

立法會
Legislative Council

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by the Administration)

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Panel on Housing and Panel on Development

Minutes of joint meeting
held on Tuesday, 15 November 2016, at 8:30 am
in Conference Room 2 of the Legislative Council Complex

Members present : Members of the Panel on Housing

- * Hon Alice MAK Mei-kuen, BBS, JP (Chairman)
- * Hon Andrew WAN Siu-kin (Deputy Chairman)
- * Hon James TO Kun-sun
- * Hon LEUNG Yiu-chung
- * Hon Abraham SHEK Lai-him, GBS, JP
- Prof Hon Joseph LEE Kok-long, SBS, JP
- * Hon Jeffrey LAM Kin-fung, GBS, JP
- * Hon WONG Ting-kwong, SBS, JP
- * Hon Starry LEE Wai-king, SBS, JP
- * Hon CHAN Kin-por, BBS, JP
- * Hon Paul TSE Wai-chun, JP
- * Hon LEUNG Kwok-hung
- * Hon Michael TIEN Puk-sun, BBS, JP
- * Hon Steven HO Chun-yin, BBS
- * Hon WU Chi-wai, MH
- * Hon YIU Si-wing, BBS
- * Hon MA Fung-kwok, SBS, JP
- * Hon Charles Peter MOK, JP
- * Hon CHAN Chi-chuen
- * Hon CHAN Han-pan, JP
- * Hon LEUNG Che-cheung, BBS, MH, JP
- * Hon Kenneth LEUNG

- * Dr Hon KWOK Ka-ki
- * Hon KWOK Wai-keung
Hon Christopher CHEUNG Wah-fung, SBS, JP
- * Dr Hon Fernando CHEUNG Chiu-hung
- * Dr Hon Elizabeth QUAT, JP
Hon POON Siu-ping, BBS, MH
- * Ir Dr Hon LO Wai-kwok, SBS, MH, JP
- * Hon Alvin YEUNG
- * Hon CHU Hoi-dick
- * Hon Jimmy NG Wing-ka, JP
- * Dr Hon Junius HO Kwan-yiu, JP
- * Hon HO Kai-ming
- * Hon LAM Cheuk-ting
- * Hon Holden CHOW Ho-ding
Hon SHIU Ka-fai
- * Hon SHIU Ka-chun
- * Hon Wilson OR Chong-shing, MH
Hon YUNG Hoi-yan
- * Hon Tanya CHAN
- * Hon CHEUNG Kwok-kwan, JP
- * Hon HUI Chi-fung
- * Hon LUK Chung-hung
- * Hon LAU Kwok-fan, MH
- * Dr Hon CHENG Chung-tai
- * Hon KWONG Chun-yu
- * Hon Jeremy TAM Man-ho
- * Hon Nathan LAW Kwun-chung
- * Dr Hon YIU Chung-yim
- * Dr Hon LAU Siu-lai

Members of the Panel on Development

- # Hon Tommy CHEUNG Yu-yan, GBS, JP (Chairman)
- # Hon Kenneth LAU Ip-keung, MH, JP (Deputy Chairman)
Hon Frankie YICK Chi-ming, JP
Hon Martin LIAO Cheung-kong, SBS, JP
Hon CHAN Chun-ying

Members absent : Members of the Panel on Housing

- * Hon CHAN Hak-kan, BBS, JP
- * Hon WONG Kwok-kin, SBS, JP
- * Hon Dennis KWOK Wing-hang
- * Dr Hon Helena WONG Pik-wan
- * Dr Hon CHIANG Lai-wan, JP

Member of the Panel on Development

Hon Mrs Regina IP LAU Suk-ye, GBS, JP

- * Also members of the Panel on Development
- # Also a member of the Panel on Housing

Public Officers attending : Agenda Item II

Transport and Housing Bureau

Professor Anthony CHEUNG, GBS, JP
Secretary for Transport and Housing

Mr Stanley YING, JP
Permanent Secretary for Transport and Housing (Housing)

Housing Department

Ms Ada FUNG, JP
Deputy Director (Development & Construction)

Mr HONG Wing-kit
Senior Civil Engineer of Housing (6)

Development Bureau

Mr Eric MA, JP
Under Secretary for Development

Mr Thomas CHAN, JP
Deputy Secretary for Development (Planning and Lands)¹

Mr Ivan CHUNG
Principal Assistant Secretary (Planning and Lands)5

Clerk in attendance : Mr Derek LO
Chief Council Secretary (1)5

Staff in attendance : Mr Michael YU
Chief Council Researcher 1

Miss Tiffany NG
Senior Council Researcher 1

Mr Fred PANG
Senior Council Secretary (1)5

Ms Michelle NIEN
Legislative Assistant (1)5

Action

I. Election of Chairman

Ms Alice MAK, Chairman of the Panel on Housing, advised that Mr Tommy CHEUNG, Chairman of the Panel on Development, had indicated his support for her to chair the joint meeting. Members agreed that Ms MAK would be the Chairman of the joint meeting ("the Chairman").

