

立法會
Legislative Council

LC Paper No. CB(1)414/06-07
(These minutes have been seen
by the Administration)

Ref : CB1/PL/PLW/1

Panel on Planning, Lands and Works

**Minutes of special meeting
held on Wednesday, 20 September 2006 at 9:30 am
in Conference Room A of the Legislative Council Building**

Members present : Hon LAU Wong-fat, GBM, GBS, JP (Chairman)
Hon Patrick LAU Sau-shing, SBS, JP (Deputy Chairman)
Hon Albert HO Chun-yan
Ir Dr Hon Raymond HO Chung-tai, S.B.St.J., JP
Hon James TO Kun-sun
Hon CHOY So-yuk, JP
Hon Timothy FOK Tsun-ting, GBS, JP
Hon Abraham SHEK Lai-him, JP
Hon Albert CHAN Wai-yip
Hon LEE Wing-tat
Hon LI Kwok-ying, MH
Hon Alan LEONG Kah-kit, SC
Dr Hon KWOK Ka-ki
Hon CHEUNG Hok-ming, SBS, JP

Members attending : Hon LEUNG Kwok-hung
Hon TAM Heung-man

Members absent : Hon James TIEN Pei-chun, GBS, JP
Hon WONG Yung-kan, JP
Hon Daniel LAM Wai-keung, BBS, JP

**Public officers
attending**

: Agenda item I

Mr Patrick LAU
Director of Lands

Mr Simon YU
Assistant Director of Lands/Estate Management

Ms Trevina KUNG
Acting District Lands Officer/Shu Tin
Lands Department

Agenda item II

Mr Robin IP, JP
Deputy Secretary for Housing, Planning and Lands
(Planning and Lands) 1

Mr Philip YUNG
Deputy Secretary for the Environment, Transport and
Works (Transport) 1

Ms Sharon HO
Principal Assistant Secretary for the Environment,
Transport and Works (Transport) 5

Mr Peter KWOK
Principal Assistant Secretary for Home Affairs
(Culture) 2

Mr LAU Ka-keung, JP
Deputy Commissioner for Transport/
Planning & Technical Services

Mr Danny MOK, JP
Deputy Project Manager (HK Island & Islands)
Civil Engineering and Development Department

Mr Eric FUNG
Chief Engineer/Hong Kong 1
Civil Engineering and Development Department

Ms Phyllis LI
Chief Town Planner/Special Duties (1)
Planning Department

Dr Louis NG
Assistant Director of Leisure and Cultural Services
(Heritage & Museums) (Acting)

Attendance by invitation : Agenda item II

The Hong Kong Institute of Architects

Mr Vincent NG
Vice President

Mr Freddie HAI
Deputy Chairman of Planning & Lands Committee

SEE Network

Ms CHENG Man-wah
Director

Central & Western District Council

Mr CHAN Tak-chor, MH, JP
Chairman
Central & Western District Council

Mr YUEN Bun-keung
Member
Central & Western District Council

Action Group on Protection of The Harbour

Ms CHENG Lai-king
Representative

The Conservancy Association

Dr HUNG Wing-tat
Director

Mr WAN Kwok-wai
Environmental Affairs Officer

Designing Hong Kong Harbour District

Mr Paul ZIMMERMAN
Convenor

Clerk in attendance : Ms Anita SIT
Chief Council Secretary (1)4

Staff in attendance : Mr WONG Siu-yee
Senior Council Secretary (1)7

Ms Christina SHIU
Legislative Assistant (1)7

Action

The Chairman said that the case under Agenda Item I was related to a case involving Mr HEUNG Cheuk-kei, who was an ex officio executive member of Heung Yee Kuk. He declared interest that as he himself was the chairman of Heung Yee Kuk, he would not chair the discussion of Agenda Item I in order to avoid giving rise to queries on the impartiality of the meeting. In addition, as he had to leave before 12:00 noon to attend to some urgent business, he would not chair the discussion of Agenda Item II as well. The Chairman said that he would invite the Deputy Chairman to chair the meeting subject to members' agreement. Members did not raise any objection.

2. The Deputy Chairman declared interest that he was acquainted with Mr HEUNG Cheuk-kei and had worked with Mr HEUNG as a member of the Antiquities Advisory Board and former deputy chairman of the Town Planning Board. He said that he would chair the meeting if members agreed to the arrangement. Members agreed and the Deputy Chairman took over the chair.

