

立法會
Legislative Council

LC Paper No. CB(1)1324/05-06
(These minutes have been seen
by the Administration)

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Panel on Planning, Lands and Works

Minutes of meeting
held on Tuesday, 28 February 2006 at 2:30 pm
in Conference Room A of the Legislative Council Building

- Members present** : Hon LAU Wong-fat, GBM, GBS, JP (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
Hon James TO Kun-sun
Hon WONG Yung-kan, JP
Hon CHOY So-yuk, JP
Hon Abraham SHEK Lai-him, JP
Hon Albert CHAN Wai-yip
Hon LI Kwok-ying, MH
Hon Alan LEONG Kah-kit, SC
Dr Hon KWOK Ka-ki
Hon CHEUNG Hok-ming, SBS, JP
- Members absent** : Hon Patrick LAU Sau-shing, SBS, JP (Deputy Chairman)
Hon Timothy FOK Tsun-ting, GBS, JP
Hon LEE Wing-tat
Hon Daniel LAM Wai-keung, BBS, JP
- Public officers attending** : **Agenda item IV**
Mr Michael SUEN
Secretary for Housing, Planning and Lands

Mrs Rita LAU
Permanent Secretary for Housing, Planning and Lands
(Planning and Lands)

Mr Patrick LAU
Director of Lands

Mr W S LAM
Principal Land Executive (Village Improvement and
Lease Enforcement/Land Control Section)
Lands Department

Agenda item V

Mr WONG Ming-to
Principal Assistant Secretary for the Environment,
Transport and Works (Works) 2

Mr KWONG Hing-ip, Patrick
Assistant Director (Administration)
Civil Engineering and Development Department

Ms NG Tze-kwun, Kathy
Senior Landscape Architect
Civil Engineering and Development Department

Agenda item VI

Mr James S O CHAN
Principal Assistant Secretary for the Environment,
Transport and Works (Works) 3

Mr M C LEUNG
Assistant Director/New Works
Water Supplies Department

Mr C H NG
Chief Engineer/Project Management
Water Supplies Department

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

Staff in attendance : Mr WONG Siu-yee
Senior Council Secretary (1)7

Ms Christina SHIU
Legislative Assistant (1)7

I Confirmation of minutes

- (LC Paper No. CB(1)860/05-06 -- Minutes of joint meeting with the Panel on Environmental Affairs on 22 November 2005
- LC Paper No. CB(1)952/05-06 -- Minutes of meeting on 20 December 2005)

The minutes of the joint meeting with the Panel on Environmental Affairs held on 22 November 2005 and the minutes of the regular meeting held on 20 December 2005 were confirmed.

II Information papers issued since last meeting

- (LC Paper No. CB(1)898/05-06(01) -- Submission from 公屋諮詢熱線 on mandatory building inspection
- LC Paper No. CB(1)956/05-06 -- Information paper on “92CD – Yuen Long, Kam Tin, Ngau Tam Mei and Tin Shui Wai drainage improvements, stage 1, phase 2B – Kam Tin” provided by the Administration)

2. Members noted the information papers issued since last meeting.

III Items for discussion at the next meeting

- (LC Paper No. CB(1)951/05-06(01) -- List of outstanding items for discussion
- LC Paper No. CB(1)951/05-06(02) -- List of follow-up actions)

3. Members noted that the Administration did not propose any discussion item for the next meeting scheduled for 28 March 2006. Members agreed to discuss the item on “Resumption of scheduled land auctions” suggested by Dr KWOK Ka-ki at the last meeting on 24 January 2006. Mr WONG Yung-kan suggested that the item on “Issues relating to the use of the Frontier Closed Area” be discussed at the next meeting. As the Security Bureau was taking the lead in the redrawing of the Frontier Closed Area, members agreed that the Clerk would explore with the Administration and the Panel on Security on the appropriate timing for discussion of the item, and if appropriate, at a joint meeting of the Panel and the Panel on Security.

IV Processing of small house applications and review of the small house policy

(LC Paper No. CB(1)951/05-06(03) -- Information paper provided by the Administration

LC Paper No. CB(1)986/05-06(01) -- Background brief on “Processing of small house applications and review of the small house policy” prepared by the Legislative Council Secretariat)

Background of the Small House Policy

4. The Secretary for Housing, Planning and Lands (SHPL) briefed members on the processing of small house applications and review of the Small House Policy by highlighting the salient points of the Administration’s paper.

