- 6334 Chief Building Inspector
- 6270 Housing Inspector

President McCarthy thanked staff from DHR for coming to the BIC and for making such an informative presentation to help the Commissioners understand the process. President McCarthy asked if any of the Commissioners had any questions.

Vice-President Mar said that he understood that this is not just a cut and dry process, but said that since it is going to take some time to get tests ready and to get actual staff on board he thought that

it would be helpful if DBI could bring back more Prop F, retired employees in order to get plans checked and in order to generate money for the Department and for the economy.

President McCarthy asked about the City practice of having to keep open positions. Ms. Levin explained that DBI's number of open positions was not actually any higher than other departments. President McCarthy said that since the Department was generating more money DBI should be able to hire more people. Ms. Levin explained that it was not automatic and that if the Department were to earn more money DBI would still have to go back to the Board of Supervisors for the authority to spend. Commissioner Melgar said that DBI is not tied to the General Fund so it should be easier for DBI to hire. Ms. Levin said that this was somewhat true, but not a reality.

Commissioner McCray asked if all of the jobs listed were position based. Ms. Levin explained that the Department can hire some of the positions themselves, but on other positions where testing is needed DHR will lend their assistance. Ms. Levin assured the Commissioners that the Department and DHR are working together to get all the required positions filled as soon as possible.

President McCarthy said that the Department had gone through a very difficult time with having to lay off so many people in the last couple of years and now that the economy is getting better it is taking a long time to fill those much needed positions again. President McCarthy asked if DHR could give DBI a timeline as to when positions might be filled; does it take six months, or a year?

Mr. Yamaski said that DHR are trying to make sure that the lists are viable and ongoing so that DBI is able to hire when positions are needed. Mr. Yamaski stated that DHR is very aware of DBI's specific needs and have been working diligently with Director Day to meet those needs.

President McCarthy thanked everyone for their presentation and said that the Commission would like to be kept informed about the hiring progress.

Mr. Sean Keighran of the Residential Builders Association stated that he wanted to bring some historical content to this discussion and said that four or five years ago the Department and the industry went through an extensive BPR process that outlined goals, objectives, recommendations and performance standards for DBI. Mr. Keighran said that it was understood at that time that for some of these changes to take place more resources would be needed and fees would have to increase to pay for those resources. Mr. Keighran said that the industry agreed to higher fees for better service and said that this issue affected staff, the industry, property owners and tenants, however, then came the economic collapse and the Department went through some tough times. Mr. Keighran stated that the financial wind will soon be changing and that the Department owes it to all of these stake holders to act in a prudent and responsible fashion. Mr. Keighran said that the Commissioners need to take responsibility for staffing DBI and for not putting extra stress on staff and the industry.

There was no further public comment.

President McCarthy asked if Item #6 could be heard next as there seemed to be public present to speak. There were no objections.

**6. Discussion on ADA issues affecting small business owners regarding State Bill 1608.**

Director Day explained DBI's efforts in enforcing the ADA issues affecting Small Business Owners regarding State Bill 1608. Ms. Day explained that the Department is training more Inspectors and Plan Check Engineers to be able to help the public deal with ADA regulations. Ms. Day said that local Building Departments are not responsible for enforcing the Access requirements of the Americans with Disabilities Act; however, they are required to enforce State and local Building Code which have incorporated the Federal requirements. Ms. Day stated that DBI does have one CAPs Inspector in house and hopes to have more by January 1, 2014 when there will be new requirements by the Federal government. Ms. Day said that local Building Departments are not authorized to elect to enforce the Federal Access Requirements; however, they are required to enforce State and local Building Codes which have incorporated the Federal requirement.

Director Day said that DBI is not proactive in going out and finding ADA complaints; the Department is reactive as people can call in and file ADA complaints with DBI. DBI then sends out an Inspector, but if there is a Federal requirement, the local Building Department cannot enforce it unless it is in State Code. Ms. Day stated that State Code has to be enforced by the California Attorney General; DBI's are to provide consultation the local agency, permit applicants and members of the public on compliance with State construction related accessibility standards.

