

**立法會**  
**Legislative Council**

LC Paper No. CB(2)2576/10-11  
(These minutes have been seen  
by the Administration)

Ref : CB2/PL/FE

**Panel on Food Safety and Environmental Hygiene**

**Minutes of special meeting**  
**held on Monday, 20 September 2010, at 8:30 am**  
**in the Chamber of the Legislative Council Building**

**Members present** : Hon Fred LI Wah-ming, SBS, JP (Chairman)  
Hon WONG Yung-kan, SBS, JP (Deputy Chairman)  
Hon Andrew CHENG Kar-foo  
Hon Tommy CHEUNG Yu-yan, SBS, JP  
Hon WONG Kwok-hing, MH  
Hon KAM Nai-wai, MH  
Dr Hon LEUNG Ka-lau  
Hon Alan LEONG Kah-kit, SC  
Hon WONG Yuk-man

**Members attending** : Hon WONG Sing-chi  
Hon Tanya CHAN

**Member absent** : Hon TAM Yiu-chung, GBS, JP  
Hon Vincent FANG Kang, SBS, JP  
Dr Hon Joseph LEE Kok-long, SBS, JP

**Public Officers attending** : Item I  
  
Prof Gabriel M LEUNG, JP  
Under Secretary for Food and Health  
  
Ms Kitty CHOI, JP  
Deputy Secretary for Food and Health (Food) 1

Miss Amy YUEN  
Principal Assistant Secretary for Development  
(Planning and Lands) 2

Ms Julina CHAN, JP  
Deputy Director of Food and Environmental Hygiene  
(Administration and Development)

Ms Rhonda LO Yuet-ye, JP  
Assistant Director of Food and Environmental Hygiene  
(Operations) 2

Ms Karen CHAN  
Assistant Director (Estate Management)

