

立法會
Legislative Council

Paper No. WKCD-535
(These minutes have been seen
by the Administration)

Ref : CB1/HS/2/04/1

**Subcommittee on
West Kowloon Cultural District Development**

**Minutes of fortieth meeting held on
Monday, 4 February 2008, at 10:45 am
in Conference Room A of the Legislative Council Building
(Items II to IV)**

- Members present** : Hon Alan LEONG Kah-kit, SC (Chairman)
Hon James TO Kun-sun (Deputy Chairman)
Hon Albert HO Chun-yan
Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP
Dr Hon LUI Ming-wah, SBS, JP
Hon Margaret NG
Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP
Hon CHAN Kam-lam, SBS, JP
Hon Jasper TSANG Yok-sing, GBS, JP
Hon Emily LAU Wai-hing, JP
Hon CHOY So-yuk, JP
Hon Timothy FOK Tsun-ting, GBS, JP
Hon Audrey EU Yuet-mee, SC, JP
Hon LEE Wing-tat
Dr Hon KWOK Ka-ki
Hon CHIM Pui-chung
- Members absent** : Hon CHAN Yuen-han, SBS, JP
Hon SIN Chung-kai, SBS, JP
Hon Abraham SHEK Lai-him, SBS, JP
Hon LEUNG Kwok-hung
Hon CHEUNG Hok-ming, SBS, JP
Prof Hon Patrick LAU Sau-shing, SBS, JP

**Public officers
attending**

- : Mrs Carrie YAU, JP
Permanent Secretary for Home Affairs
- Ms Esther LEUNG, JP
Deputy Secretary for Home Affairs (3)
- Mr Vincent FUNG
Principal Assistant Secretary for Home Affairs
(West Kowloon Cultural District) 1
- Mr Danny LAU
Principal Assistant Secretary for Home Affairs
(West Kowloon Cultural District) 2
- Mr Howard LAM
Chief Treasury Accountant
(West Kowloon Cultural District)
Home Affairs Bureau
- Miss WONG Yuen-sheung, Ophelia, JP
Deputy Director of Planning/District

**Attendance by
Invitation**

- : Professor LEE Ngok, JP
Coordinator of the Public Policy Research Institute
(PPRI)
Leader of Consultancy Team
- Professor Peter YUEN
Professor of Management and Marketing
Co-Leader of the Consultancy Team
- Professor Edwin CHAN
Professor of Building & Real Estate
Principal Investigator, PPRI
- Dr ZHANG Hanqin
Associate Professor
School of Hotel and Tourism Management
Principal Investigator, PPRI
- Dr K K YUEN
Project Manager, PPRI

Clerk in attendance : Ms Anita SIT
Chief Council Secretary (1)4

Staff in attendance : Ms Pauline NG
Assistant Secretary General 1

Miss Monna LAI
Assistant Legal Adviser 7

Mr Thomas WONG
Research Officer 4

Mr WONG Siu-yee
Senior Council Secretary (1)7

Mr Anthony CHU
Council Secretary (1)2

Ms Christina SHIU
Legislative Assistant (1)7

Action

II Confirmation of minutes

Paper No. WKCD-515 -- Minutes of meeting on
15 December 2007

The minutes of the meeting held on 15 December 2007 were confirmed.

III Meeting with the Administration

File Ref: SF (17) to HAB CS CR 7/1/27 -- Legislative Council Brief on
"West Kowloon Cultural
District: The Way Forward
and West Kowloon Cultural
District Authority Bill"

Paper No. WKCD-516 -- Information paper on
"Major findings of the
Public Engagement Exercise
and follow-up work for the
West Kowloon Cultural
District project" provided by
the Administration

Other relevant papers previously issued

- | | |
|--------------------|---|
| Paper No. WKCD-509 | -- Information paper on "Statutory Planning Process for West Kowloon Cultural District Development" provided by the Administration |
| Paper No. WKCD-510 | -- Information paper on "Key aspects of the proposed legislation for establishing a statutory body" provided by the Administration |
| Paper No. WKCD-459 | -- Information paper on "Some key aspects of the proposed legislation for establishing a statutory body" provided by the Administration |

2. The Subcommittee deliberated. (Index of proceedings attached at the **Appendix**)

3. With the aid of powerpoint, the Deputy Secretary for Home Affairs (3) briefed the Subcommittee on the salient points of the West Kowloon Cultural District Authority (WKCDA) Bill and the way forward for the WKCD project.