5. The Chairman commented that the Administration should clarify the historical background to the Small House Policy. He pointed out that the Small House Policy was introduced back in the 1970s to cater for the housing needs of indigenous villagers (IVs), just like the public rental housing (PRH) policy was introduced to cater for the housing needs of non-IVs. He further pointed out that IVs not possessing any property of their own but having a small share of the properties held by the Tso and Tong of the clan concerned were not eligible for applying for PRH. Almost every IV was a member of a Tso or Tong in one form or another. As such, the Small House Policy was not a privilege of IVs, but rather part of a balanced two-prong housing policy. He said it was unfair that while the average waiting time for applicants of PRH had been shortened to three years, the waiting time for small house applications was becoming longer and could be up to 17 years in extreme cases. The public would support the request of asking the Administration to expedite the processing of small house applications if the Administration clarified the historical background of the issue.

6. SHPL explained that during the early stage of implementation of the PRH policy, priority was given to constructing PRH in urban districts and new towns in the New Territories, such as Sha Tin and Tuen Mun, due to resource limitations. Over the years, the coverage of PRH had been extended to districts such as Tai Po and Fan Ling which were in close proximity to indigenous villages. In the past, some IVs had reservation in applying for PRH because the flats were located far away from their villages. In relation to eligibility for applying for PRH, he clarified that eligibility for PRH was not limited to non-IVs only. IVs were eligible for PRH so long as they could meet the relevant criteria such as income and asset limits. He pointed out that the issue of small house eligibility might be more than a policy issue because Article 40 of the Basic Law provided that the lawful traditional rights and interests of the IVs were protected. Whether small house eligibility was a lawful traditional right was still a matter of contention and therefore the Administration had to handle the matter very carefully. The

Administration needed some more time to sort out the various complex issues.

Legal and policy issues related to small house development

7. While acknowledging that the Basic Law protected the lawful traditional rights and interests of IVs, Mr Albert HO expressed concern on whether small house eligibility was a perpetual right of male descendents of IVs and whether the policy would involve sex discrimination. He was also concerned about the disputes arising from the building of small houses, such as environmental problems and right of way. He asked whether the Administration would include in the review of the Small House Policy the issue of sex discrimination and the possibility of setting a cut-off date for small house eligibility to address the issue of perpetual right.

8. In reply, SHPL pointed out that under the Basic Law, the lawful traditional rights and interests of the IVs were not subject to any delimiting condition. As such, it was a challenge for the Administration to cater for small house development in a sustainable way. The Administration had some preliminary views but it was premature to bring them up for discussion at this stage. Many complex issues had yet to be addressed in solving the problem. As regards the issue of sex discrimination, while the Administration also had some preliminary views, it was not yet ready to discuss the issue in view of the many underlying considerations and disputes. He was not certain whether the review of the Small House Policy could identify solutions for the fundamental issues.

9. Pointing out that there had been a lot of changes in housing policies since 1972, Dr KWOK Ka-ki enquired about the extent to which the Administration could change the outdated Small House Policy. He expressed strong reservation that the community could meet the demand of eligible IVs for small house development in the long run if the Small House Policy was not changed.

10. SHPL said that policies could be changed if necessary with the approval of the Executive Council after conducting extensive consultation, but the main difficulty with the Small House Policy lied in the protection of the lawful traditional rights and interests of the IVs under Article 40 of the Basic Law. Under the circumstances, how to meet the demand for small house development in a sustainable way was the crux of the problem. What the Administration could do at present was to solve the problem at the policy level by better utilizing the existing land resources for small house development, such as allowing for multi-storey development, and in doing so gaining some more time to resolve the deep-rooted issues through identifying appropriate solutions. In reply to Dr KWOK Ka-ki's further enquiry, he said that the Administration had been conducting legal research on issues relating to the lawful traditional rights and interests of the IVs under the Basic Law, sex discrimination and other issues related to the Small House Policy. He admitted that it would be a big challenge for the Administration to arrive at substantive solutions within a short time span.

11. Pointing out that the original spirit of the Small House Policy was to cater for the housing needs of IVs, Mr Albert CHAN commented that gradually, small house development had become a means of profiteering for some IVs and developers. There were also many problems arising from the construction of small houses, such as environmental problems and vices involving the control of the construction works. He considered that the Administration should have a comprehensive plan to address the problems associated with the implementation of the Small House Policy. The possible measures might include setting a cut-off date for small house eligibility, addressing the issue of sex discrimination, expediting the processing of applications, protecting IVs from being bullied, providing better planning for village development and solving the environmental problems of villages. He asked what the Administration would do in this regard.

