

立法會
Legislative Council

Paper No. WKCD-306
(These minutes have been
cleared by the Chairman)

Ref : CB1/HS/2/04

**Subcommittee on
West Kowloon Cultural District Development**

**Minutes of twenty-third meeting held on
Friday, 10 February 2006, at 3:00 pm
in Conference Room A of the Legislative Council Building**

- Members present** : Hon Alan LEONG Kah-kit, SC (Chairman)
Hon James TO Kun-sun (Deputy Chairman)
Hon James TIEN Pei-chun, GBS, JP
Hon Albert HO Chun-yan
Ir Dr Hon Raymond HO Chung-tai, S.B.St.J., JP
Dr Hon LUI Ming-wah, SBS, JP
Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP
Hon CHAN Yuen-han, JP
Hon CHAN Kam-lam, SBS, JP
Hon SIN Chung-kai, JP
Hon Jasper TSANG Yok-sing, GBS, JP
Hon Emily LAU Wai-hing, JP
Hon CHOY So-yuk, JP
Hon Abraham SHEK Lai-him, JP
Hon Albert CHAN Wai-yip
Hon Audrey EU Yuet-mee, SC, JP
Hon LEE Wing-tat
Dr Hon KWOK Ka-ki
Hon CHIM Pui-chung
Hon Patrick LAU Sau-shing, SBS, JP
Hon Albert Jinghan CHENG
- Member attending** : Hon Ronny TONG Ka-wah, SC

Members absent : Hon Margaret NG
Hon LAU Wong-fat, GBM, GBS, JP
Hon Timothy FOK Tsun-ting, GBS, JP
Hon LEUNG Kwok-hung
Hon CHEUNG Hok-ming, SBS, JP

Clerk in attendance : Ms Anita SIT
Senior Council Secretary (1)9

Staff in attendance : Ms Pauline NG
Assistant Secretary General 1

Ms Bernice WONG
Assistant Legal Adviser 1

Ms Sarah YUEN
Senior Council Secretary (1)6

Mr Anthony CHU
Council Secretary (1)2

Miss Michelle NIEN
Legislative Assistant (1)3

Action

I Confirmation of minutes
(Paper No. WKCD-236 -- Minutes of meeting on
12 November 2005)

The minutes of the meeting held on 12 November 2005 were confirmed.

II Discussion on the way forward
(Paper No. WKCD-235 -- Press release of the Administration
on the speech made by the Secretary
for Housing, Planning and Lands at
the motion debate on the Reports of
the Subcommittee on West Kowloon
Cultural District Development at the
Council meeting on 8 February 2006

Paper No. WKCD-234 -- Reply dated 8 February 2006 from
the Chief Secretary for
Administration to the Chairman's
letter dated 4 February 2006

- Paper No. WKCD-232 -- Letter dated 4 February 2006 from the Chairman of the Subcommittee to the Chief Secretary for Administration conveying views of Subcommittee members on the Administration's refusal to attend the meeting on 3 February 2006
- Paper No. WKCD-223 -- Letter dated 6 January 2006 from the Administration attaching its press release in response to the Subcommittee's Report on Phase II Study
- Paper No. WKCD-226 -- Letter dated 26 January 2006 from the Administration in response to the Subcommittee's invitation to attend its meeting on 3 February 2006
- Paper No. WKCD-228 -- Paper on Attendance of Public Officers at meetings of the committees of the Legislative Council)

2. Members noted the submission from Planet Time (Paper No. WKCD-237) which was tabled at the meeting.

(Post-meeting note: The submission was circulated to members vide LC Paper No. CB(1)892/05-06 on 13 February 2006.)

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

4. The Chairman informed members that pursuant to members' decision at the last Subcommittee meeting on 3 February 2006, he had written a letter dated 4 February 2006 (Paper No. WKCD-232) to the Chief Secretary for Administration (CS), conveying to him members' views on the Administration's refusal to attend the said meeting. A list of issues which required response from the Administration was attached to the letter. CS gave his reply through his letter dated 8 February 2006 (Paper No. WKCD-234). At the last meeting, members agreed to hold this meeting to discuss the way forward after considering the Administration's response at the motion debate on the Subcommittee's reports at the Council meeting on 8 February 2006 and other latest developments. The speech of the Secretary for Housing, Planning and Lands (Paper No. WKCD-235) made at the motion debate had been circulated to members. He suggested that the Subcommittee's two reports be sent to Members of the Executive Council (ExCo) and a draft letter for this purpose was tabled at the meeting.