II. Public Housing Development Plan at Wang Chau, Yuen Long

(LC Paper No. CB(1)16/16-17(01) — Administration's paper on
Public Housing Development
Plan at Wang Chau, Yuen
Long

Action

LC Paper No. IN01/16-17 — Paper on public housing development plan at Wang Chau prepared by Research Office of the Legislative Council Secretariat (Information note)

LC Paper No. CB(1)126/16-17(01) — Press releases on public housing development plan at Wang Chau issued by the Administration from 21 September 2016 to 13 November 2016)

Other relevant papers

(LC Paper No. CB(1)98/16-17(01) — Email from Hon CHU Hoi-dick dated 4 November 2016

LC Paper No. CB(1)98/16-17(02) — Joint letter to Hon CHU Hoi-dick from the Chairmen of Panel on Housing and Panel on Development dated 9 November 2016)

2. The Chairman said that the joint meeting was held at the request of members of the Panel on Housing and Panel on Development to discuss the item with the Administration.

3. At the invitation of the Chairman, the Secretary for Transport and Housing ("STH") briefed members on the public housing development plan at Wang Chau, Yuen Long, particularly the Administration's considerations for the decision to proceed first with Phase 1 at the southern part of the Wang Chau site for the provision of about 4 000 public housing units, and defer the Phases 2 and 3 development for providing the remaining 13 000 units to later periods. Under Secretary for Development ("USDEV") then explained the measures in tackling brownfield sites in the rural New Territories, including undertaking consultancy studies on brownfield matters.

(Post-meeting note: STH's speaking note, which was tabled at the meeting, and USDEV's speaking note were issued to members vide LC Paper Nos. CB(1)138/16-17(01) and (02) respectively on 16 November 2016 in electronic form.)

Action

Public housing development plan at Wang Chau, Yuen Long

4. Mr YIU Si-wing was concerned whether the Administration would complete the consultancy study on brownfield matters in accordance with the planned timeframe so that it could proceed to the Phases 2 and 3 development at Wang Chau for providing the remaining 13 000 flats. He asked whether after completion of Phase 1, the Administration would take forward the Phase 3 development before Phase 2 given that the Phase 3 site was large in size. STH replied that apart from commissioning the study on brownfield matters, the Administration would conduct a study to identify the technical issues involved in the Phases 2 and 3 development. Same as Phase 1, the Phases 2 and 3 development would be subject to various issues identified in that study. The Administration would also go through the relevant statutory and public consultation procedures.

5. Dr LAU Siu-lai enquired on whether and when the Administration would submit funding applications to LegCo for carrying out necessary works at the Phase 1 site before the Hong Kong Housing Authority ("HA") commenced the public housing construction. Permanent Secretary for Transport and Housing (Housing) ("PSTH(H)") advised that the Administration planned to carry out site formation and infrastructure works at the Phase 1 site in 2018 and would submit funding proposals to LegCo at suitable time. It was expected that the site formation works would be completed in about three years and the site would be handed over to HA for construction of the about 4 000 flats. Dr LAU requested the Administration to provide details on the funding proposals and the timetable for submitting them to LegCo.

(Post-meeting note: The Administration's supplementary information was issued to members vide LC Paper No. CB(1)201/16-17(01) on 28 November 2016.)

Planning and Engineering Study on the feasibility of the Wang Chau Housing Development and Yuen Long Industrial Estate Extension

6. Ir Dr LO Wai-kwok enquired whether the Planning and Engineering Study on the feasibility of the Wang Chau Housing Development and Yuen Long Industrial Estate Extension ("YLIEE") ("the P&E Study") had recommended that the Wang Chau development should be implemented in phases, and whether the Administration had decided in mid-2013 that such phasing approach should be adopted. Dr YIU Chung-yim enquired whether the Administration had disregarded the findings of the P&E Study, and had

Action

made the decision to defer the Phases 2 and 3 development before the completion of the study.

