

**Extract of minutes of meeting
of the Panel on Planning, Lands and Works
held on 27 January 2004**

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Action

VIII. Stage two amendments for Town Planning Ordinance

(LC Paper No. CB(1)813/03-04(10) -- Information paper provided by the Administration)

82. At the invitation of the Chairman, PSPL briefed members on the major proposals set out in the information paper. She highlighted the Administration's plan to put forward amendments to the Town Planning Ordinance (TPO) (Cap. 131) in stages in view of the complexity of the subject. The Town Planning (Amendment) Bill 2003 covering the Stage One amendments was currently being examined by a Bills Committee. The information paper outlined those further proposals identified for the Stage Two amendments in earlier discussions with the Panel and in response to concerns raised by Bills Committee members during deliberation of the Bill. She also highlighted the Administration's current thinking and proposals on issues relating to the composition and operation of the Town Planning Board (TPB) set out in paragraphs 5 to 12 of the information paper for members' reference.

Opening up of TPB meetings

83. Mr TAM Yiu-chung expressed support for the proposal on opening up meetings of TPB for greater transparency of its proceedings. He appreciated that TPB members were not full-time members and had to put up with the heavy workload of TPB. Noting that TPB members had grave reservations on opening up the deliberations part of its meetings, Mr TAM asked whether any TPB members had in the past been subject to criticisms due to their work with TPB.

84. Mr IP Kwok-him expressed support for a gradual approach in opening up TPB meetings and the proposed measures such as press briefings or conferences to be held by the TPB Chairman or members after meetings when major developments or issues had been discussed.

85. In response, PSPL said that TPB members indeed were facing heavy workload in their voluntary service with TPB. In addition to frequent and lengthy regular Board meetings, members had to attend meetings of the committees under TPB and study the voluminous papers for these meetings. The Director of

Planning (DP) added that TPB members had faced pressure from the media and the public in respect of TPB's decisions on planning applications and consideration of objections. TPB members had in general managed the pressure in a positive manner. He highlighted that TPB members were supportive of subjecting all aspects of TPB's work to a more open and transparent process and only held reservation on opening up the deliberation part of meetings for consideration of objections or planning applications. The proposal of releasing the minutes of these meetings for public information would keep the public well-informed of TPB's deliberations and collective decisions without disclosing the stance of individual members.

86. Responding to Mr TAM's further enquiry, PSPL said that under the existing practice, only applicants for review and objectors would be invited to give representations at the hearing part of the TPB's proceedings. Written notification of TPB's decisions and minutes of the relevant meetings would be provided to these parties prior to the meeting so that they would be well-informed of the deliberation of TPB as well as the justifications in cases of rejection. DP added that aggrieved parties could appeal against the decisions of TPB to the Appeal Board or seek judicial review of the decisions.

87. On the proposal to release minutes of TPB meetings for public information, Mr IP enquired about the way TPB members' views were recorded in the minutes. In response, DP advised that the minutes of meetings recorded TPB's main deliberations but were not verbatim records of proceedings. The names of speaking members were not recorded in the minutes.

88. While appreciating the pressure of heavy workload on non-official members of TPB, Mr WONG Sing-chi opined that as these members were appointed in their personal capacities, they should be responsible for their own views in performing their duty as TPB members and be ready to face criticisms of the public on their views. In his view, it would only be fair to the public if the stance and views of individual members of TPB would be disclosed. Hence, he urged the Administration to consider opening up the deliberation part of TPB meetings in addition to the hearing part of the Board's proceedings.

89. PSPL responded that the views of TPB members on the issue were as reflected in the Administration's paper and she could not speak on behalf of TPB members about what they actually felt about the suggestion of opening up also the deliberation part of TPB meetings to the public. She personally would consider a gradual approach to opening up both sensible and practicable. She highlighted that the proposed measures of releasing the minutes of meeting for public information and arranging press briefings or conferences after TPB meetings were aimed at achieving the objective of keeping the public well-informed of the deliberation of TPB in arriving at its decisions.