5. The Chairman further said that CS had indicated in his reply that he would attend a Subcommittee meeting before the end of February 2006 to report on the latest development on WKCD project. The following time slots had been reserved for the meeting:

Tuesday, 21 February 2006 at 2:30 pm and
Tuesday, 28 February 2006 at 4:30 pm.

Members would be notified of the meeting time in due course. He then invited members to give views on whether and what follow-up actions should be taken by the Subcommittee.

(Post-meeting note: A meeting with CS was scheduled for Tuesday, 21 February 2006 at 2:30 pm.)

6. Members noted that CS had indicated in his letter that he would attend a Subcommittee meeting before the end of February to brief members on the latest development for WKCD. Members shared the view that since the Subcommittee reports contained the consensus views of the various parties and groups in the Legislative Council (LegCo) and the reports were endorsed by all Council Members at the motion debate on 8 February 2006, the Administration should not take forward the WKCD project without giving due consideration to the recommendations in the reports.

7. Mr Ronny TONG considered that the Administration should respond positively to the invitation of the Subcommittee to discuss the recommendations in the Subcommittee's reports and the way forward for WKCD. The Administration should explain to the Subcommittee whether any recommendations of the Subcommittee were not acceptable and for recommendations that the Administration found acceptable, the reasons for not implementing them. He expressed concern that the Administration's apathetic response to the Subcommittee's invitation and its reports would further undermine the relationship between the Legislature and the Executive.

8. Noting the reply dated 8 February 2006 from the CS that the Administration would give a comprehensive and substantive public elucidation on the powers and functions of the Legislature and the Executive respectively in the near future, Ms Emily LAU said that the Legislature and the Executive needed more fruitful and constructive exchanges to improve the relationship.

Consideration of the need to invoke the power under section 9 of Legislative Council (Powers and Privileges) Ordinance

9. Mr LEE Wing-tat said that if CS failed to provide the information requested by the Subcommittee at the forthcoming meeting, the Democratic Party would consider seeking the Council's authorization under the Legislative

Council (Powers and Privileges) Ordinance (Cap. 382) to order the Administration to produce the relevant documents.

10. Dr KWOK Ka-ki expressed concern that CS would only brief the Subcommittee after the ExCo had made a decision on the development of WKCD. If that was the case, the meeting with CS would be meaningless as there would be little room for change or further consultation. In order that a meaningful and thorough discussion with the Administration could be conducted on the Subcommittee's reports and the way forward for WKCD, he saw the need to compel the Administration to attend a Subcommittee meeting before ExCo made a decision on the development of WKCD.

11. Mr CHAN Kam-lam said that as CS had undertaken to meet with the Subcommittee before the end of February 2006, he considered that there was no need to seek the authorization from the Council to order him to attend a Subcommittee meeting. This view was shared by Miss CHOY So-yuk.

12. On the practicability of invoking the power under section 9 of Cap. 382 to order the attendance of CS at a Subcommittee meeting before 21 February or 28 February 2006, the Assistant Secretary General 1 informed members that according to the notice requirement for moving a motion to seek the relevant authorization from the Council to invoke the power of summons, the deadline for giving the notice for the Council meeting on 15 February 2006 had passed. The Council meeting on 22 February 2006 was scheduled for the budget speech, so normal council business, including members' motions, would not usually be scheduled for the meeting. The Chairman concluded that due to time constraints, it would not be practicable to invoke the power under section 9 of Cap. 382 to order the attendance of CS at a Subcommittee meeting before 21 February or 28 February 2006.

Questions that were yet to be answered by the Administration and letter to the Chief Secretary for Administration

13. Mr LEE Wing-tat opined that the Administration should be asked to clarify whether it had negotiated with the three screened-in Proponents on the additional development parameters and conditions under the modified approach.

