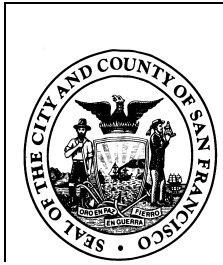


***Regular Meeting of the  
Building Inspection Commission  
October 16, 2024***

***Agenda Item 7***



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

**REGULAR MEETING**

**Wednesday, September 18, 2024 at 10:30 a.m.**

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

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**PUBLIC COMMENT CALL-IN: 1-415-655-0001 / Access Code: 2663 784 9375**

## **DRAFT MINUTES**

### **1. Call to Order and Roll Call.**

The regular meeting of the Building Inspection Commission (BIC) was called to order at 10:29 a.m., and a quorum was certified.

#### **COMMISSION MEMBERS PRESENT:**

Alysabeth Alexander-Tut, **President**  
Earl Shaddix, **Vice President, Excused**  
Evita Chavez, **Commissioner**  
Catherine Meng, **Commissioner**  
Bianca Neumann, **Commissioner**  
Kavin Williams, **Commissioner**

Sonya Harris, **Secretary**  
Monique Mustapha, **Assistant Secretary**

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

Patrick O’Riordan, **Director**  
Christine Gasparac, **Assistant Director**  
Matthew Greene, **Deputy Director, Inspection Services**  
Neville Pereira, **Deputy Director, Plan Review Services**  
Alex Koskinen, **Deputy Director, Administrative Services**  
Tate Hanna, **Legislative & Public Affairs Manager**

#### **CITY ATTORNEY REPRESENTATIVE:**

Robb Kapla, **Deputy City Attorney**

## 2. President's opening remarks.

President Alexander-Tut said the Commission would hear a series of legislative items and go over pre-hearing issues in regards to the Expanded Compliance Control program. Due to the backlog of the Abatement Appeals Board cases the Building Inspection Commission's meeting times were subject to change for the next few months.

There was no public comment.

## 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. Jerry Dratler gave a presentation and made the following points:

- Why don't building permits in the Permit Tracking System expire like the plumbing and electrical permits?
- Reason to auto expire building permits was there is no need for the Department of Building Inspection to inspect or final expired building permits.
- Four permits across from Mr. Dratler's address should have expired, and were not finalized for 1,124 days after it was issued.
- Mr. Dratler asked if the BIC would ask the Department if San Francisco has a permit tracking system that excludes building permit extensions.

## 4. Discussion and possible action regarding Board of Supervisors Ordinance (File #240807) amending the Housing Code to require R-1 and R-2 group buildings to maintain at least one existing elevator for residents' use, in addition to other requirements.

Legislative Affairs Manager Tate Hanna gave a presentation and made the following points:

- Existing Law: Elevators were permitted and certified by the California Office of Occupational Safety and Health. DBI and SFFD impose additional requirements on Cal/OSHA certified elevators in specified circumstances as life safety, habitability, and accessibility tool.
- Proposed Ordinance would expand the current requirement to apply to all R-1 and R-2 buildings regardless of height, if the building had an existing elevator.

Supervisor Stefani's Legislative Aide Lorenzo Rosas made the following points:

- This Ordinance was reconciling a difference or discrepancy in the Fire Code.
- There was a constituent who lived on the fourth floor of building of forty feet in height with an existing elevator and the resident was a long time tenant, and had moved to the building for use of the elevator due to a mobility impairment.
- The owners used the loophole to abandon responsibility of repair and maintenance of the elevator significantly harming the long-time resident's well-being.
- If a building no matter the height has an elevator for passenger use it must be maintained.
- During research for the Ordinance it was found that roughly fifteen hundred buildings would be affected.

There was no public comment.