Mr LAU Sing  
Acting Deputy Director of Planning / District

**Attendance by : Item I  
invitation**

The Against Elderly Abuse of Hong Kong

Mr Vincent CHAN  
Consultant

The Against Elderly Abuse of Hong Kong Funeral  
Support Services Centre

Mr Calvin CHIU  
Project Director

Columbarium Concern Group

Mr Eddie TSE Sai-kit  
Convenor

Ms Scarlett PONG Oi-lan, JP  
Member of Sha Tin District Council

Hong Kong Columbarium Merchants Association

Mr LAI Hau-yan  
Vice President

Memorial Park Hong Kong Limited

Mr Gilbert LEUNG  
Executive Director

Ms LEUNG Yuk-fung  
Member of Kwai Tsing District Council

Hung Hom Resident Service Organization

Mr Kelvin LEUNG  
Chairman

Democratic Party

Ms LEUNG Suk-ching  
Spokesperson

Land Use in Kowloon Tong from Residential House  
to Cremains Care Concern Group

Mr CHAN Sing-kwong

Mr CHEUNG Yan-hong  
Member of Kowloon City District Council

Democratic Alliance for the Betterment and Progress  
of Hong Kong

Mr CHAN Chung-cheung

Home of the Elderly Research Society

Mr AU Siu-lun  
Research Officer

Nam On Yuen

Mr Jameson LI  
Executive Manager

Aptus Holdings Limited

Mr LAM Wai-pong  
Chairman

Columbarium Concern Group

Mr WONG Ho-ming  
Executive Committee Member

Dr Teresa TAO

Assistant Professor, Department of Geography  
The University of Hong Kong

護持大嶼山佛教禪修勝地關注組

Miss Tammy LEE Siu-wai

Miss Vera LAU Kit-ming

World Wide Fund - Hong Kong

Mr Alan LEUNG  
Conservation Manager, Terrestrial

Mr LEUNG Chi-sing

Member of Kwai Tsing District Council

Mr YUM Kwok-tung

Member of Kowloon City District Council

新圍保護環境文化權益大聯盟

Mr TSE Man-fu  
Chairman

新圍村民權益小組

Mr WONG Chi-ming

愛新圍行動

Ms KAN Wai-fun

新圍婦女聯席

Ms LEUNG Hei-ming

新圍維權行動

Mr WONG King-tat

保家園，護新圍聯會

Mr CHAN Hin-ming

護家園新圍分會

Mr YEUNG Yu-chung

上新圍保護生活權益小組

Ms WONG Kuk-ching

全新圍聯合反暴力收地保文化小組

Mr CHOW Chun-kun

Kap Lung Village

Ms Elza WONG

錦山居民聯會

Mr YAU Chu-yiu

保護錦山居民小組

Mr YAU Koon-lin

全錦山居民權益大會

Mr Danny CHUNG

生命教育推廣小組

Mr CHAN Tse-sum

蕉徑環境關注組

Mr YAU Cheung-fat

上水蕉徑村關注組

Mr YAU Fook-lor

Civic Party

Mr WU Hing-yin

蕉徑反暴力收地小組

Mr WONG Chi-kwong

Illegal Columbarium Alliance

Ms HO Pui-han

Association for Geoconservation, Hong Kong

Ms Cindy CHOI  
Publicity / Public Relationship Liaison

保護赤泥坪小組

Mr YAU Ting-yau

赤泥坪村

Mr YAU Ah-bor

赤泥坪村婦女聯席

Ms LAW Yin-king

赤泥坪村權益關注組

Mr FUNG Shing-how

赤泥坪村環境關注組

Ms YU Yat-ngan

Bulkaley Building

Mr TSE Shing-kong

Wing Fung Building

Ms KAM Sau-fun

Designing Hong Kong

Mr Paul Zimmerman  
Chief Executive Officer

The Hong Kong Institute of Architects

Ms Anna KWONG Sum-ye  
President

Resident of Tei Tong Tsai

釋衍芝法師

祇園

Ms KWONG Pui-chun

**Clerk in attendance** : Miss Mary SO  
Chief Council Secretary (2) 5

**Staff in attendance** : Ms Maisie LAM  
Senior Council Secretary (2) 6

Ms Sandy HAU  
Legislative Assistant (2) 5

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Action

- I. Review of Columbarium Policy Public Consultation Document**  
(LC Paper Nos. CB(2)1960/09-10(01), CB(2)2266/09-10(01) to (09),  
CB(2)2275/09-10(01) to (11), CB(2)2286/09-10(01) to (13) and  
CB(2)2338/09-10(01))

Views of deputations

*The Against Elderly Abuse of Hong Kong*  
[LC Paper No. CB(2)2275/09-10(01)]

Action

Mr Vincent CHAN presented the views of The Against Elderly Abuse of Hong Kong as detailed in its submission.

*The Against Elderly Abuse of Hong Kong Funeral Support Services Centre  
[LC Paper No. CB(2)2286/09-10(01)]*

2. Mr Calvin CHIU presented the views of The Against Elderly Abuse of Hong Kong Funeral Support Services Centre as detailed in its submission.

*Columbarium Concern Group*

3. Mr Eddie TSE was of the view that the existing enforcement measures were highly ineffective in deterring unlawful operation of private columbaria. Mr TSE considered that the Panel should conduct a visit to understand the concerns raised by the deputations about the development of private columbaria in their vicinity.

*Ms Scarlett PONG Oi-lan  
[LC Paper No. CB(2)2286/09-10(02)]*

4. Ms Scarlett POON presented her views as detailed in her submission.

*Memorial Park Hong Kong Limited  
[LC Paper No. CB(2)2266/09-10(02)]*

5. Mr Gilbert LEUNG presented the views of Memorial Park Hong Kong Limited as detailed in its submission.

*Hung Hom Resident Service Organization  
[LC Paper No. CB(2)2275/09-10(02)]*

6. Mr Kelvin LEUNG presented the views of Hung Hom Resident Service Organization as detailed in its submission.

*Democratic Party  
[LC Paper No. CB(2)2275/09-10(05)]*

7. Ms LEUNG Suk-ching presented the views of Democratic Party as detailed in its submission.

*Land Use in Kowloon Tong from Residential House to Cremains Care  
Concern Group*



Action

8. Mr CHAN Sing-kwong considered that all columbarium facilities should be operated by the Government to avoid profit-making operators from operating in the name of non-profit making or religious bodies.

*Mr CHEUNG Yan-hong*

*[LC Paper No. CB(2)2286/09-10(03)]*

9. Mr CHEUNG Yan-hong presented his views as detailed in his submission.

*Democratic Alliance for the Betterment and Progress of Hong Kong*

10. Mr CHAN Chung-cheung said that while the Alliance was in support of the proposed measures to increase the supply of public columbarium facilities, it objected to the proposal to impose time-limited lease and annual management fee for public niches/urn grave spaces. The Alliance also called for the early publication of the information of private columbaria known to the Administration and the early implementation of a licensing scheme to strengthen regulation of private columbaria. Upon the coming into effect of the licensing scheme and the temporary exemption scheme provided thereunder, due care should be given to avoiding the continuous operation of those unauthorized private columbaria which had no reasonable chance of regularizing their operation. Measures should also be put in place to assist buyers of unauthorized niches to claim compensation as well as residents subject to harassment suspected to be columbaria development-related.