14. Mr CHAN Kam-lam said that CS should brief members on the updated position regarding the responses of the three screened-in Proponents to the additional development parameters and conditions and whether the Administration would vary the parameters and conditions in response to any counter-proposals of the screened-in Proponents. CS should also respond to the six recommendations in the Phase II Report of the Subcommittee.

15. Miss CHOY So-yuk opined that the Administration should provide concrete answers to the questions and concerns raised by Subcommittee members, including the Administration's assessment of the current land value of WKCD.

16. After discussion, members agreed to send a letter to CS requesting him to respond to the questions and concerns raised by the Subcommittee at the forthcoming meeting. CS should also be asked to explain the reason if a substantive response could not be provided to any question tentatively, and confirm when the requested information would be available.

(Post-meeting note: A circular inviting members to add further questions to the list was issued to members vide LC Paper No. CB(1)891/05-06 on 11 February 2006. The updated list was circulated to members vide LC Paper No. CB(1)909/05-06 on 15 February 2006.)

Letters to the Chief Executive and Executive Council Members

17. Members were concerned that CS would only provide information to the Subcommittee after the Administration had negotiated with the three screened-in Proponents and the matter finalized by ExCo. Mr Albert HO pointed out that judging from the recent remarks of the Chief Executive (CE) and top Government officials on the role of the LegCo, it seemed that the Administration was under the impression that LegCo intended to interfere with the land disposal arrangement in the WKCD project. There was a possibility that the Administration would endeavour to decide on the way forward on WKCD before meeting with the Subcommittee. In order that the Administration would not make any irreversible decisions before then, the Subcommittee explored the feasibility of requesting CE to meet and consult LegCo Members on WKCD project in view that significant public interest was involved. Mr LEE Wing-tat and Ms Emily LAU also suggested that CE should be requested to attend a Question and Answer session specifically on WKCD.

18. Mr CHIM Pui-chung was of the view that the Administration would unlikely make a final decision on WKCD project before the election of the next CE in 2007. He suggested that the Subcommittee should write to CE conveying to him that no decision on WKCD should be made before the Administration had discussed and responded to the Subcommittee's reports. Mr Albert HO added that CE should be asked to personally attend to the matter and ensure that CS would respond to the questions raised by Subcommittee members.

19. After discussion, members agreed that a letter should be sent to CE conveying the above views. Members also agreed that the letters to CE and CS should emphasize that the Administration must not make any irreversible decision or any decision that would in effect create a fait accompli before the Administration had responded in specific terms to the findings and recommendations of the Subcommittee and had thorough exchanges with LegCo

on the way forward for WKCD.

20. Mr Albert CHAN supported that a letter enclosing the Subcommittee's reports should be sent to ExCo Members. Given that CE would make a decision on the WKCD project after consulting ExCo, he suggested that the Subcommittee should also invite ExCo Members to meet with the Subcommittee to discuss the way forward for WKCD project. Ms Emily LAU supported Mr CHAN's suggestion.

21. At the Chairman's invitation, the Assistant Legal Adviser 1 advised members that under Articles 54 and 56 of the Basic Law, ExCo was an organ for assisting CE in policy-making. ExCo was not part of the Executive Authorities and were not accountable to LegCo under Article 64 of the Basic Law. ExCo Members were not public officials designated to attend meetings of LegCo under the Rules of Procedure. As ExCo had to abide by the principles of collective responsibility and confidentiality, the Subcommittee might need to consider whether a formal meeting with ExCo Members was appropriate in that it might create a conflict in their roles.

22. Mr Albert CHAN said that LegCo and ExCo used to have a closer relationship but the relationship had deteriorated in the recent years. He considered that exchanges between LegCo Members and ExCo Members on public affairs should not give rise to any particular problem. After discussion, the Chairman suggested and members agreed that the Chairman should write to individual ExCo Members providing them with the Subcommittee's reports and stating the Subcommittee's wish to meet with them to discuss any points in the Subcommittee's reports or any comments on the Subcommittee's findings and recommendations.

23. Mr Albert HO and Ms Emily LAU pointed out that in case the Administration had made a final decision on WKCD which might compromise the public interest and without due consideration of the recommendations in the Subcommittee's reports, the Subcommittee should consider taking more vigorous actions, including invoking the power under section 9 of Cap. 382 to compel the Administration to provide relevant documents and/or moving a motion of no-confidence at the Council meeting.