I Land administration issues arising from the case involving a site under short-term tenancy in Kwun Yam Shan, Sha Tin

(LC Paper No. CB(1)2129/05-06(01) -- Letter dated 10 August 2006 from Hon LEE Wing-tat

LC Paper No. CB(1)2208/05-06(01) -- Information paper provided by the Administration)

3. The Director of Lands (D of L) said that the facts relating to the history of the case in question as revealed in Government's file records were detailed in the Administration's paper (LC Paper No. CB(1)2208/05-06(02)). The latest situation was that the Administration was considering whether it would be possible to recover the difference in rental between using the premises for storage of

non-dangerous goods and as residence, and was seeking legal advice in this regard. As the unauthorized change of use in the case was a contractual matter rather than a criminal matter, the role of the Government was no different from that of an ordinary landlord. In recovering the difference in rental, the Government would need sufficient grounds. According to legal advice, the Government had a prima facie case in damages for breach of contract against Mr HEUNG Cheuk-kei. Success of a legal action would be subject to whether the breaches would come up to proof by way of evidence. The Lands Department (LandsD) was examining with the Department of Justice issues such as the likely quantum of damages. It was not appropriate for him to disclose further details to avoid prejudicing Government's position in subsequent actions. In the light of the circumstances of the tenancy at Kwun Yam Shan and other problems relating to short term tenancies (STTs), LandsD would introduce improvement measures to enhance its effectiveness in administering the STT system.

Enforcement of tenancy conditions

4. Dr KWOK Ka-ki queried why LandsD had not taken resolute enforcement actions within specific time limits notwithstanding the repeated breaches committed by the tenant concerned, and asked whether there were any established procedures for carrying out enforcement actions. He also cast doubt on the criteria used in deciding whether there were any irregularities during the inspections and considered that LandsD was not alert enough by merely carrying out inspections outside the premises. He enquired about the number of breaches involving STTs and expressed concern on whether STTs were granted in a fair and open manner. He requested the Administration to provide a breakdown of the 4 542 STTs by type (i.e. Open Tender, Direct Grant, Regularization of unauthorized occupation of government land and Conversion from Government Land Licence/Permit).

5. In reply, D of L said that LandsD had established procedures for the enforcement of tenancy conditions. The Assistant Director of Lands/Estate Management (AD of L) supplemented that depending on the severity of the breach, LandsD might issue a verbal warning to the tenant and ask the tenant to rectify the breach within a reasonable period of time. If the breach was not purged upon re-inspection, LandsD would issue a warning letter to the tenant requesting the tenant to purge the breach. LandsD would issue a Notice of Intended Re-entry if the warning was ignored. If the tenant still failed to purge the breach, LandsD would deliver a Notice to Quit to the tenant and take action to terminate the tenancy and recover possession of the site. Very often, breaches would be purged after the issuance of verbal or written warnings. LandsD would strengthen follow-up inspections and would consider tightening up the enforcement of tenancy conditions.

6. As regards the way inspections were conducted, D of L emphasized that while LandsD had to respect the right of private enjoyment of the tenancy by the tenant as far as possible, it would conduct inspection inside the premises if need

be. AD of L added that based on the conditions of the tenancies, LandsD would check for compliance on items such as the areas occupied by the tenant, sizes of the structures, uses of the premises, conditions of the fences, requirements on vehicular ingresses and egresses and closed-circuit televisions, and hygienic conditions of the premises. Depending on whether the tenants were present or not, LandsD would enter the premises during the inspections or contact the tenants to make arrangements for inspections later.

7. As for the number of breaches, AD of L said that there were 349 cases of breaches in 2005, among which 30-odd cases involved unauthorized change of use. There were some 170 STTs in Sha Tin and there were no other cases involving breaches similar to the case in question.

8. Mr James TO was unconvinced of LandsD's judgment that all furniture and belongings being covered up was sufficient evidence that the site had been reverted to storage use. He was worried that if LandsD could be so easily satisfied that breaches were purged, it could hardly exercise effective administration of the 4 542 STTs.

9. In response, D of L explained that the Government's established policy on STTs was that minor breaches of tenancy conditions would be tolerated provided that the tenant took actions to purge the breach within a reasonable period of time. From land management angle, compliant tenants of STTs could lighten the Government's burden of managing vacant Government land.