12. SHPL pointed out that the Administration had proposed measures to handle some of the problems, such as the requirement for small house applicants to make statutory declarations that they had not made any private arrangements for selling their rights under the Small House Policy to other parties. The Administration was discussing with the Heung Yee Kuk (HYK) on how to take the matter forward. SHPL further said that if a cut-off date could really be set for small house eligibility, then the rights of IVs under the Small House Policy would not be perpetual. However, the crux of the issue was whether the rights of IVs under the Small House Policy were one of the lawful traditional rights and interests of the IVs protected under Article 40 of the Basic Law. As legal principles were involved, it was not a matter that could be resolved by himself or HYK alone. The views of stakeholders from various sectors had to be considered as well and further discussion with HYK would be required. He hoped that the Administration could systematically assimilate the suggestions from various parties for public consultation. As a preliminary thinking, the Administration could bring up all the relevant issues for discussion by parties concerned and try to reach a consensus in formulating a direction on the way forward. This would create some latitude for identifying existing difficulties and stimulate ideas for handling the situation.

13. While agreeing that the housing needs of IVs should be met, Mr Albert HO commented that maintaining the Small House Policy would be unfair for non-IVs nowadays. The Administration should formulate a framework and put up proposals to resolve the problems arising from the Small House Policy. The Administration should look into the issues of whether there should be two different housing policies for IVs and non-IVs; whether there should be a cut-off date for small house eligibility; whether female IVs should be entitled to small houses; and the sale of small houses or small house eligibility.

14. Dr KWOK Ka-ki pointed out that the Administration should introduce changes to the Small House Policy to resolve the related problems. As long as the changes were reasonable, the public would support the move. He considered that the sale of small house eligibility for profiteering was problematic because it

deviated from the original intention of the Small House Policy. He asked whether the Administration could ban the sale from the legal point of view.

15. SHPL clarified that IVs could also apply for PRH provided that they met the relevant eligibility criteria. In relation to the sale of small houses, he pointed out that the key question was that if small house eligibility was a lawful traditional right, the Basic Law did not specify whether small houses could be sold or not. At present, there were sale restrictions on small houses at the policy level. The restrictions were different for small houses built on land possessed by IVs and on land granted by the Government through private treaty grants.

16. The Chairman commented that the construction of small houses was self-funded and therefore small houses were private properties. On the other hand, PRH was constructed using public funds.

Processing of small house applications

17. Mr CHEUNG Hok-ming sought clarification on how the current pledge of the Lands Department (Lands D) to process 2 300 small house applications per year was related to the actual number of cases executed per year, because the applicants were concerned with the number of cases executed rather than the number of cases processed.

18. In reply, the Director of Lands (D of Lands) clarified that in the past, the pledge of 1 200 cases per year referred to the number of cases executed. As some of the small house applications were processed but not approved or executed in the end due to various reasons, Lands D had conducted a review in recent years and revised its pledge by using the number of applications processed per year in order to better reflect the actual workload of Lands D in processing small house applications.

19. Pointing out that both the numbers of cases executed and processed had decreased in recent years, Mr CHEUNG Hok-ming asked for an explanation and enquired whether the Administration could provide the time needed for each step in processing small house applications. He further asked how the Administration could expedite the processing of small house applications if the numbers of cases processed and executed were on the decrease.

20. D of Lands explained that in the past, many small house applications were quite straightforward. However, the applications were becoming more and more complicated due to reasons such as the increasing scarcity of private land owned by IVs for small house development and hence the increasing complexity of land titles, site constraints and environmental issues. By way of illustration, he pointed out that cases involving water gathering grounds would have no immediate solutions. While more time was needed in processing and resolving the above issues, the manpower resources for Lands D had been reduced in recent years. In order to expedite the processing of small house applications amid the many

constraints, the Administration had taken steps to enhance internal coordination among relevant departments on issues such as problems with emergency vehicular access so that pending cases could be proceeded with. Instead of leaving objections to be resolved among the villagers themselves, Lands D would proactively take the lead in handling objections from villagers against small house applications. For this to succeed, consent had to be obtained from the objector for disclosing the objector's identity. As for the time required for each step in processing small house applications, it would depend on a number of factors such as the number of outstanding cases in a particular district and the completeness of the information provided by the applicants. As a rough estimate, the waiting time for an application to be processed might range from one to three years. Checking eligibility and land status and site visit might take about six weeks. The time required for consultation with relevant Government departments might take about one month. If there were no objections received after posting of notices for objections, the application could be submitted to the District Lands Office Conference in about one month's time. If there were objections, the case might not be proceeded with immediately. In reply to the Chairman's enquiry, he said that the proposed mechanism for handling objections would be implemented after consultation with HKY and seeking legal advice on whether it was possible to release the identity of the objector to third parties without obtaining the objector's consent.