7. STH replied that the main purpose of the P&E Study was to examine the technical feasibility of the development of the sites for public housing and YLIEE, including the impact of the development. The consultant commenced the study in July 2012, and had completed different parts of the study in phases. The preliminary findings of the study were made available to relevant government departments in mid-2013. In early January 2014, he agreed to the Housing Department("HD")'s proposal to proceed first with the Phase 1 development and leave the Phases 2 and 3 development to later periods. The decision to develop the Wang Chau development in phases was also endorsed by the 3C meeting¹ on 27 January 2014. STH explained that the decision to adopt the phased development approach was based on the consideration that as compared to proceeding with Phase 1 first, developing the three phases concurrently would involve more complicated problems in respect of infrastructures, environmental mitigation measures, and the handling of brownfield operations, and require a longer time to formulate and implement relevant measures.

8. Noting that according to the Administration, certain parts of the P&E Study report released to LegCo and the public were redacted because they contained land sensitive data, Mr Andrew WAN enquired what the "land sensitive" information was. Dr YIU Chung-yim said that paragraph 4.3.3.2 of Part 14: Financial Assessment – Main Text of the P&E Study report was about the costs for resuming agricultural land (Zone C) for the public housing development sites. He enquired why the Administration redacted the last few lines of the paragraph, and whether some of these redacted parts could be unveiled if they were not third party information or sensitive figures. PSTH replied that the redacted parts mentioned by Dr YIU were information related to the cost for resuming private land required for government projects. The cost was determined in accordance with an established mechanism that had been approved by the Finance Committee and accordingly the Administration had not negotiated with the local landowners on the cost of land resumption. STH explained that after seeking legal advice, the Administration considered that a few parts of the P&E Study report with contents mainly related to financial and land matters should not be disclosed, and were hence redacted.

¹ Meeting chaired by the Chief Executive and attended by three senior Secretaries of the Government, namely Chief Secretary, Financial Secretary and Secretary for Justice.

Action

Impact of the Wang Chau development on residents

9. Dr Fernando CHEUNG opined that the Administration decided to defer the Phases 2 and 3 development because of the pressure exerted by a handful of people including rural representatives, district council members and brownfield operators who had vested interests in the land sites concerned. The proposal to reduce the scale of public housing development at Wang Chau had disregarded the society's imminent public housing demand, and the plan to clear a "Green Belt" site for implementing the development would force the villagers living in the area to move out. Mr KWONG Chun-yu and Mr CHU Hoi-dick enquired whether the Administration would visit the affected villagers, and listen to their concerns. Mr CHU said he had requested STH about two months before to meet the affected villagers as the latter had not been properly consulted on the development so far. Mr SHIU Ka-chun sought clarification on whether STH had declined seven invitations to meet the affected villagers. In response, STH said he was not aware that he had been invited seven times to meet the affected villagers, and he would be willing to meet with them if it would help resolve the issues arising from the Wang Chau development. He said that the public had opportunities to give views on the project during the planning application procedures in 2014 to rezone the site from "Green Belt" to "Residential". Relevant government departments would follow the established policies to proceed with land clearance, and to deal with the impact of the clearance on residents.

10. Ms YUNG Hoi-yan enquired about the compensation and rehousing arrangements for the villagers affected by land clearance at Wang Chau. She further enquired on the number of affected households eligible for public rental housing ("PRH"), and the measures to handle future cases of affectees' refusal to move out from the villages. Mr LAU Kwok-fan and the Chairman said that the Administration should review and improve the compensation and rehousing arrangements offered to residents affected by its development clearance exercises. Mr LAU further said that the improvement was necessary in order to take better care of needs of the people affected including the immediate accommodation needs of those who were not eligible for public housing. Mr LUK Chung-hung said that the Administration should consider a more lenient approach for handling the compensation and rehousing matters for the clearers including the affected non-indigenous villagers.

Action

11. PSTH(H) replied that the Administration would compensate the affected residents in accordance with the established mechanism that had been approved by the Finance Committee. As far as the Phase 1 development was concerned, the Lands Department would collect information from the affected households at a later stage for the purpose of determining the compensation offered to them. Households meeting the rehousing eligibility criteria of HA would be provided with PRH. Deputy Secretary for Development (Planning and Lands)1 ("DS/DEV(P&L)1") said to ensure that precious PRH resources were used to assist those in genuine need, same as other PRH applicants, clearerees had to meet the eligibility criteria laid down by HA on income and assets.