(Post-meeting note: The powerpoint presentation materials were sent to members via e-mail on 4 February 2008.)

Follow-up actions

4. The Administration was requested to provide written response to the following questions raised and information requested by members at the meeting –

- (a) With regard to the proposed provision that the Chairman of WKCDA might or might not be a public officer (clause 6(3)(a) of the WKCDA Bill), the Administration was requested to –
 - (i) explain the Government's policy considerations in appointing a public officer as the chairman of a statutory body in general and in the case of WKCDA, and substantiate the explanation by making reference to the experiences of existing comparable statutory bodies;

- (ii) address the concern that the normal checks and balances on the powers of statutory bodies would be lost if WKCDA was to be headed by the Chief Secretary for Administration (CS), as the monitoring roles exercised by various government departments and relevant authorities on the financial management, planning and cultural development work etc. of WKCDA would likely be overridden by CS's top position in the Government;
 - (iii) a public officer would probably lack the required experience in and exposure to the international arts and cultural arena to lead WKCDA to attain its purpose of contributing to the long-term development of Hong Kong into an international arts and cultural centre;
 - (iv) address the concern that given the heavy workload and responsibilities that a senior public officer had to shoulder in his/her existing post in the Government, taking up the additional workload and responsibilities of the Chairman of WKCDA would give rise to practical problems of overburdening the public officer, hence hampering both the work of the Government and WKCDA; and
 - (v) consider removing the proposed provision from the Bill;
- (b) The Administration was requested to explain the need for having two separate clauses for the Chief Executive (clause 14) and for the Financial Secretary (clause 15) to obtain information from WKCDA, and to advise whether there was a similar arrangement in other comparable ordinances;
- (c) Given that WKCDA would have the powers to sponsor or provide financial support to facilitate the organization of activities relating to arts and culture and to commission different forms of arts production, the Administration was requested to explain the relationship between WKCDA and the existing government and statutory bodies which were responsible for providing funding support to arts organizations, and the measures to ensure effective coordination and fair funding arrangements; and
- (d) The Administration was requested to provide written response on the following suggestions made by members to enhance the accountability of the WKCDA –
- (i) to provide in the legislation that WKCDA should open up the meetings of its Board and committees to the public except for specified circumstances;

- (ii) to provide in the legislation that the Legislative Council (LegCo) Member(s) to be appointed to the WKCDA Board shall be elected by and from amongst the LegCo Members;
- (iii) to provide in the legislation a formalized machinery similar to the consultation panels of the Financial Services Authority in the United Kingdom and Metropoli-30 of Bilbao for public engagement in the planning, implementation and operation of the WKCD;
- (iv) to provide in the legislation that the business plan and corporate plan of the WKCDA should be disclosed to LegCo and the public; and
- (v) to specify the term and the maximum number of terms of office of the members of the WKCDA Board.

(Post-meeting note: The requested information (Paper No. WKCD-524) was circulated to members vide LC Paper No. 812/07-08 on 14 February 2008.)