*Commissioner Neumann made a motion to recommend approval to the Board of Supervisors, which was seconded by Commissioner Chavez.*

**Secretary Harris Called for a Roll Call Vote:**

<b>President Alexander-Tut</b>	<b>Yes</b>
<b>Vice President Shaddix</b>	<b>Excused</b>
<b>Commissioner Chavez</b>	<b>Yes</b>
<b>Commissioner Meng</b>	<b>Yes</b>
<b>Commissioner Neumann</b>	<b>Yes</b>
<b>Commissioner Williams</b>	<b>Yes</b>

*The motion carried unanimously.*

**RESOLUTION NO. 041-24**

**5. Discussion and possible action regarding Board of Supervisors Ordinance (File #240845) amending the Building Code to allow new construction that complies with the Design Guidelines for Electric-Ready Buildings to install gas infrastructure to serve appliances covered by the Energy Policy and Conservation Act (EPCA), in addition to other requirements.**

Legislative Affairs Manager Tate Hanna gave a presentation and made the following points:

- This Energy Policy and Conservation Act (EPCA) Ordinance created federal standards for certain consumer appliances.
- The EPCA was passed in 1975 in response to an oil crisis.
- In 2020 the Board of Supervisors passed Ordinance 237-20 requiring all new construction projects to meet specified electrification requirements. It was determined by banning natural gas infrastructure EPCA appliances were not allowed to be used if natural gas was necessary.
- This Ordinance conforms to the ninth circuit court ruling that for specific EPCA covered appliances you may construct natural gas infrastructure to serve those appliances.

Deputy City Attorney Robb Kapla said the Ordinance passed in 2020 required that all new building permits for new construction for brand new buildings can only be granted for buildings that were considered all electric and a building that had gas for non-essential services for instance an industrial building with gas for smelting would be considered all electric, because the main building systems were served by electricity even though there was some gas infrastructure. This Ordinance extends that to say for EPCA products the building is considered all electric and are allowed to get a new building permit and not treated as a mixed-fill building which to a permit for essential services in a mixed-filled building for a non-covered EPCA appliances there would be need for an exception and there was a whole process for that.

*President Alexander-Tut made a motion to recommend approval without amendment to the Board of Supervisors, seconded by Commissioner Neumann.*

There was no public comment.

**Secretary Harris Called for a Roll Call Vote:**

<b>President Alexander-Tut</b>	<b>Yes</b>
<b>Vice President Shaddix</b>	<b>Excused</b>

Commissioner Chavez      Yes  
Commissioner Meng        Yes  
Commissioner Neumann    Yes  
Commissioner Williams    Yes

*The motion carried unanimously.*

**RESOLUTION NO. 042-24**

**6. Discussion and possible action regarding Board of Supervisors Ordinance (File #240798) amending the Building Code to exempt the requirement for architectural drawings for building permits to change use designations that do not increase occupant load or occupancy class, or entail physical improvements, in addition to other requirements.**

Legislative Affairs Manager Tate Hanna gave a presentation and made the following points:

- Background: occupancy classifications were broader categories, whereas use designation were a secondary subset and were more specified usages.
- When an applicant sought to change their use designation regardless of alterations a building permit was required with professionally designed plans and this Ordinance would remove that requirement.
- Applicants must be existing A, B, or M occupancy classification

Director of the Office of Small Business Katy Tang gave a presentation and made the following points:

- Legislative goals: Reduce the number of barriers, remove costly architectural plan requirements clearly define when building permits were required when applying for Change of Use.
- For example, a restaurant adds liquor license, they were not changing the use by definition in the Planning Code or occupancy and had been asked to produce architectural drawings with a building permit.
- In an instance where it was just a Planning Code change of use and no alterations and the criteria were met, a building permit would not be required and subsequently no architectural plans would be required.
- However, if change of use by Building Code definition dimensional diagram would be required as long as the criteria was met in the legislation.

***Commissioner Neumann made a motion to recommend approval to the Board of Supervisors, seconded by Commissioner Williams.***

Public Comment:

Mr. William Rehling from Accessible San Francisco said there were concerns expressed by the Code Advisory Committee (CAC) and this Ordinance would lead to more problems from public accommodations to tenant alterations without a permit and it would create scenarios where people would be able to get away with doing tenant improvements without permits where accessibility permits would be required and this program one would be able to simply claim no improvements and people would get a relief from having to have proper architectural plans done at all.

Mr. Rehling said there was a pilot program and one establishment a hair salon to a massage establishment and that work required a building permit. His plan was to submit complaints for

investigation upon finding the work that was done did require a building permit. The unintended consequences would be severe.