12. Dr CHENG Chung-tai and Dr KWOK Ka-ki commented on the Administration's piecemeal approach of responding to public concern on the issues arising from Wang Chau development. Dr CHENG asked whether the Administration would shelve or postpone the Wang Chau project and launch a public consultation on the development in view of its adverse impact on villagers. STH replied that the Administration all along adopted a transparent approach in taking forward the planning and implementation of the Wang Chau development, and the public had ample opportunities to express views on the project. The Administration had no intention to postpone or shelve the development plan.

13. Mr LUK Chung-hung said that the Hong Kong Federation of Trade Unions supported the early construction of the 17 000 public housing units at Wang Chau and the provision of adequate ancillary facilities to tie in with the development. The suggestion to shelve or postpone the development plan would increase the cost and delay the completion of the housing projects. Mr Kenneth LAU considered it appropriate to proceed first with Phase 1 in order to provide the about 4 000 public housing units as early as possible.

14. Mr LEUNG Che-cheung enquired about the factors for consideration in selecting the sites for housing development. He said that there were several housing development projects under planning or implementation at different parts of the New Territories including Wang Chau, Hung Shui Kiu, Yuen Long South and Kam Tin South, and they would lead to a significant population increase, causing pressure on supporting facilities. The Administration should pay heed to the concern on the overall adverse impact of the projects on residents. STH replied that when planning a large-scale public housing development, the Administration would consider various factors such as provision of supporting facilities to tie in with new population intake. Government departments would conduct internal assessment on the

Action

impact of the development, before consulting the district council concerned. USDEV advised that in view of the local concerns about the planned housing developments at Yuen Long, the Administration had briefed the Yuen Long District Council ("YLDC") at a meeting in 2014 on the potential housing sites under study and the on-going planning and engineering studies on housing development in the district, and the planned provision of supporting facilities catering to the needs of housing developments.

Lobbying sessions and public consultation

15. Mr CHU Hoi-dick said members of the public considered that the Wang Chau development involved collusion between the Government, businesses, rural groups and triads, having regard to the fact that the Administration decided to scale down the development and consult YLDC on the revised development plan only after relevant government departments had touched base with some influential people in the local communities, such as Mr TSANG Shu-wo who was the Chairman of Ping Shan Rural Committee and a brownfield operator with vested interests in Wang Chau. Mr Andrew WAN opined that public consultation should not be replaced by informal lobbying in planning public housing projects. He queried whether the decision to proceed with the Wang Chau development in phases was based on the discussions at some informal meetings between government officers and rural representatives in Yuen Long, and whether YLDC had been consulted only on the proposal to proceed with the Phase 1 development. STH replied that the Administration had consulted YLDC on Phase 1 of the Wang Chau development in June 2014. Compared with Phase 1, the Phases 2 and 3 development would also involve quite substantial brownfield and environmental issues. STH reiterated that the Administration had never dropped its plan to pursue the remaining 13 000 public housing units.

[At 9:08 am, 9:24 am and 9:39 am, noting the noise made by some members of the public in the gallery the Chairman reminded them to remain silent during the meeting.]

16. Mr LEUNG Yiu-chung and Dr LAU Siu-lai said that the public were concerned that the Wang Chau development project involved "government-business-rural" collusion. Dr KWOK Ka-ki expressed similar concern, taking in view that a plot of land owned by the New World Development Company Limited ("NWDCL") was in close proximity to the Phase 1 site. In response to Dr KWOK's question on whether the decision to defer the remaining two phases to later periods had been made as a result of the Chief Executive's intervention, STH advised that the purpose of the Task Force on Wang Chau and Queen's Hill chaired by the Chief Executive was to take

Action

forward high-level coordination work of the two large-scale land development projects. These two projects were important because they could provide almost 30 000 public housing units. The Task Force convened a meeting with officials responsible for the policy areas of land, housing, planning and environmental protection on June 27, 2013. In early 2014, a high level Government meeting discussed the HD's proposal of developing the Wang Chau in phases and the suggestion was also accepted by the Chief Executive. PSTH(H) advised that when responding to media, the Administration had made clear that there was no question of the Government's colluding with any interests. Departments including HD had raised objection to a planning application submitted to the Town Planning Board with respect to the private development of NWDCL at a site adjacent to the Phase 1 site.

17. Mr Andrew WAN and Mr LAM Cheuk-ting queried the validity of the Administration's earlier claim that it had not kept official records about the informal meetings with the rural representatives with respect to the Wang Chau development. They asked whether the Assistant Directors of the Housing Department attending the informal meetings had submitted any written reports on the deliberations of the meetings to the senior levels of the department. STH replied that as mentioned by the Government officials at various occasions, colleagues attending lobbying sessions with local representatives might report the views gathered at the meetings to the senior levels of the department concerned through internal emails or working documents instead of preparing formal meeting minutes.