21. While acknowledging that there might be complications in the later stages of processing small house applications, Mr CHEUNG Hok-ming pointed out the existing situation that the waiting time for an application to be processed varied widely from district to district. He considered that the Administration should redeploy manpower to equalize the waiting time in different districts as far as possible.

22. In reply, D of Lands said that the difference in waiting time was due to the difference in the number of applications in different districts. By way of illustration, he pointed out that while there was only one application on the waiting list in Tuen Mun, there were some 300 applications on the waiting list in Tai Po. Several years ago, Lands D had a special squad deployed to districts with a backlog of applications to assist in processing applications which were straightforward. However, as the applications became more complicated the special squad could no longer serve its original function effectively. For Tai Po where there were more applications, Lands D had deployed more resources to process small house applications through internal redeployment of manpower. He agreed that the screening time should not vary too much across different districts.

Village Expansion Area scheme

23. In relation to small house development in village expansion areas (VEAs), Mr Albert HO suggested the Administration should consult the relevant District Councils before implementation in order to take into consideration the views of the District Councils and address their concerns. In reply, SHPL said the

Administration had been following the usual consultation process of seeking the views of the District Councils and the Legislative Council. Although VEAs might not be able to solve the ever-increasing demand for small house development in a sustainable way, the Administration was identifying measures such as allowing the building of multi-storey small houses to better utilize the limited land resources.

24. In reply to a similar enquiry by Mr WONG Yung-kan, SHPL said that at present, small houses were limited to three storeys high only. The Administration was exploring the possibility of increasing the development density of the land for small houses, thereby providing a greater number of residential units to meet the demand. The Administration would discuss with HYK to further explore the details of the preliminary idea.

25. Dr KWOK Ka-ki was worried that allowing multi-storey small house development in VEAs would still not be able to meet the demand for small house development in the long run because the number of eligible IVs would probably increase with time. He enquired about the number of small house flats that could be provided in VEAs. SHPL said that the Administration was still working on an estimation of the number of small house flats that could be built in VEAs.

Planning issues related to small house development

26. Mr Albert CHAN suggested that in order to obviate planning and environmental problems arising from small house development, the Administration should formulate statutory village zoning plans to clearly define the permitted uses of the land plots covered by the plans. The Administration could then assess individual applications based on the relevant village zoning plan. By formulating village zoning plans, a lot of complications in small house applications and disputes among villagers could also be avoided.

27. The Permanent Secretary for Housing, Planning and Lands (Planning and Lands) (PS/HPL(P&L)) pointed out that the statutory outline zoning plans for the New Territories had already designated “Village Development Type” (“V”) zones for small house development. Complicated small house applications that required the approval of the Town Planning Board often involved sites falling outside the “V” zones, such as sites in conservation areas. Applications involving small house development within the village environs were usually straightforward. However, she admitted that an outline zoning plan would not be detailed enough to define what permitted facilities and structures, such as roads or buildings, were allowed in a certain area within a “V” zone. Resources and circumstances permitted, the Administration would consider adopting suggestions that could help improve the village layout, where practicable.

V Implementation of short-term greening measures associated with greening master plans for Central and Tsim Sha Tsui

(LC Paper No. CB(1)951/05-06(04) -- Information paper provided by the Administration)

28. The Assistant Director (Administration) of the Civil Engineering and Development Department (AD(Adm)/CEDD) gave a PowerPoint presentation on the implementation of short-term greening measures associated with greening master plans (GMPs) for Central and Tsim Sha Tsui.

(Post-meeting note: The presentation notes tabled at the meeting were subsequently issued to members vide LC Paper No. CB(1)1011/05-06 on 1 March 2006.)

29. While indicating support for the proposal, Miss CHOY So-yuk commented that different greening themes should be adopted for different districts to project the local characteristics of individual districts and vertical greening should be included as one of the short-term greening measures. She also suggested that the Administration invite District Councils to provide input at an early stage in the implementation of GMPs. As regards the average cost of \$1,400 per square metre for implementing the greening measures, she asked whether it had included any consultancy fees.

