

立法會
Legislative Council

LC Paper No. CB(1)250/03-04
(These minutes have been
cleared with the Chairman)

Ref : CB1/PL/PLW/1

Panel on Planning, Lands and Works

Minutes of meeting
held on Thursday, 9 October 2003 at 10:30 am
in the Chamber of the Legislative Council Building

Members present : Dr Hon TANG Siu-tong, JP (Chairman)
Hon LAU Ping-cheung (Deputy Chairman)
Ir Dr Hon Raymond HO Chung-tai, JP
Hon James TO Kun-sun
Hon WONG Yung-kan
Hon LAU Wong-fat, GBS, JP
Hon Abraham SHEK Lai-him, JP
Hon Albert CHAN Wai-yip

Members attending : Hon Howard YOUNG, SBS, JP
Hon LAU Chin-shek, JP
Hon Emily LAU Wai-hing, JP
Hon CHOY So-yuk
Dr Hon LAW Chi-kwong, JP

Members absent : Hon James TIEN Pei-chun, GBS, JP
Dr Hon David CHU Yu-lin, JP
Hon Timothy FOK Tsun-ting, SBS, JP
Hon TAM Yiu-chung, GBS, JP
Hon WONG Sing-chi
Hon IP Kwok-him, JP

Clerk in attendance : Miss Odelia LEUNG
Chief Assistant Secretary (1)4

Staff in attendance : Ms Pauline NG
Assistant Secretary General 1

Ms Bernice WONG
Assistant Legal Adviser 1

Mrs Mary TANG
Senior Assistant Secretary (1)2

Ms Connie SZETO
Senior Assistant Secretary (1)4

Ms Christina SHIU
Legislative Assistant

Action

I. Election of Chairman and Deputy Chairman

Election of Chairman

Dr TANG Siu-tong, Chairman of the Panel in office, invited nominations for the chairmanship.

2. Mr WONG Yung-kan nominated Dr TANG Siu-tong and the nomination was seconded by Mr LAU Ping-cheung. Dr TANG Siu-tong accepted the nomination. As Dr TANG Siu-tong had been nominated for the office, Mr LAU Ping-cheung, Deputy Chairman of the Panel in office, took the chair and presided over the election of Chairman.

3. There being no other nomination, Dr TANG Siu-tong was declared Chairman of the Panel.

Election of Deputy Chairman

4. Dr TANG Siu-tong took the chair and invited nominations for the deputy chairmanship.

5. Ir Dr Raymond HO Chung-tai nominated Mr LAU Ping-cheung and the nomination was seconded by Mr WONG Yung-kan. Mr LAU Ping-cheung accepted the nomination.

6. There being no other nomination, Mr LAU Ping-cheung was declared Deputy Chairman of the Panel.

II. Schedule of meetings for the 2003-2004 session

7. Members agreed that the monthly regular meetings of the Panel would be held on the fourth Tuesday of each month at 2:30 pm except for the fourth Tuesday of June 2004 which was a public holiday. The regular meeting for that month would be held on Tuesday, 29 June 2004.

III. Discussion items for next meeting

(LC Paper No. CB(1)13/03-04 (Appendix V) - List of outstanding items for discussion

LC Paper No. CB(1)13/03-04 (Appendix VI) - List of follow-up actions

LC Paper No. CB(1)15/03-04 - Letter from Hon WONG Sing-chi requesting a joint Panel meeting to discuss the Wanchai Reclamation and Central Reclamation Phase III projects)

Joint meeting with the Panel on Environmental Affairs

8. Members noted the letter from Mr WONG Sing-chi requesting a joint meeting with the Panel on Environmental Affairs to discuss the Wanchai Reclamation and Central Reclamation Phase III (CRIII) (LC Paper No. CB(1)15/03-04). They agreed to hold the joint Panel meeting on Monday, 13 October 2003, at 2:30 pm to discuss CRIII.

9. Noting that judicial proceedings in respect of CRIII were under way, the Chairman invited Assistant Legal Adviser 1 (ALA1) to advise on matters to note at the above joint meeting. In response, ALA1 pointed out that Rule 41(2) of the Rules of Procedure of the Legislative Council provided that reference should not be made to a case pending in a court of law in such a way as, in the opinion of the President or Chairman, might prejudice that case. This subrule was applied by Rule 43 of the Rules of Procedure to proceedings in a committee unless the chairman of the committee ordered otherwise, and reflected what was commonly known as the sub judice rule. In other words, references by the Panel to matters awaiting adjudication in a court of law should be excluded if there was a risk that they might prejudice its adjudication. ALA1 further advised that prejudice might arise from an element of explicit or implicit prejudgment in the proceedings of the legislature in two possible ways -

- (a) The references might hinder the court in reaching the right conclusion or lead it to reach other than the right conclusion; and

- (b) Whether the court was affected in its conclusion or not, the references might amount to an effective usurpation of the court's judicial functions.

10. Notwithstanding the above, ALA1 confirmed that the relevant Rule of Procedure was essentially a principle of self-restraint and the Panel could decide for itself how to proceed with the above joint meeting. ALA1 added that leave to apply for judicial review of the approval of the Chief Executive in Council of the relevant Outline Zoning Plan was granted on 26 September 2003 and the hearing was scheduled for 9 February 2004. Although the High Court had on 6 October 2003 dismissed the application for interim injunction over CRIII works, there still remained the possibility of appeal against the High Court's decision.

11. Mr Albert CHAN Wai-yip requested the Secretariat to provide information on the following -

- (a) a chronology of events relating to CRIII with relevant plans; and
(b) the minutes of relevant committee meetings at which the CRIII project was discussed.

12. In response, the Clerk said that the Secretariat had already prepared a background brief on Central and Wanchai reclamation and the brief would be circulated to members shortly.

(Post-meeting note: The above background brief was circulated to members vide LC Paper No. CB(1)18/03-04 on 10 October 2003.)

13. In response to Mr Albert CHAN on the statutory time limit for applications for judicial review, ALA1 agreed to check and report back to the Panel as soon as practicable.

ALA1

Joint meeting with the Panel on Home Affairs

14. Members agreed to schedule a joint meeting with the Panel on Home Affairs after it had elected its Chairman to discuss the West Kowloon Cultural District.

Clerk

(Post-meeting note: The joint meeting was scheduled for Tuesday, 18 November 2003, at 9:00 am.)

15. In response to Mr Abraham SHEK Lai-him, the Panel agreed to request the Administration to provide written information on the major infrastructural and public works projects completed and scheduled to improve the employment situation in the construction industry.

Clerk

IV. Any other business

16. There being no other business, the meeting ended at 10:40 am.

Council Business Division 1
Legislative Council Secretariat
4 November 2003