Commissioner Questions and Comments:

Commissioner Meng said who would be responsible for verifying there was no change in occupancy.

Ms. Tang said there was a pilot program and verification was being received from DBI staff prior to allowing the applicant to follow through with the process.

Commissioner Meng said she was concerned that changing the layout of furniture potentially may increase the occupancy.

Ms. Tang said it was written into legislation that the occupancy load could not be changed. We gather information from the applicant about their project scope and go through DBI to ensure everything checks out.

Commissioner Chavez asked what was the experience of the pilot program?

Ms. Tang said the program had been running for about two years and had about twelve participants and one of the first cases was the restaurant adding a liquor license which had been very common. They were an existing business that was not doing any physical changes and because the license was a Planning Code change of use there was some confusion around that particular section of the Building Code. Everyone had the word ‘use’ and it was defined differently for Building and Fire versus Planning.

Commissioner Chavez said what were some other occurrences or examples of change of use.

Ms. Tang referred to the public comment example of a hair salon changing to a massage establishment where some furniture changes may have been made causing an occupancy increase however there was still an inspection to complete the building permit.

Commissioner Chavez asked if Ms. Tang could speak about the Code Advisory Committee not being able to come to a decision regarding the Ordinance.

Ms. Tang said she appreciated the robust conversation surrounding the legislation with the CAC and it lead to some of the changes that were in the substitute legislation that was submitted to the BIC. The Planning Department previously did not have a vehicle effectuate a change of use and the building permit was the vehicle but now the Planning Department does have a method to officially document the change of use.

Commissioner Neumann said she supported the Ordinance as it was difficult to make simple changes in the city and there were so many vacant storefronts, and whatever the Commission could do to streamline those processes we should be doing.

President Alexander-Tut said could the Director speak to the inspection points of the process.

Director O’Riordan said there was two ways to look at it, for example when a liquor license was issued there would not be an inspection however for the applicants that bring in diagrams showing change of use an inspection would be done.

President Alexander-Tut said she would like an update at the end of the first quarter of the next calendar year

***Commissioner Neumann made a motion, seconded by Commissioner Williams to approve File #240798.***

**Secretary Harris Called for a Roll Call Vote:**

<b>President Alexander-Tut</b>	<b>Yes</b>
<b>Vice President Shaddix</b>	<b>Excused</b>
<b>Commissioner Chavez</b>	<b>Yes</b>
<b>Commissioner Meng</b>	<b>Yes</b>
<b>Commissioner Neumann</b>	<b>Yes</b>
<b>Commissioner Williams</b>	<b>Yes</b>

***The motion carried unanimously.***

## **RESOLUTION NO. 043-24**

### **7. Pre-Hearing Issues RE Appeal Pursuant to Section 103A.6.3.2 of the Building Code Regarding the Expanded Compliance Control Program [Discussion and Possible Action]**

**1. John Pollard – Pre-Hearing Issues – President Alexander-Tut will provide an update to the Commission regarding pre-hearing motions and requests by the parties, as well as other procedural issues, including whether to order the parties to meet and confer and possibly stipulate on undisputed facts and issues.**

#### **a. Updates from President Alexander-Tut.**

President Alexander-Tut said the purpose of this item was to provide an update to the commission on recent developments regarding this appeal. The Board would not take oral arguments from the parties. Parties would be able to raise all issues at the October 16, 2024 hearing. Some background was Mr. Pollard filed an appeal to the commission contesting his inclusion to the Expanded Compliance Control Program list on April 14, 2024. Thereafter, the commission adopted its rules and procedures on June 12, 2024. The commission secretary scheduled the hearing for September 18, 2024. On August 21, 2024, Mr. Pollard sent a discovery letter to President Alexander-Tut alleging amongst other things DBI failed to promptly provide the entire file concerning his appeal as required by BIC's rules. Upon receipt of Mr. Pollard's August 21, 2024 letter, DBI forwarded its records to the Commission and such records were shared with Mr. Pollard. On August 28, 2024, Mr. Pollard's council sent a follow-up letter asserting amongst other things that DBI's delay in producing the record that had not yet been received prejudiced Mr. Pollard because his deadline to file a pre-hearing was September 4, 2024, one week after the August 21, 2024 letter.