Director Day stated that one of the major problems is usually the entryway into the building and that is something that the Department is working on with Public Works, Planning and the Small Business Organization. Director Day said that DBI trying to help people with temporary problems or a removable solution so they are not getting hit with drive-by lawsuits that were happening in the past. Ms. Day said that DBI is doing its best on these issues and will be training Inspectors and Plan Check Engineers on the Federal and State Accessibility Laws; however DBI cannot enforce Federal Laws. Ms. Day stated that there is information from the California Chamber of Commerce and said that the Chamber of Commerce provides information to the Small Business Community on the Access Laws and has a website available to them.

Commissioner Melgar asked if the training for the Plan Checkers and Engineers is in the budget for this year or next year. Director Day said that it is in the budget for this year; for every year thereafter, it is part of the certification process for any Building Inspector or Plan Checker to have eight hours of disability training. Director Day stated that as things change new seminars will be available.

President McCarthy said that he wanted to be respectful of some of the business owners that were present to speak on this issue and called for public comment.

Mr. Roozbeh Falahati said that his father was the owner of Hamburger Haven for over 40 years and was recently hit with an ADA lawsuit. Mr. Falahati said that unfortunately this is a tax that has to be paid to do business in the City these days. Mr. Falahati stated that Ms. Day mentioned that DI cannot enforce the Federal Law, but asked if there is something that the City or County can do to educate business owners about their rights and responsibilities under the ADA. Mr. Falahati said that there is a huge misconception out there among business owners that there is some sort of grandfather clause that if your business was established prior t 1990 the ADA will not apply unless



changes are made to the property. Mr. Falahati asked what the City is doing to educate Small Business Owners. Director Day said that the Department is responsible for anything that is construction related; the Small Business Administration has a problem where they educate and do outreach programs on the ADA issues. Ms. Day stated that DBI has been to several public meetings with the Small Business Administration to help educate what can be readily achievable, but said that every business is different. Mr. Falahati said that this was the problem as the Small Business Association does not have the resources to go out and do the outreach required to speak with the business owners regarding this issue. Mr. Falahati stated that pamphlets have been sent out, but said that it is clear that this has had little to no impact at all. Mr. Falahati said that it is difficult for Small Business Owners to comply with ADA laws when no one can interpret them.

Mr. Dermot Call said that in 2006 he received a lawsuit in excess of \$180,000 because there was a step in the front door of his business and a customer claimed mental distress as a result. Mr. Call stated that this lawsuit dragged on for two years and was settled out of court in 2008; the complainant received about 70% of \$40,000 with the rest of it going to some advocate groups. Mr. Call said that his brother had to sell his house because he was depending on the bar for his income. Mr. Call said that ADA is a moving target and that even though the Abbey Tavern fully complied in 2008 changes have been made and he could still be sued. Mr. Call said that the Abbey has been visited by wheelchair people with measuring tapes and a bag full of tools and said that he feels vulnerable that there is no one to help out the owners in these cases. Mr. Call stated that whenever there are new regulations the City should inform the owner that they are not in compliance.

Ms. Gwen Sanderson said that she owned a video store in Noe Valley for the past seven years. Ms. Sanderson stated that she is now in a lawsuit that she is hoping to resolve by the end of May. Ms. Sanderson said that she does not have any money to pay those that are bringing the lawsuit, but said that she did her best to comply, but had a hard time as Architects across the country do not agree on solutions for the State and experts that she spoke to could not agree on a solution for her space. Ms. Sanderson stated that she sees DBI as being responsible for businesses mistakenly thinking that they are compliant from past grandfathering and from approvals where ADA was never addressed. Ms. Sanderson said that the way it is now these unlicensed, uncertified people working for these litigants will reshape the City, instead of the City being in charge of it. Ms. Sanderson said that DBI needs to put some lines in place in the situations that are the easiest to do and work with the businesses to provide a plan everyone can work with.