90. Mr Albert CHAN expressed dissatisfaction towards the slow progress in making amendments to TPO for improving the transparency of the town planning process. In his view, non-disclosure of information would be in the interest of developers and not the community at large, and hence proposals to improve transparency of TPB would inevitably invite objections from developers. Pointing out that meetings of the LegCo and its committees were open to the public, Mr CHAN considered that there should be no cause for concern about premature release of sensitive or confidential information provided to TPB. He urged the Administration to adopt a more proactive approach in introducing amendments to TPO and expedite the implementation of improvement measures for the openness and transparency of the town planning process. Ir Dr Raymond HO expressed the view that opening up meetings of TPB should not give rise to concerns of subjecting TPB members to undue pressure. TPB members should provide views from technical angles and objective perspectives. There should be mechanisms for avoidance of any potential or perceived conflict of interests.

91. PSPL explained that the Administration had proposed a phased approach to amend TPO having regard to the complexity of the issues in question as illustrated in the previous attempt to revise the Ordinance in one go. The introduction of amendments in stages would facilitate the implementation of proposals that were less contentious and would produce immediate benefits to the community. She stressed that the Administration was proactive in taking forward the amendment proposals in Stage Two as well as the feasible administrative measures to improve the openness and transparency of TPB. The administrative measures could be implemented upon passage of the Stage One amendments.

92. Mr LAU Ping-cheung welcomed early consideration and discussion of the operation of TPB and other issues to be covered under the Stage Two amendments. He called on the Administration to introduce the Stage Two amendments as soon as possible.

Quorum of TPB meetings

93. Ir Dr Raymond HO referred to paragraph 14 of the paper and opined that the quorum for committee meetings to hear objections under section 2A of TPO was too small. He said that the quorum for TPB meetings should be enlarged and fixed at a certain percentage of the membership instead of a fixed number of members. He urged the Administration to consult other relevant parties, in addition to TPB members, on the appropriate size of the quorum as decisions of TPB affected public interests.

94. PSPL said that the Administration held an open attitude towards the enlargement of the quorum for TPB meetings. The existing TPO provided that five TPB members should form the quorum at any TPB meeting and its Planning Committee meeting. For a committee appointed by the TPB to hear objections

under section 2A of TPO, the quorum was three. While the Administration considered it appropriate to increase the quorum, the practical difficulties of ensuring a large quorum for specified meetings should be taken into account, given the heavy commitments of TPB business. She said that the Administration would further consult TPB on the enlargement of quorum before putting up concrete proposals for LegCo's consideration.

Composition of TPB and TPB Secretariat

95. Referring to paragraphs 15 and 17 of the paper, Mr LAU Ping-cheung opined that the existing arrangement for Government officials to provide secretariat services to TPB was not conducive to projecting an independent image of TPB. He suggested the Administration explore the feasibility of establishing an independent TPB secretariat. Pointing out that in some cases, the Government was the applicant or proponent of town planning proposals/applications. Mr LAU also requested the Administration to review the existing arrangement for TPB to be chaired by the relevant Permanent Secretary, as there might be potential role conflicts in the deliberation of TPB on these applications/proposals.

96. PSPL advised that as the ultimate decisions on town plans and planning applications were made by TPB collectively and TPB must provide justifications for its decisions, the existing arrangements for Government officials to take up the chairmanship and provide secretariat services to TPB did not affect the independence of the Board nor create any real problem of role conflicts. She pointed out that from her experience as the Chairman of TPB in the past months, some planning proposals or recommendations put up by the Administration had been rejected by TPB. In considering alternative arrangements for the provision of Secretariat services for TPB, PSPL said that resources implications were a major consideration as an independent secretariat that could assume also the role of providing professional/technical support was likely to be duplicating the efforts of the Planning Department.

97. Mr LAU Ping-cheung commented that public perception of the fairness and objectivity in the planning process under the existing arrangements should be an important concern. He called on the Administration to review the role relationship between the TPB Chairman, its Secretariat and applicants. In response, DP pointed out that the work of the Planning Department was subject to public monitoring. While the Planning Department provided secretarial and professional/technical support to TPB, the decisions were ultimately made by members of TPB. There were a considerable number of past cases of TPB's rejection of proposals submitted by the Planning Department.

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