Illegal occupation of government land

18. Dr Fernando CHEUNG enquired about the enforcement efforts to deal with the case of illegally-occupied government land at Wang Chau. DS/DEV(P&L)1 replied that the total area of the government land that had been unlawfully occupied at Wang Chau was about 3.8 hectares. After receiving complaints about the illegal occupation in February 2016, the Lands Department ("LandsD") had posted notices pursuant to the relevant ordinance on the land being occupied, requiring the occupiers to cease the occupation. As two of the occupiers had not removed the unauthorized structures from the land concerned before the dates specified in the notices, LandsD had initiated prosecutions against them. In one of the cases, the occupier had been convicted in October 2016 and was fined \$90,000. Another case was pending in a court of law. Ms YUNG Hoi-yan said that of the 3.8 hectares of land illegally occupied, LandsD had sealed off 2.6 hectares of the land in question, and had granted short-term tenancies ("STTs") for the remaining 1.2 hectares. She enquired why the

Action

Administration granted STTs for the site, instead of offering it for open tender. DS/DEV(P&L)1 responded that the 1.2-hectare plots were scattered among private land, and taking account of their topography, location and size, they were unlikely to be separately alienable in the market through open tender.

Handling of brownfield issues

19. Mr Tommy CHEUNG and Mr Kenneth LAU enquired about the Administration's position regarding brownfield sites. Mr LAU opined that the existing brownfield operations were providing supporting services to the logistics industry, port-backup facilities, and some other industrial activities which were important to Hong Kong. The Administration should assess the impact of converting the existing brownfield sites to housing land, and work out feasible compensation methods and re-provisioning arrangements. He enquired about the development projects that required relocation of brownfield sites, and how the Administration would take into account relevant stakeholders' views and concerns on its relocation plan. Mr LAU Kwok-fan asked about the timetable for putting in place brownfield policies.

20. USDEV replied that release of brownfield sites for optimal use under the new development area ("NDA") approach was part of the Administration's multi-pronged land supply strategy alongside other land supply initiatives and sources. The major development projects of Kwu Tung North/Fanling North, Hung Shui Kiu New Development Areas and Yuen Long South development would release about 340 hectares of brownfield sites. The Administration was in parallel considering how the brownfield operations could be accommodated in a land efficient manner, including feasibility to relocate some operations to multi-storey buildings. Feasibility studies on multi-storey buildings for accommodating brownfield operations were now underway. The Planning Department ("PlanD") would also commission a consultancy study on the distribution and uses of brownfield sites in the New Territories, which was expected to complete by 2018. Mr Tommy CHEUNG remarked that the Administration should take into account the impact of its future measures to relocate and re-provision brownfield operations on the cost and financial sustainability of these operations.

Action

21. Mr WU Chi-wai said that relevant government departments had conducted territory-wide surveys in 1980s, which were meant to be a freezing survey, to register among others the location and use of squatter structures. As brownfield sites had existed in the territory for a long time, the Administration might have a grasp of their operation status. He enquired whether it was necessary for the Administration to conduct a study similar to a freezing survey in order to deter the growth of brownfield operations and to facilitate future planning and implementation of the development at the brownfield sites concerned. USDEV replied that the distribution of brownfield sites and their uses had kept changing in the past. A comprehensive survey on the distribution and uses of brownfield sites in the New Territories would be conducted as part of the PlanD's consultancy study.

22. Dr YIU Chung-yim said that there was a site with an area of about one hectare at Wang Chau which had been illegally occupied before, and suggested that the Administration should provide a multi-storey block at the site for re-provisioning brownfield operations, so that the brownfield sites in the vicinity could be vacated earlier for providing the Phases 2 and 3 public housing development. In response to Mr Alvin YEUNG's enquiry on the Administration's position regarding Dr YIU's suggestion, USDEV advised that the Administration would follow up the suggestion with Mr YIU. In considering the suitability of a site for accommodating brownfield operations, the Administration needed to assess, among others, the interface issues with the adjoining land uses and the impacts on supporting infrastructure and environment.

23. The Chairman asked about the Administration's strategies for consolidating brownfield sites currently scattered in different areas, and the position of the Transport and Housing Bureau ("THB") regarding the suggestion of the Development Bureau ("DEVB") to relocate the logistics operations from brownfield sites to multi-storey compounds. She said the logistics industry was of the view that it might not be feasible to accommodate logistics operations in multi-storey compounds. The Administration should continue to explore ways to address the impact caused by clearance of brownfield sites on the logistics industry. Mr Kenneth LAU remarked that the Administration should put in place comprehensive policies on logistics development in Hong Kong in a timely manner.