*Home of the Elderly Research Society*

11. Mr AU Siu-lun urged the Administration to expeditiously introduce the licensing scheme to regulate the development of private columbaria. Pointing out that the information provided in Part A and Part B of the Information on Private Columbaria could not be relied on to shed light on whether a private columbarium could satisfy the licensing requirements under the future licensing scheme, the Society urged the Administration to instead consider setting up a registration system for all private columbaria prior to the introduction of the licensing scheme.

*Nam On Yuen*

*[LC Paper No. CB(2)2275/09-10(06)]*

12. Mr Jameson LI presented the views of Nam On Yuen as detailed in its submission.

Action

*Aptus Holdings Limited*

13. Mr LAM Wai-pong considered it necessary to increase the provision of both public and private columbarium facilities, with improved outlook through landscape and building design, in order to meet the demand of the community on the one hand, and on the other hand ease the concern and anxiety of nearby residents. Holding the view that the publication of the Information on Private Columbaria might cause confusion to the public on whether the private columbaria included therein would be issued with a licence under the licensing scheme, Mr LAM suggested that a registration system for private columbaria should be introduced in the interim. As part of the licence conditions, the Administration should require operators to own the premises for operation as a private columbarium, possess columbarium management experience, put in place environmental hygiene management measures and equip the columbarium with satisfactory transportation support services.

*Columbarium Concern Group*

14. Pointing out that the Administration would take enforcement actions only when cinerary urns had been accommodated in the alleged unauthorized development, Mr WONG Ho-ming said that this would in turn lead to the undesirable consequence of affecting the buyers of these private niches when the Administration took the enforcement actions. The Administration should therefore assist buyers of niches in existing unauthorized private columbaria. While supporting the proposal to convert or redevelop industrial buildings into columbarium facilities to increase the provision of niches, Mr WONG said that due regard should be given to the pedestrian and traffic flows around the cemetery area and the environmental hygiene problems that might arise during peak sweeping days.

*Dr Teresa TAO*

15. Dr Teresa TAO noted that a number of historical temples in Luk Wu of the Lantau Island were being converted into private columbarium use. She expressed concern about the adverse impact brought about by such conversion on the ecological and natural environment, culture, religion and community development of Luk Wu. Dr TAO also urged the Administration to step up its enforcement actions against unauthorized private columbaria.

Action

*護持大嶼山佛教禪修勝地關注組*  
*[LC Paper No. CB(2)2266/09-10(04)]*

16. Miss Tammy LEE Siu-wai presented the views of 護持大嶼山佛教禪修勝地關注組 as detailed in its submission.

*Miss Vera LAU Kit-ming*  
*[LC Paper No. CB(2)2266/09-10(05)]*

17. Miss Vera LAU Kit-ming presented her views as detailed in her submission.

*World Wide Fund - Hong Kong*  
*[LC Paper No. CB(2)2275/09-10(07)]*

18. Mr Alan LEUNG presented the views of World Wide Fund - Hong Kong as detailed in its submission.

*Mr LEUNG Chi-sing*

19. Holding the view that the crux of the various problems in the columbarium landscape lay with the inadequate supply of public columbarium facilities, Mr LEUNG Chi-sing called on the early implementation of the district-based columbarium development projects. He also considered the three potential sites in Kwai Tsing District as identified by the Administration in the Consultation Document suitable for columbarium development. Mr LEUNG further urged the Administration to publish the information of those private columbaria in compliance with the land lease and the statutory planning requirements as early as possible and step up its enforcement actions against unauthorized private columbaria.

*Mr YUM Kwok-tung*  
*[LC Paper No. CB(2)2286/09-10(04)]*

20. Mr YUM Kwok-tung presented his views as detailed in his submission.

*Hong Kong Columbarium Merchants Association*  
*[LC Paper No. CB(2)2266/09-10(01)]*

21. Mr LAI Hau-yan presented the views of Hong Kong Columbarium Merchants Association as detailed in its submission.

Action

*Ms LEUNG Yuk-fung*  
*[LC Paper No. CB(2)2266/09-10(03)]*

22. Ms LEUNG Yuk-fung presented her views as detailed in her submission.

*新圍保護環境文化權益大聯盟*

23. Expressing concern about the nuisances caused by the construction works relating to the unauthorised columbarium to the residents nearby and the anticipated increase in pedestrian and traffic flows during peak sweeping days, Mr TSE Man-fu urged the Administration to step up its enforcement actions against the construction of unauthorized columbarium facilities at San Wai Tsuen. Mr TSE also opposed the proposal of some deputations that a voluntary registration system for private columbaria should be introduced prior to the implementation of the licensing system to allow the unauthorized columbaria to continue their operation.