30. In reply, AD(Adm)/CEDD said that there would be a theme for each GMP to project the characteristics of the district concerned. Opportunities would be identified for small scale vertical greening as one of the short-term greening measures while large scale vertical greening would be planned in the context of the medium-term greening measures. The Administration would review the current consultation mechanism in implementing GMPs, including how to solicit input from the District Councils at an earlier stage. As for the average cost referred to by Miss CHOY, he said that consultancy fees had not yet been included. On the issue of vertical greening, the Principal Assistant Secretary for the Environment, Transport and Works (Works) 2 (PAS/ETW(W)2) supplemented that there would be two categories of vertical greening measures. Vertical greening which was less complicated in nature could be introduced in the current phase. More complicated cases involving issues such as future maintenance of vertical greening of walls with a large surface area would be introduced in the next phase.

31. Mr Albert CHAN said that he would support the proposal if specific themes for individual districts were included in the GMPs, specifying the trees, scrubs and other plants to be used in each theme; if the Administration chose local species as far as possible in implementing GMPs; and if the greening measures were natural and at an optimal level because excessive ornamental greening might produce the opposite effect and bring about visual pollution. AD(Adm)/CEDD re-affirmed that specific themes had been established in the GMPs with local species adopted as far as possible to reflect the themes and design of appropriate

style for the specific location concerned.

32. Mr WONG Yung-kan echoed the views expressed by Miss CHOY So-yuk and Mr Albert CHAN. He added that in implementing GMPs, the 18 districts should be included and each should have its own characteristics, just like what was being done on the Mainland. As regards the consultation mechanism, he commented that the Administration could consult the Districts Councils before soliciting the views of the Panel in implementing GMPs.

33. In reply, PAS/ETW(W)2 explained that priority was given to implementing GMPs in urban districts at this stage and GMPs would be extended to cover the built-up areas in the New Territories as appropriate in the future. In implementing GMPs, there would be a theme for each district to project the characteristics of the district. Acknowledging the merits of inviting the District Councils to provide input at an early stage in the implementation of GMPs, the Administration would consider incorporating the arrangement into the future consultative mechanism. The Administration would report the progress of the implementation of GMPs to the Panel in due course.

34. The Chairman said that the views expressed by Panel members would be relayed to the Public Works Subcommittee (PWSC).

VI PWP item no. 9174WC – Replacement and rehabilitation of water mains, stage 1 phase 2

(LC Paper No. CB(1)951/05-06(05) -- Information paper provided by the Administration)

35. The Principal Assistant Secretary for the Environment, Transport and Works (Works) 3 (PAS/ETW(W)3) briefed members on the background of PWP item no. 9174WC – Replacement and rehabilitation of water mains, stage 1 phase 2. The Assistant Director/New Works of the Water Supplies Department (AD/WSD) then gave a PowerPoint presentation on the details of the proposal.

(Post-meeting note: The presentation notes tabled at the meeting were subsequently issued to members vide LC Paper No. CB(1)1011/05-06 on 1 March 2006.)

36. Mr WONG Yung-kan said that he supported the proposal in principle. Noting that the proposed works would take about three and a half years to complete, he asked whether the Administration would consider expediting the works programme to advance the completion date.

37. In reply, PAS/ETW(W)3 pointed out that the works programme would have to be scheduled in such a way so as not to cause any adverse impact on the traffic in the region where the works would be carried out. Based on experience gained from implementing the works, the Administration would consider whether

it was feasible to expedite the works to be carried out in later stages.

38. Miss CHOY So-yuk echoed Mr WONG Yung-kan's view and hoped that the proposed works could be completed earlier. Expressing concern on the durability of the proposed pipe materials to be used for the replacement and rehabilitation of water mains, she enquired about the service life of the proposed pipe materials.

39. In reply, PAS/ETW(W)3 said that the Administration would closely monitor the works programme and expedite the works where practicable. As regards the durability of the proposed pipe materials, AD/WSD pointed out that the durability of the pipe materials to be used in the proposed works would be better than those used in the 1960s and 1970s, and the service life of the pipe materials was estimated to be about 50 to 60 years. The replacement and rehabilitation cycle of water mains in the areas concerned would be lengthened upon completion of the proposed water mains replacement and rehabilitation works.

40. The Chairman said that the views expressed by Panel members would be relayed to PWSC.

VII Any other business

41. There being no other business, the meeting ended at 4:35 pm.