5. Members noted that the next meeting was scheduled for 14 February 2008 at 2:30 pm to continue discussion on the Bill.

IV Any other business

6. The meeting ended at 1:00 pm.

Council Business Division 1
Legislative Council Secretariat
29 April 2008

**Proceedings of the fortieth meeting (open session) of the
Subcommittee on West Kowloon Cultural District Development
on Monday, 4 February 2008, at 10:45 am
in Conference Room A of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action required
000000 - 000023	Chairman	Confirmation of minutes of the meeting held on 15 December 2007 (Paper No. WKCD-515)	
000024 - 000048	Chairman	Opening remarks	
000049 - 001900	Administration Chairman	Briefing and powerpoint presentation by the Administration on the West Kowloon Cultural District Authority (WKCD) Bill and the way forward for the WKCD project	
001901 - 002512	Mr LEE Wing-tat Administration	<p>Mr LEE's concern that the WKCD Bill (the Bill) had not addressed members' following requests to enhance the transparency of WKCD –</p> <p>(a) the Legislative Council (LegCo) Member(s) to sit on the WKCD Board (the Board) should be elected from and among the Members;</p> <p>(b) meetings of WKCD should be open to the public; and</p> <p>(c) the business and corporate plans of WKCD should be disclosed to the public and LegCo for discussion</p> <p>The Administration's explanation that –</p> <p>(a) LegCo could nominate suitable candidate(s) for the Chief Executive (CE)'s consideration for appointment; and</p> <p>(b) as it was expected that the meetings of the Board would involve lots of discussions related to facility management contracts and evaluation of performance of arts groups, which were not appropriate</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>to open to the public, the Administration considered it inappropriate to make it mandatory for the WKCD Board to open its meetings to the public, or to prescribe the circumstances and ways in which it should open its meetings to the public or otherwise. Various measures had already incorporated in the Bill to enhance transparency and accountability of WKCD</p>	
002513 - 003145	Dr KWOK Ka-ki Administration	<p>Dr KWOK's concerns and views that –</p> <ul style="list-style-type: none"> (a) WKCD would become an independent kingdom as the proposed monitoring measures were ineffective; (b) resources for arts and cultural development outside WKCD would be reduced as a result of the WKCD project; and (c) the LegCo Member(s) to sit on the Board should be elected from and among the Members; the arts and cultural sectors should elect representatives to sit on the Board; the Board should include one District Council (DC) Member to be nominated by the relevant DCs <p>The Administration's recapitulation of the various measures to enhance monitoring of WKCD by the public and LegCo and accountability of WKCD</p>	
003146 - 003933	Ms Margaret NG Administration	<p>Ms NG's concerns and views that –</p> <ul style="list-style-type: none"> (a) the normal checks and balances on the powers of statutory bodies would become ineffectual if WKCD was to be headed by the Chief Secretary for Administration (CS), as the monitoring roles exercised by various government departments and 	

Time marker	Speaker	Subject(s)	Action required
		<p>relevant authorities on the financial management, planning and cultural development work etc. of WKCDA would likely be overridden by CS's top position in the Government;</p> <p>(b) if a public officer was appointed as the Chairman of WKCDA, the officer concerned would be overburdened;</p> <p>(c) there were already three public officers on the Board and if the Chairman was another public officer, the independence of the Board would be undermined; and</p> <p>(d) she asked if WKCDA would request the Independent Commission Against Corruption to assist the formulation of guidelines and measures to prevent corruption in the operation of WKCDA</p> <p>The Administration's explanation that –</p> <p>(a) it was appropriate and necessary to provide adequate flexibility for CE to appoint the most appropriate person (from within or outside the Government) as the Chairman at different points in time. Any media report at this stage that CS would be the Chairman was mere speculation;</p> <p>(b) given that the public officers in the Board would be a minority, the independence of WKCDA would not be undermined; and</p> <p>(c) there were sufficient measures for the public and LegCo to monitor the work of WKCDA and it would not become an independent kingdom</p>	
003934 - 004524	Ms Emily LAU Chairman Administration	Ms LAU's expression of disappointment that various measures proposed by Subcommittee members to enhance the accountability of WKCDA were not	