Mr. Michael Levin introduced himself as an Architect in San Francisco and said that he came to the meeting to discuss Item #8 which is regarding Section 1205 of the Building Code. Mr. Levin said that he had a prior commitment and requested being able to address his public comment at this time. Deputy City Attorney explained the process that would have to take place to allow this and President Angus said that he would respectfully decline Mr. Levin's request as it would take too much time. Mr. Levin said that he would leave his comments for the record.

Commissioner Walker said that this issue is frustrating for everybody, but said that part of the problem is an issue of educating and treating the public proactively. Commissioner Walker suggested working with the Mayor's Office of Disability and the Access Appeals Board to put together a program for the business community in conjunction with the Small Business Commission. Commissioner Walker stated that it is important to make these small businesses accessible to everyone.

Commissioner Mar thanked the business owners that spoke about this difficult situation. Commissioner Mar said that he thought that DBI should discuss the with other City Departments as to what can be done locally and said that he thought that education was the way to deal with this issue even when it comes to tenants. Commissioner Mar stated that many times the City goes to the larger agencies for outreach, but a lot of the smaller and ethnic businesses do not belong to those associations or to the Chamber of Commerce.

Commissioner Lee suggested that the Department refer customers to outside lawyers or agencies that could help.

Commissioner Melgar asked if the City had the authority to overlay a regulatory infrastructure when there is a federal law. Commissioner Melgar also asked if the City had the authority to tell property owners what to put in their lease. Deputy City Attorney Malamut said that the City has no authority to regulate or interpret federal laws. Deputy City Attorney Malamut stated that on Commissioner Melgar's second question he did not have an immediate answer, but said that he had not seen any laws where the City imposes requirement on landlords to include specific terms in their leases.

Commissioner Melgar asked if the Department had done any research on what other cities such as Boston, New York or Los Angeles have done about this issue. Director Day said that DBI is based on the California laws, which are based on National laws; every City has their own laws, but they cannot relax federal laws; they can be more restrictive. Director Day said that the Department could check into other cities to see what is happening.

After much discussion among the Commissioners President McCarthy asked that this issue be reported on periodically and that the Department do its best to inform the public as businesses need to know where DBI stands on the issues with ADA. President McCarthy stated that it is very difficult for a small business owner to come in and get all of the permits they think they need to start up a business and then later find out that they have spent a great deal of money and are still not ADA compliant. President McCarthy said that he would like the Department to stay on the radar about this and show the community that DBI and the BIC understand the pain that property owners and business owners are going through trying to deal with these issues and open up the Department more if the client needs answers.

Director Day said that DBI does have a Technical Services staff that is available from 8:00 a.m. to 5:00 p.m. and said that they answer questions on this daily.

Commissioner Walker said that she thought it would be great to have the City Attorney be a little more proactive in educating the public as to what is happening so they are not surprised when businesses find out that they are not operating legally. Director Day stated that the Department could put together a notice similar to what the Small Business Association has already put together and hand it out with every permit for tenant improvement because DBI does check for California regulations on any tenant improvement plan that is checked. Director Day said that this could be something that could be discussed at the Public Advisory Committee meetings by making an effort to let the people representing the business community know when this issue is going to be on the agenda.

President McCarthy thanked everyone for their input and said that DBI and the BIC will certainly try to get this to the goal post that keeps moving on this issue.

**7. Discussion and possible action regarding a proposal to delete the exception to Section 1205.1 of the San Francisco Building Code requiring exterior glazed openings and natural light in habitable rooms of dwellings and congregate residences.**

There was no Department report for this item. The President called for public comment.

Mr. John O'Connor of the Residential Builders Association (RBA) said that Section 1205.1 was added to the 2010 San Francisco Building Code that was adopted in 2011 and prior to that time the Code allowed for secondary light and air in bedrooms. Mr. O'Connor said that this would greatly affect the rezoning of the Eastern neighborhoods that were rezoned for a limited density; many of the new buildings in that area will be infill projects and will only have light from the front and back of the buildings. Mr. O'Connor stated that this Code is more restrictive than the State Code and asked that this section be eliminated from the San Francisco Building Code and go back to the California Building Code to allow moving forward with many buildings as far as density goes. Mr. O'Connor said that he believed that this item was passed along with over 100 other items and was not vetted among the construction industry.