*新圍村民權益小組*

24. Mr WONG Chi-ming expressed concern about the ineffective enforcement actions taken by the Administration to combat the development of unauthorized private columbarium facilities at San Wai Tsuen. He called upon the Administration to put in place measures to further strengthen law enforcement to protect the interests of residents of San Wai Tsuen.

*愛新圍行動*

25. Ms KAN Wai-fun said that more than 10 historic buildings at San Wai Tsuen were being or would be converted by the developer concerned for private columbarium use. She considered that the Administration should take steps to conserve the historic buildings at San Wai Tsuen.

*護家園新圍分會*

26. Mr YEUNG Yu-chung strongly opposed the development of private columbaria at San Wai Tsuen, as this would bring about possible adverse impact on the road traffic and the environment of San Wai Tsuen and make the residents living in the vicinity feel uncomfortable.

*新圍維權行動*

27. Holding the view that the development of private columbaria at San Wai Tsuen would affect the psychological well-being of the residents living

Action

in the vicinity, Mr WONG King-tat urged the Administration to step up enforcement actions against the unauthorized private columbarium facilities so as to preserve the natural environment of San Wai Tsuen.

*保家園，護新圍聯會*

28. Mr CHAN Hin-ming said that with the exception of the parties with vested interest, all residents of San Wai Tsuen were strongly against the development of private columbaria in their vicinity. He called upon the Administration to take steps to address the concern of the residents of San Wai Tsuen.

*新圍婦女聯席*

29. Ms LEUNG Hei-ming expressed dissatisfaction with the development of a large-scale private columbarium providing tens of thousands of niches at San Wai Tsuen. She urged the Administration to carry out inspection on the site concerned and take appropriate enforcement actions to prohibit the continuance of the suspected unauthorized developments.

*上新圍保護生活權益小組*

30. Ms WONG Yuk-ching said that it was not until recently that most residents of San Wai Tsuen were aware of the operator's plan to develop private columbarium facilities in their vicinity. She hoped that Members of the Legislative Council could render assistance to them.

*全新圍聯合反暴力收地保文化小組*

31. Citing the case of his mother as an example, Mr CHOE Chun-hun said that residents of San Wai Tsuen who were affected by land resumption for the private columbarium development project were subject to harassment by the columbarium developer. However, in most cases, the investigations of the Police had come to the conclusion that there was insufficient evidence to bring a prosecution against the developer. He urged the Administration and the Police to step up their efforts in preventing and combating such crime.

*Kap Lung Village*

*[LC Paper No. CB(2)2286/09-10(05)]*

32. Ms Elza WONG presented the views of Kap Lung Village as detailed in its submission.

Action

*錦山居民聯會*

33. Mr YAU Chu-yiu shared the views of other deputations.

*保護錦山居民小組*

34. Mr YAU Koon-lin shared the views of other deputations.

*全錦山居民權益大會*

35. Mr Danny CHUNG pointed out that there were lax or even none user restriction provisions in many old land leases that the use of the lots concerned for columbarium purpose was not precluded. Mr CHUNG was of the view that without the introduction of a licensing system, relying on the lease conditions alone was ineffective to regulate the development of private columbaria.

*生命教育推廣小組*

36. Mr CHAN Tse-sum said that the Administration should strengthen life education in schools, so as to enhance public acceptance to alternative ways of disposal of cremains, including the disposal of cremains in Gardens of Remembrance or in designated Hong Kong waters.

*蕉徑環境關注組*

37. Mr YAU Cheung-fat called on the Administration to step up its efforts to combat harassment by triad to residents of Tsiu Keng Tsuen which were suspected to be columbarium development-related.

*上水蕉徑村關注組*

38. Citing the case of residents of Tsiu Keng Tsuen as an example, Mr YAU Fook-lor said that enforcement efforts should be geared up to tackle the problem of triad infiltration in private columbarium development. Mr YAU also urged the Administration to clarify the interpretation of human remains under land leases, increase the supply of public columbarium facilities and implement at an earlier time the licensing scheme to strengthen the regulation of private columbarium facilities.

Action

*蕉徑反暴力收地小組*

39. Mr WONG Chi-kwong called on the Administration to introduce the licensing scheme to strengthen the regulation of private columbaria as early as possible.

*Civic Party*

40. Pointing out that the number of cremations and thus the demand for niches was expected to be about 40 000 per year in the next 10 years and the general customary practice of the Chinese was a permanent deposit of their relatives' cremains in niches, Mr WU Hing-yin took the view that the Administration should implement without delay a licensing scheme to enhance regulation of private columbaria.

