

立法會
Legislative Council

LC Paper No. CB(1)2212/07-08
(These minutes have been seen
by the Administration)

Ref : CB1/BC/5/07/2

Bills Committee on West Kowloon Cultural District Authority Bill

**Minutes of tenth meeting held on
Thursday, 22 May 2008, at 8:30 am
in the Chamber of the Legislative Council Building**

Members present : Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP (Chairman)
Dr Hon LUI Ming-wah, SBS, JP
Hon Margaret NG
Hon Bernard CHAN, GBS, JP
Hon CHAN Kam-lam, SBS, JP
Hon SIN Chung-kai, 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 WONG Kwok-hing, MH
Hon Jeffrey LAM Kin-fung, SBS, JP
Hon Alan LEONG Kah-kit, SC

Members absent : Hon CHEUNG Hok-ming, SBS, JP (Deputy Chairman)
Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP
Hon James TO Kun-sun
Hon CHAN Yuen-han, SBS, JP
Dr Hon Philip WONG Yu-hong, GBS
Hon WONG Yung-kan, SBS, JP
Hon Howard YOUNG, SBS, JP
Hon Abraham SHEK Lai-him, SBS, JP
Hon LEE Wing-tat
Hon Daniel LAM Wai-keung, SBS, JP
Hon Andrew LEUNG Kwan-yuen, SBS, JP
Hon LEUNG Kwok-hung
Prof Hon Patrick LAU Sau-shing, SBS, JP

Public officers attending : Agenda item I

Ms Esther LEUNG, JP
Deputy Secretary for Home Affairs
(West Kowloon Cultural District)

Mr Danny LAU
Principal Assistant Secretary for Home Affairs
(West Kowloon Cultural District)

Mr Frederick YU
Assistant Secretary for Home Affairs
(West Kowloon Cultural District) 4

Mr Louis KAU
Senior Town Planner
(West Kowloon Cultural District)

Ms NG Wah-chi, Lonnie
Senior Government Counsel
Department of Justice

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

Staff in attendance : Mr Arthur CHEUNG
Senior Assistant Legal Adviser 2

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

I Meeting with the Administration

Clause-by-clause examination of the Bill

(LC Paper No. CB(3)361/07-08 -- The Bill)

Matters arising from previous meetings

- (LC Paper No. CB(1)1622/07-08(01) -- Issues raised by individual members on which the Administration was requested to provide written response (as at 21 May 2008)
- LC Paper No. CB(1)1514/07-08(02) -- Administration's response to points raised by individual members at the meeting on 29 April 2008
- LC Paper No. CB(1)1622/07-08(02) -- Administration's response to points raised by individual members at the meeting on 8 May 2008)

Draft Committee Stage Amendments

- (LC Paper No. CB(1)1622/07-08(03) -- "Proposed Committee Stage Amendments -- The First Batch" provided by the Administration)

The Bills Committee deliberated (index of proceedings attached at **Annex**).

2. The Administration was requested to provide written response on the following points raised by individual members of the Bills Committee --

- (a) the Bill should provide that the West Kowloon Cultural District Authority (WKCDA) shall engage the public in preparing its corporate plans and business plans;
- (b) the annual report of WKCDA should specify how its activities for that financial year related to the relevant corporate plan and business plan of WKCDA;
- (c) the Administration should consider specifying in the Bill that information on disclosure of interest would be made available on the Internet for inspection by the public;
- (d) the Administration should consider specifying in the Bill the consequences or sanctions of failing to disclose interest with reference to the relevant rules of the Executive Council, the Legislative Council (LegCo) and other comparable public statutory bodies;

- (e) the Administration should clarify how the laws of Hong Kong and the bylaws of WKCD in relation to traffic, public order etc. would be enforced under different circumstances in the public places within the areas leased to WKCD, and reference should be made to the relevant arrangements of the Airport Authority and Housing Authority; and
- (f) the Administration should review whether the current drafting of clause 37 could sufficiently safeguard against abuse by WKCD's business partners through manoeuvres in contractual arrangements.

II Any other business

- 3. There being no other business, the meeting ended at 10:30 am.