President McCarthy asked how this item came to Mr. O'Connor's attention. Mr. O'Connor spoke of a scenario where a building was 90% complete as it had been approved under the 2007 San Francisco Building Code and then when the project sponsor went back to get the permit they were not allowed because the Code had changed. Mr. O'Connor stated that the owners appealed to the Board of Examiners and the BOE upheld the approval of the project, but this was then referred back to the Code Advisory Committee and that was how it came to the construction industry's attention. The President asked if there had ever been a conversation with the stakeholders on this issue and Mr. O'Connor said that there was no conversation.

Mr. John Gall said that he was a project manager in the mid-Market area and is with a group of investors who want to invest in converting some older buildings into residential units. Mr. Gall said that the only problem is this natural light requirement and asked that the Commission remove this requirement from the San Francisco Code.

Ms. Amy Bogart, Mr. Sean Keighran, Kelly Buscovich, Jerry Bogart and Gary Gee all spoke regarding the issue of natural light and how cost prohibitive this Section 1205.1 is making it for project sponsors to create more residential units and higher density in many areas of the City. All of the speakers were in favor of deleting this section and going back to the 2002 UBC requirements. Some of the speakers were critical about the way this item was inserted into the Code with Green Building requirements and with no notification to the construction industry.

Commissioner Walker said that it was odd to be having a Code change proposal without it being presented by staff; it looks as if the Code Advisory Committee was also against this Code change. Commissioner Walker asked to hear from the Director and said she had a problem with DBI dealing with something that Planning generally has control over; the Eastern Neighborhoods Plan specifically about increasing density and at the same time removing or suggesting to remove the

access to natural light. Commissioner Walker said that she had a lot of personal concerns about this and said that it needed more discussion.

Director Day said that from what she understood this amendment was added with Code changes with the Department of the Environment; Mr. Laurence Kornfield worked to combine the California Residential Code, the Green Building Code and the San Francisco Building Code into one document. Director Day said that the only documentation she could find was the denial after the Board of Examiners approved the project mentioned earlier; the Amendment was then sent back to the Code Advisory Committee and the CAC still voted to keep the Amendment. Director Day stated that now we are asking the CAC to remove it. Director Day said that the Fire Marshall called her earlier today about this and wanted to make sure that everyone understood that this is for high rise buildings only and would not apply to any buildings that would still need egress windows which are required in every bedroom. Director Day said that unless this was added as part of the Green Building Code, it is an amendment to the San Francisco Building Code, which makes the San Francisco Code more restrictive than the California Code and can be removed if it is not part of the Green Building Code in another section.

Commissioner Lee said that he thought that the design experts would know how to use this amendment and said that he did not think that this should be eliminated from the Code.

Deputy City Attorney explained the Code process and said that the Director is responsible for putting forth Code changes. Director Day said that she could take direction from the BIC. Commissioner Walker said that her preference would be that this be addressed when the Director thinks that it is appropriate and when the issue comes up more often.

After much discussion between the Commissioners it was decided to get more information on this issue from the Code Advisory Committee and its subcommittees. Director Day stated that she could find out the background on this particular Code change and bring it back to the Commission.

President McCarthy said that this could be brought back at the next BIC.

#### **5. General update from the Litigation Committee on the process of dealing with outstanding cases.**

Commissioner Walker gave a brief overview of what she, Commissioner Clinch and President McCarthy do when they meet as the Litigation Committee every couple of months; these meetings are held in Closed Session due to attorney/client privilege. Commissioner Walker said that DBI does Code Enforcement where the Department tries to ensure that everyone doing work and providing housing for tenants in San Francisco are apply the Building Code. Commissioner Walker said that many times people are not complying and the Department is notified either through complaints from neighbors about apparent Code Violations on the exterior of a building or tenants within the building; blighted buildings are also an issue. Commissioner Walker explained that staff from DBI goes out to these properties and tries to resolve the issues, but if items cannot be resolved a Notice of Violation is issued. Commissioner Walker then explained the process that moves through the Department in conjunction with the owners of these properties which is very extensive and involves Director's hearings where both sides are given the opportunity to explain their cases and if things are not resolved some of these issues appear before the Abatement