24. In concluding, members agreed that the Chairman would write on behalf of the Subcommittee letters to the CE, CS and Members of ExCo, to convey members' views expressed at the meeting.

(Post-meeting note: The letters were sent out on 14 February 2006 and were circulated to members vide LC Paper No. CB(1)908/05-06 on 15 February 2006.)

III Any other business

25. The meeting ended at 4:00 pm.

Council Business Division 1
Legislative Council Secretariat
20 June 2006

**Proceedings of the twenty-third meeting of the
Subcommittee on West Kowloon Cultural District Development
on Friday, 10 February 2006, at 3:00 pm
in Conference Room A of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action required
000000 – 000041	Chairman	Confirmation of minutes of the meeting held on 12 November 2005 (Paper No. WKCD-236)	
000042 – 000524	Chairman	Opening remarks	
000525 – 001912	Mr LEE Wing-tat Dr KWOK Ka-ki Mr Albert CHAN Chairman ASG1 ALA1	<ul style="list-style-type: none"> - The Chief Secretary for Administration (CS) should brief members on the updated position regarding the responses of the screened-in Proponents to the additional development parameters and conditions under the modified approach - Consideration of the need to invoke the power under section 9 of the Legislative Council (Powers and Privileges) Ordinance to compel the attendance of CS and the Administration's production of relevant documents before a decision on West Kowloon Cultural District (WKCD) was made by the Executive Council (ExCo) - Inviting ExCo members to meet with Subcommittee members to discuss the Subcommittee's reports and the way forward for WKCD 	
001913 - 002429	Mr CHAN Kam-lam Miss CHOY so-yuk Chairman	<ul style="list-style-type: none"> - No need to invoke section 9 of Cap. 382 as CS had undertaken to meet with the Subcommittee - CS should brief members on the updated progress of WKCD and the negotiation, if any, with the screened-in Proponents at the 	

Time marker	Speaker	Subject(s)	Action required
		<p>forthcoming meeting</p> <ul style="list-style-type: none"> -The Administration should respond in specific terms to the questions and concerns raised by members -List of questions and concerns raised by members to be sent to CS for response at the forthcoming meeting 	
002430 - 002739	Mr Ronny TONG Chairman	Need for the Administration to respond positively to the Subcommittee's reports	
002740 - 003505	Ms Emily LAU Mr Albert HO	<ul style="list-style-type: none"> - Concern that the Administration had made a final decision before briefing the Subcommittee - Actions to take by the Subcommittee in the case that the Administration had made a final decision on WKCD without due consideration of public sentiments and the recommendations in the Subcommittee's reports 	
003506 - 003624	ASG1	Practicability of moving a motion to invoke section 9 of Cap. 382 at a Council meeting before 21 or 28 February 2006	
003625 - 003936	Miss CHAN Yuen-han	Ways to persuade the Administration to seriously consider the recommendations contained in the Subcommittee's reports	
003937 - 004306	Mr Albert CHAN Chairman	Letter to ExCo Members be revised to include invitation to meet with Subcommittee members to discuss the Subcommittee's reports and way forward for WKCD	

Time marker	Speaker	Subject(s)	Action required
004307 - 004537	Mr CHIM Pui-chung	Letter to the Chief Executive to convey the Subcommittee's request that no decision on WKCD should be made before the Administration had thorough discussion with LegCo on the Subcommittee's reports and the way forward for WKCD	
004538 - 004813	Mr LEE Wing-tat	The Subcommittee should request CE to meet with and consult LegCo members on way forward for WKCD	
004814 - 004954	Ms Emily LAU	- CE should be invited to a Question and Answer session on WKCD - The Subcommittee should consider what further actions to take if the Administration insisted on adopting its mode of development for WKCD	
004955 - 005133	Dr KWOK Ka-ki	Letters to CE and CS should remind them that the Executive Authorities should not make any irreversible decision on WKCD before thorough discussion with LegCo	
005134 - 005419	Mr Albert HO	The Subcommittee should consider what further actions to take if the Administration insisted on adopting its mode of development for WKCD	
005420 – 005655	Chairman	Concluding remarks	