*Illegal Columbarium Alliance*

[LC Paper No. CB(2)2266/09-10(06)]

41. Ms HO Pui-han presented the views of Illegal Columbarium Alliance as detailed in its submission.

*Association for Geoconservation, Hong Kong*

42. Citing the case of a private columbarium development at Shui Mong Tin in Ma Shi Chau as an example, Ms Cindy CHOI was of the view that private lots with ecological or nature conservation value should be subject to statutory planning control through incorporating these lots in the outline zoning plans. Ms CHOI considered it a loophole that lot owners could apply for regularizing a breach of land lease requirements or apply for modification of lease conditions for the provision of columbarium facilities, and that such a loophole should be plugged. She also urged the Administration to clarify the interpretation of human remains under land leases.

*保護赤泥坪小組*

43. Mr YAU Ting-yau called on the Administration to introduce the legislation to provide the private columbaria licensing scheme as early as possible.

*赤泥坪村*

44. Citing Chek Nai Ping Tsuen in Sha Tin as an example, Mr YAU Ah-hor said that the licensing scheme should be implemented without further

Action

delay in order to deter the development of unauthorized private columbarium facilities on lots which had landscape value.

*赤泥坪村婦女聯席*

45. Ms LAW Yin-king was of the view that the Administration should require private columbarium operators to stop further sale of suspected unauthorized niches in order to protect the interest of consumers. She pointed out that a niche in the suspected unauthorized private columbarium developed at Chek Nai Ping Tsuen would cost a buyer \$20,000 at the minimum.

*赤泥坪村權益關注組*

46. Pointing out that the development of a private columbarium at the entrance of Chek Nai Ping Tsuen had caused much anxiety to the residents, Mr FUNG Shing-how hoped that Members of the Legislative Council could conduct a visit to understand their concerns and render assistance to them. He also called upon the Administration to introduce the licensing scheme as early as possible to enable members of the public to make an informed choice when purchasing private niches.

*赤泥坪村環境關注組*

47. Ms YU Yat-ngan expressed concern about the lack of avenue for the public to lodge complaints against the unauthorized private columbarium development in their vicinity. Ms YU said that she had been told by the Police, the Lands Department ("LandsD") and the Environmental Protection Department that no enforcement actions could be taken to require the landowner concerned to discontinue the unauthorized development at Chek Nai Ping Tsuen. In her view, developers were even more powerful than the enforcement agencies. She strongly called on the Administration to plug the loophole of the lack of enforcement power against unauthorized private columbarium facilities.

*Bulkaley Building*

*[LC Paper No. CB(2)2286/09-10(07)]*

48. Mr TSE Shing-kong presented the views of Bulkaley Building as detailed in its submission.



Action

*Wing Fung Building*  
*[LC Paper No. CB(2)2286/09-10(08)]*

49. Ms KAM Sau-fun presented the views of Wing Fung Building as detailed in its submission.

*Designing Hong Kong*

50. While considering that the Consultation Document was a good start to review the columbarium policy, Mr Paul Zimmerman was disappointed that there was no mention in the Consultation Document the reason why the Administration had failed to exercise proper regulatory control over the development of private columbarium facilities in the past years.

*The Hong Kong Institute of Architects*  
*[LC Paper Nos. CB(2)2286/09-10(09) and CB(2)2238/09-10(01)]*

51. Ms Anna KWONG declared that she was a member of the Town Planning Board and an ex-member of the Board of Management of the Chinese Permanent Cemeteries. Ms KWONG then presented the views of The Hong Kong Institute of Architects as detailed in its submissions.

*Resident of Tei Tong Tsai*

52. 釋衍芝法師 pointed out that temples and monasteries were charities and the assets of which should be managed in the form of a trust, with nuns or monks acted as the trustees to manage the trust and members of the public being the beneficiaries. The Administration should give due regard to the above issues when assessing whether a private columbarium ran in the name of temple or monastery should be covered by the new legislation.

*紙園*

53. Ms KWONG Pui-chun was of the view that temples or monasteries not managed by nuns or monks should not be regarded as religious institutions and should be subject to the regulatory regime for private columbaria. Under the new licensing scheme, all temples or monasteries should be allowed to continue to store the pre-existing interred cremains.