Appeals Board which is made up of the BIC Commissioners. After all of these processes have been exhausted the Department may decide to bring the case to the Litigation Committee who will do their best to resolve the issue or may decide to hand the case over to the City Attorney's Office who will then send a letter saying that the Department will sue the owner if the violations are not cleared. Commissioner Walker said that the Department does get some help from the non-profit organizations to try to solve these violations before they become legal battles.

Commissioner Walker stated that currently there are some 80 cases that are open and outstanding and that there is approximately \$6M owed to the City because of these cases; if collected that money is often split with other City departments that may be involved such as Planning. Commissioner Walker said that even though awarded by the courts some of the money becomes uncollectible due to bankruptcies, etc. Commissioner Walker reported that there are still 40 cases where no settlement has been reached as they are in the various stages of the process.

Commissioner Walker said that it was Commissioner Melgar who requested this item and said that as a result the Litigation Committee will make a report every couple of months to give a brief description of the status of cases with the Committee in open session, but will not be able to discuss individual cases because of legal reasons.

Deputy Director Pam Levin said that there is a provision in the Business and Professions Code that requires a certain amount of money to be retained by the City Attorney's Office (CAO) to prosecute or address Code Violation issues and that is not something that DBI can change as it is State law. Ms. Levin explained that the Department tries to keep track of the monies spent and recovered on each case given to the City Attorney's Office, but said that it is very difficult as very few are solved within the same fiscal year and because the CAO's have a very small financial division. Ms. Levin displayed a report that shows that between fiscal years 2006/2007 through 2010/2011 that DBI has had expenses from the CAO in the amount of \$9 and have had revenues of \$5.5M (this is the entire report for all DBI/CAO activities, not just Litigation). Ms. Levin stated that this ratio has improved in the last couple of years and the Department seems to be getting in more revenue as cases are being ramped up and many have been solved.

Deputy Director Levin said that she does get reports from the CAO, but again said that many of the owners of these properties have gone bankrupt and the City is never going to be able to recover any of these monies. Ms. Levin stated that the Department remains vigilant in terms of making sure that something is being done on these cases and are trying to make sure that they are handled early on in the process.

Commissioner Walker said that she thought that the Litigation Committee was putting more pressure to get things resolved, but said that in a number of cases the owners have multiple property or units in violation. Commissioner Walker said that hopefully at the next Litigation Committee meeting the Committee would be able to put together a more comprehensive report that could be shared with all of the Commissioners.

Commissioner Mar asked about the 80 outstanding cases and wanted to know what the split was between Housing and Building violations. Commissioner Walker said that it is usually mixed as the Housing Inspector often finds the violations on a yearly inspection or on a complaint, but the violation is most often a Building Code violation.

Commissioner Melgar said that she really appreciated the presentation given, but said that her former request was a general one that could be answered by DBI staff and the CAO representative. Commissioner Melgar stated that she was not so much interested in where the cases are, but what the nature of the cases are and how DBI deals with them for instance in how the cases get prioritized to be sent to the Litigation Committee. Commissioner Melgar said that she wanted to know what neighborhoods the cases come from and how long it takes for a case to be referred. Commissioner Melgar said that she wanted this information to consider the cost of litigation and to see if there are other ways to resolve these issues, such as amnesty for Code Violations. Commissioner Melgar stated that litigation costs the City a lot of money and takes away from DBI's resources that might be used in a better way. Commissioner Melgar said that she would still like to see data about what these cases are, how much they cost DBI and how things could be done a little differently.

President McCarthy said that he would concur and said that if there is an issue with sensitive information then he would recommend that this be done in a Closed Session.