President Alexander-Tut said she ordered DBI to send a response to Mr. Pollard's August 21 and 28, 2024 letters and continued the hearing to October 16, 2024. It was the Board's understanding the entire record had been produced the entire record concerning the appeal to Mr. Pollard and he had ample time for review before the deadline to submit his brief. To the extent DBI failed to comply with the rules and procedures by delaying the production of the entire record, such error appeared to be harmless as the records had been received. The night before this meeting Mr. Pollard's counsel sent another email indicating the parties met informally the week before in an attempt to narrow the issues and agreed to a second meeting in October 2024. Mr. Pollard was seeking another continuance to the December 2024 hearing.

President Alexander-Tut said she wanted the Department to confirm the plan to meet with Mr. Pollard and whether it was amenable to continue the hearing to December 2024.

Director O’Riordan said yes, the Department was in agreement to continue the hearing to December 2024 and meet with Mr. Pollard prior to.

President Alexander-Tut said that all parties should be aware that it had been the BIC’s practice to move the December’s meetings and hearings from the third Wednesday of the month to the second Wednesday and that confirmation would be expedited.

***President Alexander-Tut made a motion, seconded by Commissioner Williams to grant the continuance from October 16, 2024 to a date to be announced for December 2024.***

**b. Public Comment**

Mr. John Pollard’s counsel, Mr. Edwin Prather, said he was available the second Wednesday in December 2024.

Mr. Jerry Dratler said he had addressed the BIC regarding the ECC program before and at the time the only person on the list was Rodrigo Santos. DBI was not fully engaged in the program but had a tracking spreadsheet and had seventy-three permits listed which Mr. Pollard was on twenty of those.

Mr. Dratler said he was not in favor of the continuance and there was more than enough information to proceed.

Mr. Christopher Schroeder referenced a couple of newspaper articles regarding properties that were listed under John Pollard’s name and asked why it took the Department so long to add Mr. Pollard’s name to the ECC list.

**c. Discussion and possible action by the Building Inspection Commission regarding next steps.**

***President Alexander-Tut amended the motion, seconded by Commissioner Williams on the floor stating to grant continuance from October 16, 2024 to a date to be announced in December 2024 and both parties have a joint or individual stipulation setting forth disputed and undisputed facts and issues document that would be submitted to the BIC twenty-one calendar days before the hearing.***

Public Comment:

Mr. Dratler said he could agree to the motion if those stipulation documents were available for the regular BIC meeting of November 2024 so that the public can understand the issues.

Mr. Prather said advancing the date to twenty-one days would put a restraint on his client as they needed time to work through the issues as he noted in a letter to President Alexander-Tut stating there would be a technical advisor present as well. In relation to item seven the role of the commissioners was oversight, and it created a rule by which the appeals hearing would proceed stated discovery would be provided within three days which was not unreasonable because the Department has the entire file. If the Commission allowed DBI to ignore rules, then what happens to the next individual.



Mr. Prather said he had to fight for discovery and wrote letters before he was given the file for his client Mr. Pollard. There were due process issues and liability issues. If there were rules that the BIC wrote but did not enforce, then what. Although President Alexander-Tut says the event was harmless due to the hearing being pushed out essentially the three-day rule had not been followed.

**Secretary Harris Called for a Roll Call Vote:**

<b>President Alexander-Tut</b>	<b>Yes</b>
<b>Vice President Shaddix</b>	<b>Excused</b>
<b>Commissioner Chavez</b>	<b>Yes</b>
<b>Commissioner Meng</b>	<b>Yes</b>
<b>Commissioner Neumann</b>	<b>Yes</b>
<b>Commissioner Williams</b>	<b>Yes</b>

*The motion carried unanimously.*

**RESOLUTION NO. 044-24**

**8. Director’s Report.**

**a. Director’s Update [Director O’Riordan]**

Director O’Riordan made the following points:

- Early September 2024 the Department made some organizational changes and staff promotions in the Permit Services Division that would help to streamline the review processes and accelerate decision making.
- Permit Services was being split into three sections: permit and technical services, plan review, and project proposals.
- Mary Wilkinson-Church would manage the permit and technical services section including the Central Permit Bureau, information counter, and technical services division. Mary joined the department earlier in 2024 from Milwaukee where she ran the permit center.
- Jimmy Cheung would manage the Plan Review Services section, including structural and architectural plan review team in an acting capacity.
- James Zhan would continue to manage the specialty plan review teams.
- All three section managers would report to Neville Pereira.
- Staff recognition from customer Debra Holly said Mark Walls, Carey Mcelroy, and Hector Hernandez exceeded her expectations at a pre-application meeting. Ms. Holly wrote in an email, “the meeting went well, and the DBI team seemed motivated to find reasonable solutions to the issues raised.” Ms. Holly added she was particularly impressed with Mark Walls in terms of his knowledge of the code and willingness to think creatively.

**b. Update on major projects.**

Director O’Riordan gave an update on major projects for August 2024 as follows:

Major projects are those with valuation of \$5 million or greater filed, issued, or completed.

- Major projects with permits issued.
  - 4 issued
  - \$218.9 million in valuation
  - 190 net units
- Major projects with Certificate of Occupancy
  - 4 completed
  - \$235.8 million in valuation
  - 470 net units

**c. Update on proposed or recently enacted State or local legislation.**

Legislative Affairs Manager Tate Hanna presented the following items and discussed the following points:

- **File No. 240807:** Sponsored by Supervisor Stefani and was item #4 on today’s agenda. This Ordinance requiring R-1 and R-2 buildings that had an existing elevator to maintain that elevator regardless of the height of the structure.
- **File No. 240845:** Sponsored by Supervisor Mandelman and was item #5 on today’s agenda. This aligns San Francisco’s all electric Ordinance with the recent ruling by the ninth circuit court allowing gas infrastructure to serve Energy Policy and Conservation Act appliances.
- **Planning Commission Resolution No. 21599:** Was heard by the BIC August 2024 and recommended approval of the minor code corrective order.
- **File No. 240798:** Sponsored by Mayor Breed, related to change of use and was item #6 on today’s agenda. Allowed changes of use that did not include alterations to apply for permit without professional plans.
- **File No. 240499:** Heard by the BIC on July 17, 2024, it created a new exemption for vacant storefronts requirement if ongoing construction was happening in the public right-of-way affecting access or access for utilities for a business was signed by Mayor Breed August 8, 2024 and took effect September 8, 2024.
- **File No. 240297:** Heard by the BIC on May 17, 2024 this was the Accessible Business Entrance (ABE) program extension was signed by Mayor Breed on August 8, 2024 and took effect on September 8, 2024.

**d. Update on Inspection Services.**

Deputy Director of Inspection Services Matthew Greene presented the following Building Inspection Division Performance Measures for August 1, 2024 to August 31, 2024:

• Building Inspections Performed	5,454
• Complaints Received	367
• Complaint Response within 24-72 hours	365
• Complaints with 1st Notice of Violation sent	81
• Complaints Received & Abated without NOV	185

- Abated Complaints with Notice of Violations 58
- 2nd Notice of Violations Referred to Code Enforcement 46

Deputy Director of Inspection Services Matthew Greene presented the following Housing Inspection Division Performance Measures August 1, 2024 to August 31, 2024:

- Housing Inspections Performed 866
- Complaints Received 438
- Complaint Response within 24-72 hours 387
- Complaints with Notice of Violations issued 127
- Abated Complaints with NOVs 563
- # of Cases Sent to Director's Hearing 44
- Routine Inspections 93

Deputy Director of Inspection Services Matthew Greene presented the following Code Enforcement Services Performance Measures for August 1, 2024 to August 31, 2024:

- # Housing of Cases Sent to Director’s Hearing 65
- # Complaints of Order of Abatements Issues 13
- # Complaint of Cases Under Advisement 0
- # Complaints of Cases Abated 62
- Code Enforcement Inspections Performed 695
- # of Cases Referred to BIC-LC 0
- # of Case Referred to City Attorney 0