Action

24. STH said that it was the vision of the Administration to modernize the logistics industry in Hong Kong. He himself was the Chairman of the Hong Kong Logistics Development Council, and THB had all along maintained close communication with DEVB on addressing the development needs of the logistics industry. The inter-bureaux/departments task force on brownfield operations chaired by DEVB was set up in 2014 to explore effective policies and practicable measures to handle brownfield operations, and it comprised representatives from THB and other relevant bureaux/departments. In response to Mr LAU Kwok-fan's concerns that some brownfield operations could not be accommodated inside multi-storey buildings, and that the future clearance of brownfield sites used for providing parking spaces for heavy and large vehicles might give rise to illegal parking problem in future, USDEV advised that the Administration would consider and follow up the issues mentioned by Mr LAU.

Non-compliance of provisions in a consultancy agreement

Penalty imposed on the consultant

25. Referring to a case in which a consultancy firm, Ove Arup & Partners Hong Kong Ltd ("OAP"), had with no prior approval used restricted data obtained through the services of a consultancy agreement in a government-commissioned project in a NWDCL's project, and the Administration had suspended OAP from bidding all categories of consultancy agreements under the jurisdiction of the Engineering and Associated Consultants Selection Board ("EACSB") for three months, Ms Tanya CHAN, Mr LAM Cheuk-ting, Mr KWONG Chun-yu, Mr CHAN Chi-chuen, Mr LEUNG Yiu-chung and Dr KWOK Ka-ki opined that the penalty was too slight to have a sufficient deterrent effect. Ms Tanya CHAN queried whether the Administration had not followed up the case seriously. Mr LEUNG and Mr KWONG enquired about the mechanism for determining the penalty. Mr Tommy CHEUNG and Mr LAU Kwok-fan opined that the public might consider the penalty slight. Mr CHEUNG and Mr LUK Chung-hung said that the Administration should review and put in place clear criteria for determining the penalty imposed on similar cases in future.

Action

26. USDEV replied that the case involved the OAP's non-compliance of the "confidentiality" and "conflict of interest" provisions in the consultancy agreement for a study on the Engineering Works at Lin Cheung Road Site, Sham Shui Po and Wang Chau, Yuen Long – Investigation, Design and Construction commissioned by the Civil Engineering and Development Department ("CEDD"). Relevant government departments were serious in following up the case, and had sought the EACSB's approval for the regulating action being imposed on OAP. The Administration believed that the penalty of suspension of tendering by OAP for all categories of consultancy agreements under the jurisdiction of EACSB for three months from 7 November 2016 to 6 February 2017 would bring certain impact on the company, in view of the number of employees in the company.

Investigation work

27. Ms Tanya CHAN, Mr LEUNG Yiu-chung, Dr LAU Siu-lai and Mr WU Chi-wai enquired whether the Administration would conduct in-depth investigation to find out whether the case involved criminal conduct. Ms CHAN and Mr WU asked whether the case involved the consultant's stealing of government data. Taking in view that the case might involve breach of relevant provisions of the Official Secrets Ordinance and the Prevention of Bribery Ordinance, Mr LAM Cheuk-ting said that the Administration should forward the case to law enforcement agencies for criminal investigation, and should not process the tenders submitted by OAP for government contracts before completion of the investigation. Dr CHENG Chung-tai and Mr KWONG Chun-yu opined that the Administration should seek legal advice on whether the case involved criminal conduct. USDEV replied that the Administration was following up the case closely based on the provisions of the relevant consultancy agreement between CEDD and OAP.

28. Ms Tanya CHAN requested the Administration to provide details about the OAP case and other similar cases involving improper/unauthorized use of information by government-commissioned consultancies, including the follow-up actions on the cases, the contractual terms and conditions breached by the consultancies, the penalties imposed on the consultancies, and the mechanism/criteria for determining the penalties, etc. Mr LAU Kwok-fan said that as some OAP staff relevant to the case might have to leave the company within a short time, the Administration should follow up the case in a timely manner, and provide for members' reference the contracts relevant to the case, and the guidelines/documentation governing consultants' use of restricted information.

Action

(*Post-meeting note:* The Administration's supplementary information was issued to members vide LC Paper No. CB(1)201/16-17(01) on 28 November 2016.)