Council Business Division 1
Legislative Council Secretariat
23 July 2008

**Proceedings of the tenth meeting of the
Bills Committee on West Kowloon Cultural District Authority Bill
on Thursday, 22 May 2008, at 8:30 am
in the Chamber of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action required
000000 - 000116	Chairman	Opening remarks Continuation of the clause-by-clause examination of the Bill	
000117 - 000215	Administration	Clause 25	
000216 - 000929	Administration Ms Emily LAU Chairman	Clause 26 Ms LAU's enquiry on the relationship between the auditor appointed by WKCDA and the Audit Committee Administration's response that the two were complementary Chairman's advice that it was a check and balance system involving both external and internal auditing	
000930 - 001004	Administration	Clause 27	
001005 - 001051	Administration	Clause 28	
001052 - 001943	Administration Ms Emily LAU Chairman Senior Assistant Legal Adviser 2 (SALA2) Mr SIN Chung-kai	Clauses 29 to 30 Ms LAU's enquiry on whether the corporate plan would be made public Administration's response that it was inappropriate to do so because the corporate plan would contain sensitive information and the legislation of comparable public statutory bodies did not have such requirements Chairman's view that as corporate plans were roll-forward three-year plans and most programmes contained therein were still in a state of flux, it might be	

Time marker	Speaker	Subject(s)	Action required
		<p>undesirable to make it public</p> <p>Chairman's request that SALA2 make reference to the legislation of comparable statutory public bodies</p> <p>Mr SIN's view that non-sensitive information in the corporate plan could be made public</p>	SALA2
001944 - 004343	<p>Mr Alan LEONG Administration Chairman</p> <p>Ms Emily LAU SALA2</p>	<p>Mr LEONG's enquiries on whether --</p> <p>(a) the Secretary for Home Affairs (SHA) would instruct WKCDA to amend its corporate plans and business plans; and</p> <p>(b) WKCDA had to explain to SHA if its targets in the plans were not met</p> <p>Mr LEONG's view that the Bill should provide that WKCDA shall engage the public in preparing its corporate plans and business plans</p> <p>Administration's response that --</p> <p>(a) SHA would not amend or refer back the plans;</p> <p>(b) information on whether WKCDA's targets were met could be provided in its annual report; and</p> <p>(c) WKCDA may consult the public on the plans</p> <p>Ms LAU's view that public consultation would be needed in preparing the plans</p> <p>Administration's response that it would consider the issue</p> <p>SALA2's enquiry on whether public consultation conducted under clause 17 would be limited to arts and cultural hardware only</p>	Administration to provide written response

Time marker	Speaker	Subject(s)	Action required
		<p>Administration's response in the negative</p> <p>Clause 31</p> <p>Mr LEONG's view that the annual report of WKCDA should specify how its activities for that financial year related to the relevant corporate plan and business plan of WKCDA</p> <p>Administration's response that it would consider further refining clause 31 in this regard</p>	<p>Administration to provide written response</p>
004344 - 005417	<p>Administration SALA2 Ms Emily LAU Chairman</p>	<p>Clauses 32 and 33</p> <p>SALA2's advice that regulations made under clause 32 and bylaws made under clause 33 would be subject to negative vetting and positive vetting respectively</p> <p>Ms LAU's enquiry on whether the admission fees and opening hours of facilities would be determined by WKCDA</p> <p>Administration's response in the affirmative</p> <p>Chairman's enquiry on the coverage of the bylaws</p> <p>Administration's advice that the current thinking was to enact bylaws to regulate the operation of certain major cultural and communal facilities in WKCDA, such as museum services and matters concerning public safety; there was no intention to regulate the operation of retail/dining/entertainment facilities or the fees and operating hours of cultural facilities through bylaws</p>	
005418 - 010909	<p>Administration Ms Emily LAU SALA2</p>	<p>Clause 34</p> <p>Ms LAU's enquiry on whether the</p>	

