

**立法會**  
***Legislative Council***

LC Paper No. CB(2)1409/02-03

(These minutes have been  
seen by the Administration)

Ref : CB2/SS/6/02

**Subcommittee on  
Ocean Park Bylaw**

**Minutes of meeting  
held on Tuesday, 18 February 2003 at 3:30 pm  
in Conference Room B of the Legislative Council Building**

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| <b>Members<br/>Present</b>           | : Hon James TO Kun-sun (Chairman)<br>Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP<br>Hon Henry WU King-cheong, BBS, JP   |
| <b>Member<br/>Absent</b>             | : Hon LEUNG Fu-wah, MH, JP   |
| <b>Public Officers<br/>Attending</b> | : Ms Lolly CHIU<br>Deputy Secretary for Home Affairs (3)<br><br>Ms Miranda YEAP<br>Assistant Secretary for Home Affairs (Recreation and<br>Sport)<br><br>Mr Dominic LAI<br>Senior Government Counsel<br>Department of Justice<br><br>Miss Leonora IP<br>Senior Government Counsel<br>Department of Justice |

**Attendance by  
Invitation**

Ocean Park Corporation

Mr Matthias LI  
Deputy General Manager

Mr Alan CHAN  
Operations Director

Mr Doman KWAN  
Corporate Services Manager

Mr TSO Chi-keung  
Engineering Director

Johnson Stokes & Master

Mr Brian Gilchrist  
Legal Adviser of Ocean Park Corporation

**Clerk in  
Attendance**

: Miss Flora TAI  
Chief Assistant Secretary (2)2

**Staff in  
Attendance**

: Miss Monna LAI  
Assistant Legal Adviser 7

Miss Lolita SHEK  
Senior Assistant Secretary (2)7

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**I. Election of Chairman**

Mr James TO was elected Chairman of the Subcommittee.

**II. Meeting with the Administration**

[L.N.1 of 2003, LC Paper Nos. LS40/02-03, CB(2)1182/02-03, CB(2)1189/02-03 and CB(2)1218/02-03(01) to (03)]

2. The Subcommittee deliberated the response from the Administration and the Ocean Park Corporation to issues raised by Assistant Legal Adviser 7 (ALA7) on 15 and 16 January 2003 and Members at the meetings of the House Committee on 24 January and 7 February 2003 (index of proceedings attached at **Annex.**).

3. Mr Henry WU declared interest as Director of the Board of the Ocean Park Corporation.

Legal status of the Bylaws made by the Ocean Park Corporation in 1988 (the 1988 Bylaws)

4. Members noted that back in April 1997, the Administration had already been aware that the 1988 Bylaws had not been gazetted or tabled at the Legislative Council (LegCo) for negative vetting in accordance with the proper legislative procedure and that the Ocean Park Corporation had agreed in September 1997 to arrange for a new set of Bylaw to go through the negative vetting procedure. They considered that the Administration and the Corporation should not have taken more than five years to take remedial action and table the 2002 Bylaw for LegCo's scrutiny. Members were of the view that the Administration should be held responsible for such a delay and that the drafting of the 2002 Bylaw should have been expedited. They held the view that the Administration should be responsible for reminding the relevant statutory bodies to follow the proper procedures and should bear some responsibility for the 1988 Bylaw not being tabled. To prevent similar incidents from occurring, the Subcommittee recommended that the House Committee should relay the concern of the Subcommittee to the Director of Administration and request that Policy Bureaux should –

- (a) ensure that all statutory organisations within their purview should follow the proper legislative procedure in the making of bylaws and other legislative instruments; and
- (b) take remedial action once the Bureau concerned became aware of any non-compliance with the proper legislative procedure.

Members' concerns and queries about the provisions of the 2002 Bylaw

Adm 5. Members requested the Administration and the Ocean Park Corporation to -

*Section 5*

- (a) review the acts prohibited under each provision in the section and consider whether a "reasonable excuse" clause should be included;

*Section 5(3)(f)*

- (b) to exclude baby food so that a person would not be required to seek permission of the Corporation for bringing baby food into Ocean Park for feeding purposes;

*Section 5(3)(k)*

- (c) review the section in the light of the technical needs for prohibiting the use of a television receiver;

*Section 5(3)(m)*

- (d) amend the section to reflect accurately the intention of prohibiting entry of visitors to certain restricted areas for safety or other reasons;
- (e) ensure that adequate signage warning visitors that trespassing into prohibited areas was liable to prosecution was displayed prominently in those areas;

*Section 5(7)(k)*

- (f) review the section in the light of members' view that visitors should be allowed to conduct a public prayer in Ocean Park and that it might not be necessary to require them to pray in a designated area;

*Section 9*

- (g) consider amending the section to prohibit photography for selling or publishing for gain only;

*Section 13*

- (h) review and amend the section so that a person who failed to produce proof of his age should be requested to leave the Park instead of committing an offence;

*Section 14(5)*

- (i) review the section in the light of members' concern that the Bylaw and its enforcement should not be harsher than other laws and regulations and that a person who contravened the Bylaw for the first time should be given a warning instead of being detained; and

*Section 22(5)*

- (j) review the section in the light of members' views that it might be necessary to include a "reasonable excuse" clause to cater for emergency situations under which a person was allowed to open

the door of a cable car without authority of the Ocean Park Corporation, if a "reasonable excuse" defence was not available in such emergency situations under common law.