29. At 10:06 am, the Chairman announced that the meeting be extended for 15 minutes to 10:45 am to allow more time for discussion.

Documents relevant to communications between the Administration and the consultant

30. Dr KWOK Ka-ki questioned whether the Administration had communicated with OAP before making decision on the penalty imposed on the case. Mr SHIU Ka-chun asked whether the Administration had touched base with OAP to exchange views on the penalty imposed on the case. Mr Nathan LAW said that around September 2015, the Administration had written to OAP to clarify the source of the information being quoted in the NWDCL's project concerned. He enquired about the response from OAP or NWDCL. USDEV replied that as part of its follow up of the case, the Administration had exchanged correspondences with OAP in respect of the issues of "confidentiality" and "conflict of interest". As the correspondences might involve commercial sensitive information, it was not appropriate for the Administration to provide their details at the meeting.

31. Mr CHAN Chi-chuen, Dr CHENG Chung-tai, Mr KWONG Chun-yu, Mr Alvin YEUNG, Mr Nathan LAW, Mr Andrew WAN and Dr KWOK Ka-ki criticized the Administration for its failure to provide at the meeting the basic information about the case, including the relevant contracts and the correspondences between the Administration and the consultant/developer. Dr Fernando CHEUNG said that according to media reports, in the past three years, there were 11 cases involving consultants' disclosure of government restricted data to third parties. He questioned why the Administration could not provide details about these cases at the meeting. Mr CHAN Chi-chuen said that the Administration should have made themselves ready to respond to members' questions at the meeting about the penalties that had been imposed on other similar cases. Mr LEUNG Kwok-hung sought clarification on whether USDEV did not have on hand the correspondences between the Administration and OAP/NWDCL as requested by Mr Nathan LAW, or the Administration was unwilling to provide the documents for members' reference. USDEV responded that he did not have the requested documents on hand, and the Administration would provide relevant summary of correspondences to the Panels after the meeting.

Action

[At 10:09 am, Mr LEUNG Kwok-hung walked across the meeting room and grabbed a folder placed on the bench by USDEV. The Chairman said that Mr LEUNG should return the folder to USDEV and go back to his seat. Mr LEUNG then passed the folder to Mr CHU Hoi-dick. USDEV requested that the folder should be returned to the Administration. At 10:10 am, the Chairman ordered Mr LEUNG to withdraw from the meeting, and declared that the meeting be temporarily suspended. The Chairman ordered the security guard to retrieve the folder from Mr CHU Hoi-dick and return the folder to USDEV. Mr CHU Hoi-dick returned the folder to the security guard.]

32. The meeting resumed at 10:11 am. The Chairman said that a member's dissatisfaction with the response of public officers at the meeting did not give him an excuse for not observing the relevant rules of procedure. Taking away meeting folders from other people at the meeting was impolite and disrespectful. If public officers felt offended by this, they might consider writing to the LegCo President.

Consultants' use of restricted information

33. Mr CHU Hoi-dick said that before taking up the current appointment, USDEV had been employed by AECOM, a consultancy firm, as the Executive Vice President for Civil and Infrastructure Business in the Asia-Pacific Region. He asked USDEV to give view on whether it was a common practice of government-commissioned consultancies to use restricted data obtained through the services of government consultancy agreements in a third party's project. Dr LAU Siu-lai said that in the past 11 cases involving consultants' disclosure of restricted information to third parties, AECOM was one of the consultants. She asked whether USDEV had provided restricted information to developers without prior consent when he was working for AECOM. USDEV replied that it had been stated in the relevant provisions of the consultancy agreements between the Administration and government-commissioned consultants that a consultant should not undertake a third party's project without prior approval, and should follow strictly the company's internal procedures in preventing improper use of information.

Action

34. Dr Fernando CHEUNG was concerned that since OAP was hired by both the Administration and NWDCL to provide consulting services for the respective development projects in Wang Chau, the consultant might play a role to facilitate collusion between the Administration and the developer. OAP might have disclosed to NWDCL restricted information about the land sites in Wang Chau that would be resumed by the Administration in order to facilitate the developer to pursue land hoarding activities in the area. Dr LAU Siu-lai expressed similar concern, having regard to the facts that the Administration had not taken regulating action against OAP for the unauthorized disclosure of government restricted data until the case came to light and was widely reported by the media, and the penalty imposed on the case was slight. Mr LEUNG Yiu-chung asked whether the Administration should not pursue the Wang Chau development according to the original plan as OAP had disclosed government restricted data to NWDCL. Dr CHENG Chung-tai enquired about the measures to address public concern on the collusion between the Administration and the private sector in the development planning of Wang Chau. He cast doubt that the Wang Chau development was in charge by the private sector such as NWDCL instead of the Administration.