Time marker	Speaker	Subject(s)	Action required
	Chairman	<p>legislation of comparable public statutory bodies had provisions prescribing how to disseminate information on disclosure of interest</p> <p>SALA2's advice that he was not aware of such requirements</p> <p>Ms LAU's enquiry on the consequences of failing to disclose interest</p> <p>Administration's response that --</p> <p>(a) the procedures and requirements for disclosure of interest were specified in section 15 of the Schedule;</p> <p>(b) relevant provisions in other legislation could be invoked if criminal elements were involved; and</p> <p>(c) in the legislation of comparable public statutory bodies, it was not common to provide for sanction provisions for failure to disclose interest</p> <p>Chairman's view that public censure would be a serious consequence for failing to disclose interest</p> <p>Ms LAU's suggestions that the Administration should consider specifying in the Bill --</p> <p>(a) that information on disclosure of interest would be made available on the Internet for inspection by the public; and</p> <p>(b) the consequences or sanctions of failing to disclose interest with reference to the relevant rules of the Executive Council, LegCo and other comparable public statutory bodies</p>	<p>Administration to provide written response</p>

Time marker	Speaker	Subject(s)	Action required
010910 - 012030	Administration Ms Emily LAU Chairman Miss CHOY So-yuk Mr Alan LEONG	<p>Clause 35</p> <p>Ms LAU's enquiry on what constituted a public place in WKCD</p> <p>Administration's response that all common parts within the leased area to which the public had access was a public place</p> <p>Miss CHOY's enquiry on the party responsible for enforcement in the public places in WKCD in relation to matters such as traffic and public order</p> <p>Administration's response that by virtue of clause 35, all applicable laws in Hong Kong would be enforceable in the public places in WKCD by the respective enforcement agencies</p> <p>Mr LEONG's view that bylaws of WKCD and laws of Hong Kong would be applicable at the same time if they both provided for certain matters</p>	
012031 - 012904	Ms Emily LAU Administration Chairman SALA2 Miss CHOY So-yuk	<p>Ms LAU's enquiry on the concept of "precincts" and SALA2's explanation</p> <p>Ms LAU's concern about whether there would be overlapping in enforcement by WKCD and other enforcement agencies</p> <p>Administration's response that laws of Hong Kong would be enforced by the respective enforcement agencies and bylaws of WKCD would be enforced by WKCD</p> <p>Miss CHOY's reference to the management of traffic matters by the Housing Authority within public housing estates</p> <p>Chairman's advice that the Administration should clarify how the</p>	Administration to provide written

Time marker	Speaker	Subject(s)	Action required
		laws of Hong Kong and the bylaws of WKCD in relation to traffic, public order etc. would be enforced under different circumstances in the public places within the areas leased to WKCD, and reference should be made to the relevant arrangements of the Airport Authority and Housing Authority	response
012905 - 013113	Chairman Ms Emily LAU Administration	Ms LAU's enquiry on the opening hours of the public places and facilities in WKCD Administration's response that the exact arrangements would be determined by WKCD having regard to the type of the public place and facility in question	
013114 - 013452	Administration Ms Emily LAU Chairman SALA2	Clause 36 Ms LAU's enquiry on whether WKCD Board members had to bear personal liability when they performed their functions Administration's response that it would depend on individual circumstances and in general, the WKCD Board would take up the responsibility first because the Board's decisions were collective decisions SALA2's advice it would depend on whether the WKCD Board members concerned had acted in good faith	
013453 - 014430	Administration Ms Emily LAU SALA2 Chairman	Clause 37 Ms LAU's enquiry on the circumstances under which there would be exemption of taxation Administration's response that exemption of taxation would only be applicable to WKCD; and its business partners would have to bear their own taxation liability	

Time marker	Speaker	Subject(s)	Action required
		<p>SALA2's enquiries on whether exemption would be applicable to subsidiary companies established by WKCDA and whether the applicability of the exemption would be affected by agreements between WKCDA and other parties</p> <p>Administration's response in the negative</p>	
014431 - 015007	<p>Mr Alan LEONG Chairman Administration Ms Emily LAU</p>	<p>Mr LEONG's view that the Administration should review whether the current drafting of clause 37 could sufficiently safeguard against abuse by WKCDA's business partners through manoeuvres in contractual arrangements</p> <p>Ms LAU's enquiry on why WKCDA could be exempt from taxation for its commercial activities</p> <p>Administration's response that no huge profits were expected for WKCDA's commercial activities and the profits earned would be used to cover the operating deficits of the arts and cultural facilities in WKCD; if WKCDA was not exempted from taxation, the Government would need to inject a greater amount of endowment fund than that currently contemplated</p>	Administration to provide written response
015008 - 015042	<p>Chairman Administration</p>	Clauses 38 and 39	
015043 - 015244	Chairman	Date of next meeting	