The Administration's response

54. Under Secretary for Food and Health ("USFH") thanked the deputations and individuals for their views and made the following response -

Action

- (a) the Administration had received 205 written submissions on the review of columbarium policy as of 17 September 2010. Officials of the Food and Health Bureau had also consulted the District Councils and different sectors of the community through various channels. While the proposal of introducing a licensing scheme to enhance regulation of private columbaria received broad support from the public, the trade and various concern groups, it should be noted that the scope and intensity of regulation under the licensing scheme involved complex and sensitive issues which could not be resolved within a short period of time. The Administration would carefully examine the views received during the public consultation period before deciding on the way forward. Its plan was to report to the Panel on the preliminary proposals for the licensing scheme in early 2011;
- (b) it would be infeasible to require operators of private columbaria to register with the Administration on a mandatory basis pending the introduction of the licensing scheme as suggested by some members of the trade, without introducing a separate legislation for such purpose. Operators of private columbaria were welcome to inform the Administration if they had not been included in the information on private columbaria made known to LandsD and/or the Planning Department ("PlanD") to be published by the Development Bureau in due course. At present, the Development Bureau needed some more time to assess the information of the private columbaria known to LandsD and PlanD and would endeavour to publish the information as early as possible;
- (c) in the meantime, the relevant Government departments would continue to take enforcement actions against unauthorized aspects of private columbaria in accordance with their respective mandate. The Administration would also strengthen consumer education on the choice of private columbaria. Members of the public were reminded to be careful in the choice of private columbarium niches and to seek independent legal advice on their rights where necessary. Under normal circumstances, members of the public could pursue their claims under the law of contract if they considered that providers of columbarium niches were in breach of the sale and purchase contracts. The Commerce and Economic Development Bureau was also working on a number of improvement measures to tackle unfair

Action

trade practices, such as misrepresentation and the practice of accepting pre-payments without the ability to provide contracted goods or services. In the case of subjecting to harassment suspected to be columbaria development-related, members of the public were advised to inform the Police and the relevant District Officer immediately;

- (d) the Administration would conduct technical feasibility studies (such as traffic impact assessment) relating to the first batch of 12 potential sites in seven districts to ascertain their suitability for public columbarium development. The Administration would continue to identify suitable sites in the remaining districts for columbarium development purpose. About 43 000 public niches would be provided at the new public columbarium within the Wo Hop Shek Cemetery in 2012. In addition, about 50 000 niches would be provided in the cemeteries managed by the Board of Management of the Chinese Permanent Cemeteries in the coming two to three years. Efforts would also continue be made to promote alternative ways of disposal of cremains, including the disposal of cremains in Gardens of Remembrance or in designated Hong Kong waters; and
- (e) there was no cause for concern that the Administration would permit the unauthorized private columbaria to continue with the operation in the absence of a licence for an indefinite period of time after the licensing scheme came into operation. While the legislation would provide for operators of the pre-existing private columbaria with unauthorized aspects to apply for a temporary exemption, it should be noted that an application for temporary exemption would not be granted unless the applicant could satisfy the authorities that he/she had a reasonable chance of regularizing the operation within a reasonable time.

Discussion

*Timetable for publishing the Information on Private Columbaria*

55. Mr WONG Kwok-hing noted that the Administration would need some more time for assessing whether the land use of some private columbaria made known to LandsD and/or PlanD had contravened the user restrictions in the land lease as detailed therein. He asked whether consideration could be given to first publishing information of those private columbaria which the Administration could confirm with certainty whether or not they were in

Action

compliance with the land lease and the statutory planning requirements to protect the interests of consumers.

56. USFH explained that due to historical reasons, checking the land leases of some private columbaria was not an easy task. Hence, the assessment of whether the use of the lot or the premises as private columbarium was compliant with the user restrictions in the land leases and the statutory planning requirements was complicated and would take some time to complete. The Development Bureau would endeavour to seek the early publication of the information.

57. Principal Assistant Secretary for Development (Planning and Lands) 2 supplemented that the Administration was planning to issue letters to operators of those private columbaria which would be included in Part B of the Information on Private Columbaria (i.e. the private columbaria not in Part A which set out those private columbaria compliant with user restrictions in the land leases and the statutory town planning requirements and were not illegally occupying Government land) to seek their views on the information to be published. The views provided by the operators of these private columbaria would be reflected in the Information on Private Columbaria where appropriate. It was expected that the view-seeking process would take a few weeks to complete. At the request of Mr WONG Kwok-hing, Principal Assistant Secretary for Development (Planning and Lands) 2 undertook to publish the Information on Private Columbaria before the end of 2010.

58. Mr KAM Nai-wai asked whether, and if so, what measures would be put in place to assist buyers of niches in private columbaria which were found not in compliance with the land lease and the statutory planning requirements.

59. USFH responded that there had been suggestions during the public consultation that in the event that storage of cremains was disposed of due to enforcement actions by relevant Government departments, the Administration should undertake to provide niches in public columbarium facilities for those affected. The Administration was of the view that acceding to this request might likely fuel unauthorized activities if the displaced cremains had priority over others in the allocation of niches in public columbaria. USFH urged the public exercise caution in the choice of private columbarium niches and to clarify their legal rights with the operator. USFH further pointed out that there would be a supply of around 100 000 newly-built niches in public columbaria and the cemeteries managed by the Board of Management of the Chinese Permanent Cemeteries in the coming few years.