Deputy City Attorney John Malamut said that he would suggest that initially a meeting could be set up with the head of DBI's Code Enforcement team to explore the kinds of questions that are being asked and then the CAO could make an assessment as to whether there would be a Closed Session or part of the public agenda.

Mr. Robert Davis said that he was wondering about a property near his home in the Bayview District, 1449 Mendell, where a Notice of Violation was issued in 2002. Mr. Davis said that this did not go to a Director's Hearing until 2009 and asked why it took seven years for this to take place and then what happened after that.

Commissioner Walker asked that this issue be added to the report requested by Commissioner Melgar so that the Commission would know how many open Notices of Violation there are and how do they get resolved.

**7. Discussion and possible action regarding a proposed update to existing Administrative Bulletin AB-093, implementation of Green Building Regulations, to incorporate the current San Francisco Green Building Regulations, other related local ordinances and DBI procedures.**

Mr. Barry Hooper said that he is with the San Francisco Green Building Teams and one of his responsibilities is to assist DBI in the maintenance of Chapter 13-C of the Building Code and the Bulletin itself. Mr. Hooper said that he did not have a presentation for the BIC, but said that this was the completion of the process at the Code Advisory Committee (CAC) detailing how updates to the Green Building Ordinance that were adopted back in 2010 would be implemented on an ongoing basis. Mr. Hooper offered to answer any questions.

President McCarthy called for public comment.

Sean Keighran and John O'Connor of the Residential Builders Association (RBA) made public comments on this item. Their main concerns were:

- The Water Retention Program and the Gray Water Program
- It is unfair to the industry and to the Department to be asked to enforce or implement something when nobody knows how to do it
- No one at DBI knows what to do so DBI staff sends the customer to the PUC
- The PUC tells the customer to read the criteria, but no one can interpret the criteria
- DBI or the PUC has some obligation to give examples as to how the City wants this implemented
- It is not acceptable to hear from DBI or the PUC to figure this out yourself
- Projects were started under one set of rules and now the rules are being changed in the middle of the game
- Project Managers are being given the run around from one department to the other and no one understands what the process is.

Both Mr. Keighran and Mr. O'Connor asked that these two components be delayed for a couple of months until someone can come up with a clear program that is understandable; then it is reasonable to seek enforcement and implementation.

Mr. Hooper said that the matter discussed is limited to 13-C of the Building Code and said that here was not present to be a technical commenter on those issues.

President McCarthy said that as a builder he was very concerned that there is so much confusion on this issue from the builder's point of view. Director Day explained that the Chief Plumbing Inspector and someone from the PUC had appeared previously at the BIC to answer questions about the Water Retention Program and the Gray Water Program. President McCarthy said that obviously there are still problems and as a new Commissioner he would like the Chief Plumbing Inspector and someone from the PUC or whatever other agencies are involved to come to another meeting to make sure everyone is on the same page.

Commissioner Walker said that she was willing to continue this item for another month in deference to the new Commissioners, but did point out that the CAC recommended passage of this Administrative Bulletin.

Commissioner Lee said that when DBI does come back to the BIC to make another presentation he would like the Department to take into consideration whether the Code asks for a specific item explaining how things are supposed to be built or the Code reference performance measure. Commissioner Lee stated that he wanted to know how the Inspectors or the Plan Checkers interprets these things and what they tell the builders or designers. Commissioner Lee said that it is very different to tell a Project Manager that they need to figure it out or does the Department give the Project Managers examples to make the building perform at a certain level. Commissioner Lee said that he thought that the Department would run into the same problem when it comes to the ADA issues as well.

President McCarthy announced that since there were no objections this item would be continued until the next meeting.

**9. Discussion and possible action regarding a proposed update to existing Administrative Bulletin AB-032, site permit processing to reflect current code references, DBI division names and processes in place.**

Deputy Director Tom Hui of Plan Check Services said that he would recommend passage of this Administrative Bulletin and said he would answer any questions from the Commissioners.

Commissioner Walker asked how this was any different from what the Department had been doing in the past. Deputy Director Hui said that this was just combining two AB's and streamlining the site permit and addendum process for the stakeholders. President McCarthy said that he understood from reading the AB that the Department had taken the site permit process and laid it out for exactly what the designer or project manager needs to do. President McCarthy said that he thought this was a good policy that would work well.