35. STH replied that the Administration had all along made its best efforts to safeguard public interests. STH also said that the Administration's responsibility was to critically review the findings of the studies conducted by the consultants and to decide whether or not to follow their suggestions. Mr SHIU Ka-chun requested the Administration to provide information on the reasons for selecting OAP as the consultant for the P&E Study, the number of bidders participating in the tendering for the consultancy agreement concerned, and the dates on which OAP was selected as the successful tenderer and was commissioned by the Administration to undertake the study.

(Post-meeting note: The Administration's supplementary information was issued to members vide LC Paper No. CB(1)201/16-17(01) on 28 November 2016.)

Action

36. Mr KWONG Chun-yu and Mr Michael TIEN were concerned whether it had been a common practice that consultants' used government restricted information without prior approval, and whether the case represented only the tip of an iceberg. Mr Michael TIEN suggested that the Administration should consider enacting legislation to require consultants' written undertakings to observe confidentiality of the information obtained from the government consultancy agreements, and to impose a heavier penalty on non-compliance of the confidentiality requirements. To remove the suspicions about transfer of benefits from the Administration to the private sector through disclosure of government restricted data, the Administration might make public the available planning data such as population and employment figures, transport and traffic data. USDEV replied that Mr TIEN's suggestions would be considered.

Additional meetings to discuss the item and receive public views

37. Mr Andrew WAN and Mr KWONG Chun-yu suggested that the Panel on Housing and Panel on Development should hold a meeting to receive public views on the public housing development plan at Wang Chau. Members raised no objection to the suggestion.

38. At 10:37 am, the Chairman advised that Mr CHU Hoi-dick had proposed a motion, which she considered relevant to the agenda item. Mr CHU Hoi-dick said that his motion urged the Administration to provide information on the Wang Chau development project as requested by members at the meeting, and enquired whether the Administration would provide copies of all correspondences between OAP and the Administration pertaining to the use of the government restricted data. USDEV replied that the Administration would seek advice on whether the correspondences could be provided to LegCo, and would provide those which could be disclosed. Mr Andrew WAN remarked that the Administration should not have problems providing copies of the correspondences/documents that had been issued by the Administration to OAP/the developer relevant to the case.

(Post-meeting note: The Administration's supplementary information was issued to members vide LC Paper No. CB(1)201/16-17(01) on 28 November 2016.)

Action

39. Mr CHAN Chi-chuen suggested that the two Panels should further discuss the item with the Administration and follow up the issues raised by members at a meeting after receiving the Administration's supplementary information. The Chairman advised that she would work out the date of the joint meeting with the Chairman of the Panel on Development to receive public views and further discuss the item. At the Chairman's request, USDEV undertook to provide the supplementary information before the next joint meeting as far as practicable.

(Post-meeting note: A joint meeting was held on 29 November and 6 December 2016 each to receive public views on the public housing development plan at Wang Chau and to further discuss with the Administration on the subject respectively.)

Motion

40. The Chairman referred members to the motion put forward by Mr CHU Hoi-dick. The wording of the motion was as follows –

"政府須於一個月內，將各委員所要求的橫洲項目相關資料，包括ARUP與政府之間就挪用政府機密資料的所有文書來往和合約文本，提交予發展事務委員會及房屋事務委員會，並再次舉行聯席會議，讓委員討論。"

(Translation)

"That the Government must, within one month, provide the Panel on Development and the Panel on Housing with relevant information on the Wang Chau project as requested by members, including copies of all correspondences and contracts between ARUP and the Government pertaining to the fraudulent use of the government confidential information; and that another joint meeting must be held to allow members to discuss the issue."

41. The Chairman put to vote the question that the motion proposed by Mr CHU Hoi-dick be dealt with at the meeting. The majority of members present considered that the motion should be dealt with at the meeting. The Chairman declared that the question was carried. The Chairman then put to vote the motion moved by Mr CHU Hoi-dick. The majority of members present supported the motion. The Chairman declared that the motion was carried.

Action

(Post-meeting note: The wording of the motion passed was issued to members vide LC Paper No. CB(1)137/16-17(01) and was provided to the Administration via the letter dated 16 November 2016.)

III. Any other business

42. There being no other business, the meeting ended at 10:45 am.

Council Business Division 1
Legislative Council Secretariat
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