Action

60. The Chairman was concerned about the interests of those buyers of niches in private columbaria which were not known to LandsD and PlanD. He urged the Administration to update the information included in the Information on Private Columbaria made known to LandsD and PlanD on a regular basis.

*Timetable for introducing the licensing scheme*

61. Mr WONG Yuk-man was of the view that the Secretary for Food and Health should be held accountable for the worsening unauthorized private columbaria problem. He urged the Administration to provide a concrete timetable for introducing the legislation to provide for the private columbaria licensing scheme.

62. Mr Alan LEONG sought information on the reason for not being able to implement the licensing scheme at an earlier time.

63. USFH responded that a legislative scheme, if found feasible, was not something that could be completed within a short period of time. Given the public had expressed divergent views over the implementation details of the licensing scheme, it would be necessary for the Administration to perform an in-depth analysis on the views collected during consultation. While he could not provide a concrete legislative timetable at this stage, USFH assured members that the Administration would revert to the Panel on the preliminary proposals for the licensing scheme in early 2011. It was hoped that members could reach a consensus on the policy issues within the forthcoming legislative session. The Food and Health Bureau would then formulate and issue the drafting instruction to the Department of Justice.

64. Mr WONG Yuk-man expressed dissatisfaction with the Administration's response, pointing out that the bill on statutory minimum wage, which was more controversial and involved wide policy issues, was introduced and enacted within two years. Mr Alan LEONG and Miss Tanya CHAN also saw no reason why the licensing scheme could not be introduced at an earlier time. They urged the Administration to expedite the implementation of the scheme. The Chairman said that Members belonging to the Democratic Party called on the Administration to implement the licensing scheme within the current legislative term.

65. Mr KAM Nai-wai expressed concern about the operation of funeral business including funeral parlour and unauthorised columbaria in Hung Hom. He asked whether such premises would be subject to the licensing scheme if they provided temporary storage of cremains free of charge.

Action

66. USFH advised that the public had expressed divergent views over the scope and intensity of regulation under the licensing scheme. The Administration would analyse the views received during the public consultation to work out the definition of private columbaria to be regulated by the licensing scheme.

*Role of relevant bureaux and Government departments*

67. Citing the case of Yin Hing Monastery in Luk Wu as an example, Ms Tanya CHAN asked whether the Home Affairs Bureau had a role to play to curb the proliferation of unauthorized private columbaria operating under the name of temples, as the Secretary for Home Affairs was the Chairman of the Chinese Temples Committee.

68. Miss Tammy LEE of 護持大嶼山佛教禪修勝地關注組 affirmed that the Secretary for Home Affairs had met with them. However, no officials of the Food and Health Bureau had met with them. Miss Vera LAU advised that the Secretary for Home Affairs had expressed his understanding of their concern and agreed with the view that Luk Wu should be developed as a place for Buddhist meditation. Miss LEE and Miss LAU further said that according to the reply from LandsD to their enquiries, the owner of Yin Hing Monastery held contrary view to the stance of LandsD that columbarium use was not permitted under the relevant land lease. The Department was studying the user restriction provisions in the relevant land lease and no lease enforcement action against Yin Hing Monastery would be taken at this stage.

69. Assistant Director (Estate Management) affirmed that the owner of Yin Hing Monastery did not agree with the view of LandsD's legal advisor that the use of the lot as private columbarium was not compliant with the user restrictions in the land lease. Given that the case of Yin Hing Monastery might involve legal proceedings, the Administration was unable to disclose further information relating to the case.

70. In response to the Chairman's enquiry about whether LandsD could forbid the owner of Yin Hing Monastery from selling niches in the interim, Assistant Director (Estate Management) said that as in the case of other columbarium where columbarium use was found not permitted under the relevant land lease, the owner of Yin Hing Monastery had been requested to stop selling the potentially unauthorized niches.

71. Mr Alan LEONG asked about the bureaux and the Government departments which involved in the handling of the columbarium policy.

Action

USFH advised that the columbarium policy involved issues under the purview of a number of Government bureaux and departments including the Food and Health Bureau, the Development Bureau, the Home Affairs Bureau and their relevant departments.

72. Citing the case of Shui Mong Tin in Ma Shi Chau which located adjacent to the Hong Kong Geopark as an example, Miss Tanya CHAN held the view that the Environmental Protection Department, the Agriculture, Fisheries and Conservation Department, the Antiquities and Monuments Office, and the Transport Department should also involve in the implementation of the columbarium policy. She asked whether consideration could be given to setting up an inter-departmental working group comprising the relevant Government departments to handle all matters relating to the columbarium policy. The Chairman raised a similar question.