*Commissioner Walker made a motion, seconded by President McCarthy, that the Administrative Bulletin be adopted. The motion carried unanimously.*

**RESOLUTION NO. BIC 029-12**

**10. Report on the status of operations to include Management by Objective reports from different divisions of DBI.**

Deputy Director Pam Levin said that the Customer Service Records Management division is under her supervision. Ms. Levin reported that all of the divisions in DBI send data to this division and there are monthly, quarterly and yearly reports generated; these reports are given to the Controller's Office and are used by the Mayor's Office for the Department's budget. Ms. Levin said that this data is used to make sure that DBI is living up to its performance measures. Ms. Levin stated that there was a study done last fiscal year that did a sample of this data to make sure the all of the information was provided to make these things reflect reality; the majority of any issues were addressed. Ms. Levin said that other Deputy Directors were present if the Commission had any questions regarding different divisions.

President McCarthy said that he really appreciated staff putting together this report on Performance Measures and said that he had requested this information to give the BIC insight on down the road as to what needs to be focused on as the ultimate goal is for each division to be meeting its goals. President McCarthy asked if it was possible for this type of report to be given to the Commission on a monthly basis.

Deputy Director Levin said that requires a significant amount of staff time and it would be difficult to do on a monthly basis without adversely affecting everything else.

Commissioner Walker said that she hoped that as the new computer system is coming on line a great deal of this information will be collected automatically and there will be more access to this kind of information.

President McCarthy said that quarterly reports would be satisfactory.



**11. Discussion regarding the possibility of borrowing Engineers from different departments to assist with plan checking at DBI. – This item was removed from the Calendar and continued to the call of the Chair.**

**12. Director's Report.**  
**a. Update Finances**

Deputy Director Pam Levin said that there were a very large amount of permits issued during April 2012 so there was a jump in revenues along with rental units and hotel license fees being paid. Ms. Levin stated that revenue from some of the large MOUs had not come in, but were expected and would probably be reflected in the next couple of months. Ms. Levin stated that in expenses the Department is only at 71% of expended salaries even though 83% of the year has passed. Ms. Levin said that this would change next year as more employees are hired. Ms. Levin said that it looks like there is \$7.8M in revenues over expenditures, but that would also change in the coming months as some of the revenue is collected for work that is not yet done. Ms. Levin said that the Department is working with the Controller's Office to ensure that DBI has enough set aside to continue providing services that have already been paid.

**b. Update on the Proposed Legislation.**

Director Vivian Day said that the Efficiency Unit Legislation will be going to the Planning Commission on Thursday with some updates by Supervisor Kim regarding the underutilized vacant buildings; this will only affect DBI as a new Certificate of Occupancy will be required for all changes in occupancy. Director Day stated that there are some State Bills that the Department will be working with through the Mayor's Office, but that is all of the legislation for now.

**c. Update on the Permit Tracking System.**

Deputy Director Pam Levin said that everything is progressing very well on the Permit Tracking System and everything is on schedule. Ms. Levin said that in terms of keeping with the timeline DBI has been working closely with Planning and both Departments have learned a lot about each other and about areas that can be improved upon today so that everyone is better off in the future. Ms. Day stated that now the Department is working on how to go forward with citizen access so that the systems will be understandable for the public and said that there will be public meetings for input.

**d. Update on the Major Projects.**

Deputy Director Tom Hui said that he and Director Day met with the project managers of Rincon II who are willing to pay extra to keep on their tight schedule. Mr. Hui said that the Department is trying to move all of the small and big projects along as quickly as possible.

**e. Update on the Q-Matic and status of activation.**

Deputy Director Pam Levin said that DBI is going live with Q-Matic on June 11<sup>th</sup> and said that there are translated instructions on what to do and DBI has created a FAQ sheet to help the public; both of those are in Cantonese and Spanish.