Time marker	Speaker	Subject(s)	Action required
		<p>included in the Bill</p> <p>The Administration's response that the "six-year six-board" rule would be applicable to the Board and committees of WKCDA unless under special circumstances</p>	
004525 - 004852	Administration	Briefing by the Administration on the major findings of the Public Engagement (PE) Exercise and follow-up work for the WKCD project (Paper No. WKCD-516)	
004853 - 005615	Chairman Ms Emily LAU Public Policy Research Institute (PPRI) Administration	<p>In response to Ms Emily LAU's enquiry, PPRI reported on the public opinions on the proposed one-off upfront endowment for WKCDA and the proposed composition of the WKCDA Board</p> <p>The Administration's explanation that the upfront endowment signified the Administration's commitment to the long-term development of culture and the arts for the future of Hong Kong and provided funding certainty to WKCDA. This was considered appropriate having regard to the proposed timeframe of completing the construction of the Phase 1 facilities (i.e. 12 performing arts venues, 70% of the M+, the Exhibition Centre and the rental/dining/entertainment facilities) by 2015-2016</p>	
005616 - 010245	Mr Albert HO Administration	<p>Mr HO's concerns and views that –</p> <p>(a) if CS was appointed Chairman of WKCDA, the monitoring exercised by government departments and relevant authorities on the financial management, planning and cultural development work etc. of WKCDA would likely be slackened;</p> <p>(b) given the wide scope of powers of WKCDA, including the power to subsidize arts and cultural programmes, WKCDA would have</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>significant impact on the arts and cultural policy in Hong Kong; and hence his concern on how WKCD would coordinate with and other Government or statutory bodies responsible arts and cultural development; and</p> <p>(c) he objected to the one-off upfront endowment as it would undermine the effectiveness of LegCo's monitoring role</p> <p>The Administration's explanation that during the PE exercise, the arts and cultural sectors had expressed the view that WKCD should be given a wider scope of functions and powers. To complement WKCD project, the Administration would allocate more resources for software developments in areas outside WKCD</p>	
010246 - 010618	Mr James TO Administration	<p>Mr TO's view that the appointment of a public officer as the Chairman of WKCD would result in centralization of powers in the Government and this arrangement would circumvent the monitoring by LegCo and the public. He asked the Administration to delete this provision</p> <p>The Administration's response that the provision was considered appropriate and necessary to provide adequate flexibility for CE to appoint the most appropriate person (from within or outside the Government)</p>	Administration to take necessary follow-up action
010619 - 011425	Chairman Administration	<p>The Chairman's expression of view that –</p> <p>(a) the Administration had not responded to the Subcommittee's recommendation on adopting a structured public consultation mechanism; and</p> <p>(b) the Administration should further</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>consider members' suggestions on enhancing the accountability and the transparency of WKCDA</p> <p>The Administration's explanation that given the lack of a registration system for the cultural sectors, the adoption of a nomination mechanism to constitute the Board would delay the establishment of WKCDA</p>	
011426 - 012145	Dr KWOK Ka-ki Chairman Administration	<p>Dr KWOK's views and queries that-</p> <p>(a) the Bill had not incorporated sufficient measures to ensure a good corporate governance of WKCDA and accountability which the public considered important in PE exercise;</p> <p>(b) the upfront endowment amount was not mentioned in the Wish Card; and</p> <p>(c) whether the Administration would conduct further public polls to solicit public views on the proposed composition of the Board and the upfront endowment arrangement</p> <p>The Administration's explanation that it had no intention to undermine the monitoring role of LegCo on WKCDA. Appropriate provision had been incorporated into the Bill requiring the Chairman and CEO of WKCDA to attend LegCo meetings. The public should have the knowledge of the upfront endowment amount through the Recommendation Report and other various channels. According to the findings of the PE Exercise, there was general support for providing an upfront endowment to WKCDA</p>	
012146 - 012617	Ms Margaret NG Administration Chairman	Request for Administration's response to concerns about the provision on allowing a public officer to be the Chairman of the WKCDA	Administration to take necessary follow-up action

Time marker	Speaker	Subject(s)	Action required
012618 - 013459	Ms Emily LAU Administration PPRI	<p>Ms LAU's view that if CS was appointed as Chairman of WKCDA, WKCDA would not be seen as independent from the Government</p> <p>Ms LAU's enquiry about –</p> <p>(a) whether the Bill had incorporated the recommendation of the Subcommittee that WKCDA should have good corporate governance by providing a mechanism to determine the salary package of senior executives of WKCDA; and</p> <p>(b) whether the public views expressed in the PE exercise supported the present composition of the Board</p> <p>The Administration's explanation that –</p> <p>(a) WKCDA would be an independent statutory body and the Administration would consider whether appointing a public officer as its Chairman would undermine its independence; and</p> <p>(b) the salary package of the Chief Executive Officer and other senior executives of WKCDA would be determined by WKCDA</p> <p>PPRI's explanation on the design of the questionnaires. Although the questionnaires did not contain the amount of the upfront endowment, the public should have such knowledge through the Recommendation Report and various other channels. Two telephone polls had been conducted in two different periods and there was little difference in the public response on the upfront endowment. The public agreed that WKCDA should be independent and broadly representative. The questionnaire had not provided details (such as the composition) of the Board as they were not available at the time of the PE exercise</p>	

Time marker	Speaker	Subject(s)	Action required
013500- 014152	Mr James TO Administration	<p>Mr TO's enquiry about the need for having two separate clauses for CE (clause 14) and for the Financial Secretary (FS) (clause 15) to obtain information from WKCDA, and to advise whether there was a similar arrangement in other comparable ordinances</p> <p>Mr TO's request for elaboration on the policy considerations for the appointment of a public officer to be the Chairman of WKCDA</p> <p>The Administration's explanation that it was appropriate to empower CE to obtain information about the affairs and activities of WKCDA and FS to obtain information relating to the financial matter of WKCDA as safeguards of public interest.</p>	Administration to take necessary follow-up action
014153 - 014240	Chairman Mr Albert HO	Request for information on the relationship between WKCDA and other existing government and statutory bodies which were responsible for providing funding support to arts organizations and measures to achieve effective use of resources	Administration to take necessary follow-up action
014241 - 014318	Chairman	Date of next meeting	