#### Drafting amendments to the 2002 Bylaw

Adm 6. Members noted that the Administration and the Ocean Park Corporation had indicated in the former's letters dated 21 January and 7 February 2003 that they would introduce the following amendments to the Bylaw -

##### *Section 11(3)(b)*

- (a) deleting the word "other" in the English text;

##### *Section 14(1)*

- (b) amending the section to read "If an attendant reasonably suspects that a person in Ocean Park has contravened any provision of this Bylaw, the attendant may, on advising the person of the act or omission which constitutes the suspected contravention, request that person to produce proof of his identity and his true address".

##### *Schedule*

- (c) amending the Chinese text of the maximum capacity of ferris wheel as "106 名乘客(每一普通吊船不多於 6 名乘客；每一供傷殘人士使用的吊船則不多於 4 名乘客)".

Members supported these amendments.

#### Way forward

7. In view of technical and procedural reasons and the fact that time was required to further consider the issues and concerns about the Bylaw, members agreed that the 2002 Bylaw should be repealed first. The Ocean Park Corporation should confirm by noon on 19 February 2003 whether it preferred to have the whole Bylaw repealed or to enact those provisions which had been agreed upon by the Subcommittee so as to facilitate the operation and management of the Park. Subject to the confirmation from the Corporation, the Chairman would move a motion on 26 February 2003 to repeal the Bylaw. Members further recommended that after the Bylaw had been repealed, the House Committee should form a subcommittee to study the new Bylaw to be gazetted.

(*Post-meeting note* : the Administration confirmed on 19 February 2003 that it preferred to gazette the new Bylaw in a once-off exercise after consultation with members.)

8. Mr Henry WU suggested that the Subcommittee should clarify in its reports to the House Committee and the Council that the decision to repeal the 2002 Bylaw had been made not because the Bylaw was problematic or badly drafted. The decision had been made purely on technical and procedural grounds as more time was required for the scrutiny of the Bylaw.

### **III. Any other business**

9. There being no other business, the meeting ended at 5:20 pm.

Council Business Division 2  
Legislative Council Secretariat  
6 March 2003

## Annex

### **Proceedings of the meeting of the Subcommittee on Ocean Park Bylaw on Tuesday, 18 February 2003 at 3:30 am in Conference Room B of the Legislative Council Building**

<b>Time marker</b>	<b>Speaker</b>	<b>Subject(s)</b>	<b>Action required</b>
0000 - 0211	Mr James TO Mr Henry WU Mrs Selina CHOW	Election of Chairman	
0212 - 0253	Chairman	Welcoming remarks	
0254 - 2756	Chairman Admin Ocean Park Corp Mrs Selina CHOW ALA7	Legal status of the Bylaws made by the Ocean Park Corporation in 1988	
2757 - 3251	Chairman Mrs Selina CHOW ALA7 Ocean Park Corp	Scrutiny of the 2002 Bylaw  Section 5(3)(f) Permission for a person to bring baby food into Ocean Park	<b>Adm</b> <b>(see para. 5(b) of the minutes of meeting)</b>
3252 - 3855	Chairman Ocean Park Corp Mrs Selina CHOW Mr Henry WU ALA7	Section 5(3)(m) Prohibition of entry of visitors into restricted areas in the Park	<b>Adm</b> <b>(see para. 5(d) and (e) of the minutes of meeting)</b>
3856 - 3920	Chairman Mrs Selina CHOW	Section 14(1) Production of proof of identity and true address by visitors upon request of attendants of the Park	<b>Adm</b> <b>(see para. 6(b) of the minutes of meeting)</b>
3921 - 5206	Chairman Ocean Park Corp Mrs Selina CHOW ALA7 Admin	Section 22(5) Opening of the door of a cable car by a visitor in an emergency	<b>Adm</b> <b>(see para. 5(j) of the minutes of meeting)</b>

5207 - 5331	Chairman Mrs Selina CHOW	Amendments to be proposed by Adm and Ocean Park Corp as advised in Adm's letters dated 21 January and 7 February 2003	<b>Adm</b> <b>(see para. 6(a) and (c) of the minutes of meeting)</b>
5332 - 5612	Chairman Admin Mrs Selina CHOW	Section 5 Incorporation of a "reasonable excuse" clause to cater for emergency situations under which a person might contravene the provisions	<b>Adm</b> <b>(see para. 5(a) of the minutes of meeting)</b>
5613 - 5834	Chairman Mr Henry WU	Section 5(3)(k) Use of a television receiver	<b>Adm</b> <b>(see para. 5(c) of the minutes of meeting)</b>
5835 - 010033	Chairman Ocean Park Corp Mr Henry WU	Section 5(7)(k) Conduct of public prayers	<b>Adm</b> <b>(see para. 5(f) of the minutes of meeting)</b>
010034 - 010741	Chairman Ocean Park Corp Admin	Section 9 Photography	<b>Adm</b> <b>(see para. 5(g) of the minutes of meeting)</b>
010742 - 011356	Chairman Ocean Park Corp Mr Henry WU	Section 13 Production of proof of age by visitors upon request of attendants of the Park	<b>Adm</b> <b>(see para. 5(h) of the minutes of meeting)</b>
011357 - 011546	Chairman	Section 14(5) Contravention and enforcement of the Bylaw	<b>Adm</b> <b>(see para. 5(i) of the minutes of meeting)</b>



011547 - 014355	Chairman Ocean Park Corp Admin Clerk ALA7 Mr Henry WU	Decision to repeal the 2002 Bylaw and scrutiny of the new Bylaw to be gazetted	
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Council Business Division 2  
Legislative Council Secretariat  
6 March 2003