**f. Update on other technology projects.**

Deputy Director Pam Levin said that the Department is trying to focus on the web and said that DBI did implement the 3R payment on May 2<sup>nd</sup>; about 26% of the total requests are coming in on the web. Ms. Levin said that the Information Technology and Equipment Room is going well and said that she was waiting for the finally approval by the Department of Technology on the equipment; DBI has been collecting money from other departments that will be using DBI's equipment and construction should start mid-June.

**g. Update on the Disaster Coordination Unit, safety kit demonstration.**

Director Vivian Day said that both of the Department's coordinators were at a training meeting today to start planning for the California State exercise known as Golden Garden. Director Day stated that this is a major earthquake scenario in the Bay Area and hopefully next month, DBI staff will report back on the level of involvement that the State is expecting from DBI to do this and what resources will need to be provided. Director Day reported that a draft safety assessment guide with other City departments for the earthquake annex where earthquake supplies are stored is being done and will be brought to the Commission.

Director Day showed the safety kit that was given to all DBI employees who were given a demonstration that would be used at 1660 Mission St., but said that a different safety kit has been given to the Inspectors for the field. Director Day said that there are extra kits in the building in case there are customers at DBI who cannot get out during a disaster.

**h. Items of interest to the BIC.**

Director Day said that she wanted the Commissioners to know that the Department has memberships with many different organizations that might be of interest to the Commissioners and said that she would be providing a list of numbers at a later meeting. Director Day stated that she also included Chapter One of the Building Code amendments. Director Day announced that DBI is working to open at 7:30 a.m. except for Wednesdays when training is done.

President McCarthy thanked the Director for working on getting the Department opened at 7:30 a.m. to help the early risers who want to get to the construction site as early as possible.

**13. Discussion regarding the office policy for posting Notices of Violation.**

Director Day said that Chief Housing Inspector Rosemary Bosque had provided for the Housing Inspection Division, but Director Day said that the Department was working on a policy department-wide rather than just for a particular division or particular notice. Director Day said that she hoped to have that information for standard operating procedures ready for next month. President McCarthy thanked Director Day for acting on that.

**14. Review and approval of the minutes of the special meeting of December 12, 2011.**

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

**RESOLUTION NO. BIC 030-12**

**15. Review and approval of the minutes of the regular meeting of January 18, 2012.**

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

**RESOLUTION NO. BIC 031-12**

**16. Review and approval of the minutes of the special meeting of February 2, 2012.**

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

**17. Commissioner's Questions and Matters.**

- a. **Inquiries to Staff.** At this time, Commissioners may make inquiries to staff regarding various documents, policies, practices, and procedures, which are of interest to the Commission.
- b. **Future Meetings/Agendas.** At this time, the Commission may discuss and take action to set the date of a Special Meeting and/or determine those items that could be placed on the agenda of the next meeting and other future meetings of the Building Inspection Commission.

Secretary Harris announced that the next meeting would be held on June 20, 2012.

**18. Adjournment**

*Commissioner Clinch made a motion to adjourn, seconded by Commissioner Walker. The meeting was adjourned at 1:33 pm.*

**RESOLUTION NO. BIC 032-12**

Respectfully submitted,



**Ann Marie Aherne**  
**Commission Secretary – Retired**

<b>SUMMARY OF REQUESTS BY COMMISSIONERS OR FOLLOW UP ITEMS</b>	
Keep BIC informed about hiring progress. – President McCarthy	Page 6
Department to work with Small Business Commission on ADA issues. – Commissioner Walker	Page 9
DBI to check into what other cities such as New York, Los Angeles or Boston are doing about ADA regulations. – Commissioner Melgar	Pages 6-10
Department to report periodically on handling of ADA issues. – President McCarthy	Page 9
Department to make public aware of ADA issues to Public Advisory Committee attendees.	Page 10
More information on Item # 7 at next meeting. Item continued.	Page 10 & 14
Litigation Committee to give report every few months on outstanding cases. – Commissioner Melgar	Pages 12-13
Quarterly reports on Management by Objective status. – President McCarthy	Page 15