73. USFH responded that the views of the Architectural Services Department, the Environmental Protection Department and the Transport Department would be sought for all public works projects.

74. As regards the case of Shui Mong Tin, Assistant Director (Estate Management) said that the lot owner had submitted an application to LandsD requesting a modification of the lease condition for provision of columbarium facilities. The District Lands Office/Tai Po was processing the application and would consider the views of the relevant Government departments in the process. If the application was approved, LandsD would include the appropriate conditions for lease modification.

*Enforcement actions against unauthorized aspects of private columbaria*

75. Mr WONG Kwok-hing enquired about the actions to be taken by the Administration against the existing unauthorized private columbaria prior to the introduction of the licensing scheme to strengthen regulation of private columbaria, in order to ease the concerns of nearby residents and protect the rights of consumers of private columbaria.

76. USFH reiterated that the relevant Government departments would continue to take enforcement actions against unauthorized aspects of private columbaria in accordance with their respective mandate.

77. Holding the view that the existing enforcement actions taken by the Administration were ineffective to curb the proliferation of unauthorized columbaria, Mr WONG Sing-chi said that the Administration should make it a policy that unauthorized developments within green belt or conservation

Action

zones, unauthorized building works and private columbaria in areas where there was strong objection from the local community should be immediately removed.

78. USFH advised that members of the public who wished to purchase niche(s) at private columbaria were reminded to exercise due caution in checking whether the respective columbarium was compliant with all statutory requirements and land lease and/or town planning requirements. In case of doubt, members of the public could consider the option of renting niche(s) before the introduction of the licensing scheme. USFH also drew members' attention to paragraph 54 of the Consultation Document which stipulated that after the licensing scheme came into effect, an application for temporary exemption in respect of a private columbarium with unauthorized aspects would not be granted unless the applicant could satisfy the authorities that he/she had a reasonable chance of regularizing the operation within a reasonable time.

79. Pointing out that the average rental for a niche was at the level of \$2,000 to \$3,000 per month (i.e. about \$50,000 to \$70,000 for a lease period of two years), Miss Tanya CHAN expressed doubt on whether members of the public would spend about the same amount of money for purchasing a niche to rent a niche in private columbarium before the introduction of the licensing scheme.

80. Mr Alan LEONG asked whether any consideration had been given to the feasibility of freezing the number of niches in private columbarium facilities pending the introduction of the licensing scheme.

81. USFH cast doubt on the feasibility of the proposal, having regard to the time and effort required for introducing a separate legislation to define the scope of private columbaria to be regulated and empower the Administration to require the columbaria concerned to freeze the number of niches therein. Mr Alan LEONG held the view that this interim measure would not delay the legislative process and the implementation of the licensing scheme, as the issues involved were relatively less complicated. Miss Tanya CHAN suggested that the Administration should seek the advice of the Department of Justice in this regard.

82. In response to Mr KAM Nai-wai's enquiry about the number of niches of existing private columbaria, USFH said that the Administration did not have an exhaustive list of existing private columbaria. Information of those private columbaria made known to LandsD and PlanD and which the departments had reason to believe were operating as columbaria would be



Action

included in the Information on Private Columbaria to be published by the Development Bureau.

*Cremation services*

83. Mr WONG Sing-chi expressed concern whether cremains of the deceased contained any bone fragments that should be regarded as human remains. Mr WONG Sing-chi and Miss Tanya CHAN said that to their understanding, each cremation session of the public crematorium lasted not more than 30 minutes.

84. Deputy Director of Food and Environmental Hygiene (Administration and Development) explained that cremation was a process of reducing the body of the deceased to inorganic compounds through burning the dead body for around 75 minutes at the temperature of 800°C or above. Any remaining bone fragments after cremation would be pulverized to become cremains. In Hong Kong, the average weight of cremains for adults was in the range of 1.5 kg to 2.5 kg.

85. USFH supplemented that each public crematorium had more than one cremator to ensure the effectiveness of the cremation services. A visit to the crematoria could be arranged where necessary to facilitate members' understanding of the cremation services provided by the Food and Environmental Hygiene Department.

Visit of the Panel

86. Mr WONG Kwok-hing expressed support for the proposal to undertake a visit to better understand the concerns raised by deputations about the development of private columbaria in their vicinity. The Chairman said that he would work out with the Clerk on the date of the visit.

*(Post-meeting note: The visit of the Panel to private columbarium facilities at San Wai Tsuen in Yuen Long, Shui Mong Tin in Tai Po and Hung Hom was conducted on 22 November 2010.)*

87. There being no other business, the meeting ended at 12:40 pm.