Deputy Director of Inspection Services Matthew Greene said Code Enforcement Outreach Programs are updated on a quarterly as follows for the 4<sup>th</sup> quarter:

- # Total people reached out to 45,619
- # Counseling cases 264
- # Community Program Participants 6,118
- # Cases Resolved 156

**e. Update on DBI’s finances.**

Deputy Director Administrative Services Alex Koskinen gave an update on the Department’s August 2024 finances as follows:

- Revenue for FY 23-24, at the sixth (January) and ninth (March) months deficits were projected however strong revenue towards the end of the year allowed the Department to end almost on budget in the operating fund. Using \$2M less than originally anticipated.
- The six and nine month projections were fairly accurate. We ended almost \$5M to the good in the operating fund. Some highlights were almost exactly on budget for salaries and benefits. The professional services savings was primarily peer review and carried over extra peer review budget from FY23, larger projects were not happening and a smaller amount was budgeted for

FY24-25.

- FY23-24 Building Inspection Fund Balances, the first two lines: Operating Fund and Continuing Projects were general use for any building inspection purpose. The next four lines were very restricted use funds and were state mandated programs where the revenue was to be used for a specific thing.

Revenues:

- 17% of the fiscal year had elapsed.
- Projections listed as on budget for now.
- Collected about 18% of charges for services, which was the Department's main revenue source.
- Property tax bills would go out in October 2024 and the Department would see first revenues in December 2024.

Expenditures:

- The Department's largest expense was salaries which was on track and expect to meet or exceed the salary budget.
- All other expenditures were projected to be on budget.

Permit volume and valuation FY24-25:

- Total number of permits to date were the same as the same period last year.
- Valuation 72% higher than the same period last year.

Mr. Koskinen said on page three of the slide deck he wanted to highlight that the revised budget was really two things. There was the original budget that was approved by the Board of Supervisors (BOS) that was the Annual Appropriation Ordinance and it was carry forwards from the prior year.

Public Comment:

Mr. Jerry Dratler gave a presentation and made the following points:

- Monthly BIC code compliance reporting needed to improve
- How long complaints had been open should be reported
- Planning Department Notice of Enforcement issued for illegal window replacement at 619 Marina Boulevard but no Notice of Violation was issued by DBI, why.

Mr. Christopher Schroeder said Director O'Riordan said that inspectors would address non San Francisco code compliance and conditions.

Mr. Schroeder referenced addresses 2 Rousseau and 6 Rousseau that do not ensure the four story sprinkler requirement was met. He said Matt Greene was the one who issued the certificate of final completion without any sprinklers.

Mr. Schroeder said DBI compromised the Building Code by allowing sprinklers only on the first floor of the building and this was a life safety issue. He also references 3030 California, another four story building with no sprinklers and Director O'Riordan was the inspector.

Mr. Schroeder said to reference a newspaper article by J.K. Dineen about 950 Lombard Street and how

just about all Notices of Violations are abated and almost always the work is never completed and there was no compliance.

**9. Commissioner’s Questions and Matters.**

- a. Inquiries to Staff.** At this time, Commissioners may make inquiries to staff regarding various documents, policies, practices, and procedures, which are of interest to the Commission.
- 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.

President Alexander-Tut said she was continuing to work with the Department to find a Housing Subcommittee date.

Secretary Harris said the next Regular Building Inspection Commission meeting would be held on Wednesday, October 16, 2024.

There was no public comment.

**10. Review and approval of the minutes of the Regular Meeting of August 21, 2024.**

*President Alexander-Tut made a motion, seconded by Commissioner Chavez, to approve the Meeting minutes of August 21, 2024.*

There was no public comment.

*The motion carried unanimously.*

**RESOLUTION NO. BIC 045-24**

**12. Adjournment.**

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


*The motion carried unanimously.*

The meeting was adjourned at 12:05 p.m.

**RESOLUTION NO. BIC 046-24**

Respectfully submitted,

  
\_\_\_\_\_  
Monique Mustapha, Assistant BIC Secretary

  
\_\_\_\_\_  
Edited By: Sonya Harris, BIC Secretary