10. In relation to the site in question, the Acting District Lands Officer/Shu Tin (Atg DLO/ST) said that LandsD had issued verbal and written warnings and the tenant had purged the breaches accordingly. During subsequent inspections, LandsD had made its judgment on whether there was any breach based on observation of the actual circumstances and considered that the site was used according to its permitted uses. It would be a separate matter if the site was again used for other purposes after purging the previous breach. As part of the improvement measures, LandsD would give a shorter warning period to expedite case handling and demand higher deposits for tenants who had committed repeated breaches. AD of L added that for suspicious cases which might involve breach of tenancy conditions, LandsD would increase the frequency of inspections.

11. Miss TAM Heung-man considered that LandsD had failed to take resolute enforcement actions such as recovering possession of the site despite the repeated breaches by the tenant. She asked whether LandsD would review the procedures of tenancy enforcement. She was dissatisfied that there were no penalties for committing repeated breaches and suggested that tenants who had committed repeated breaches could be blacklisted and banned from applying for STTs. Noting that LandsD might outsource part of the patrol and tenancy enforcement work, she enquired about the timing for its implementation and the frequency of inspections after outsourcing.

12. In reply, D of L reiterated the Government's policy on handling breaches of tenancy conditions and explained that given that STTs were private contracts, the Government being a landlord could not impose any penalty on tenants of STTs, though the Government might exercise the right of forfeiture over the deposits paid by tenants according to the terms and conditions of the tenancy agreement. LandsD would review the procedures of tenancy enforcement and consideration would be given to terminating STTs immediately without further warning if there were persistent breaches. As for the timing for implementation of outsourcing of part of the patrol and tenancy enforcement work, D of L said that it would depend on the response of the relevant sector. LandsD hoped that at least one inspection could be carried out for each STT every year.

13. Miss CHOY So-yuk requested the Administration to provide the number of tenants holding more than one STT and the respective numbers of STTs held by those tenants. She also requested the Administration to provide information on any other STTs granted to Mr HEUNG. As regards inspections, she asked how inspections were conducted and whether LandsD would give advance notice to the tenant concerned or whether the inspections were surprise checks. She also queried whether issuing verbal warnings was appropriate and asked for the basis of making such a decision.

14. In reply, D of L undertook to provide the figures on tenants holding more than one STT. He said that as one of the improvement measures, the Government would revise the standard tenancy conditions to provide the Government with the right to set off rent arrears owed by a tenant against the tenant's deposits held for other STTs. He pointed out that issuing verbal warnings was a practice adopted by other law enforcement Government departments as well, such as the Hong Kong Police Force. In relation to the method of conducting inspections, Atg DLO/ST said that depending on the need and the actual circumstances, LandsD might conduct inspections inside the premises with advance notice and by surprise checks.

15. Mr Albert HO queried why LandsD had accepted the Power of Attorney submitted by Hing Shing Metal Company to authorize Mr HEUNG to deal with all aspects of the tenancy. He found it puzzling that action against the breach detected in 1994 had been withheld just because the tenant claimed that he was negotiating with LandsD on matters relating to the tenancy. He wondered why LandsD was so easily satisfied that the breaches had been rectified and that the site had been reverted to storage use. He pointed out that one could easily differentiate the use of premises for storage from that for residence by observing the fittings of the premises, and that water and electricity usage could provide clues as to the actual use of the premises. He also queried whether a watchperson was needed for a warehouse. He considered that more thorough inspections should be conducted in the future and the responsible staff should have adequate training and the required knowledge.

16. D of L accepted Mr HO's comments and said that the matter would have been handled in a different way nowadays. As regards withholding action against the breach detected in 1994, he pointed out that the case was referred to the Squatter Control Team of the Housing Department. The file records of the Housing Department revealed that the tenant had sent a letter to the Housing Department saying that he was negotiating with the then DLO/ST on matters relating to the tenancy and action was withheld by the Housing Department as a result.

17. Mr Albert CHAN pointed out that breaches of tenancy conditions for STTs in the New Territories were common. He expressed concern on whether LandsD had sufficient manpower for conducting inspections and was worried that some professionals would take advantage of loopholes in the current system to maximize their gains. To ensure fairness, he urged the Administration to adopt the same standard for all parties in carrying out enforcement actions. Pointing out that there were many irregularities in the case in question even if past standards were adopted, he considered that the case should be referred to the Independent Commission Against Corruption (ICAC) for investigation. He requested the Administration to consider the suggestion of revamping the entire land administration system, including the policies, procedures and enforcement in respect of various types of land grants, to ensure fairness, transparency and protection of public interest. He also cast doubt on the effectiveness of the improvement measures in enhancing the effectiveness of LandsD in administrating the STT system if a comprehensive review on the land administration system was not undertaken. As a deterrent, he considered that tenants of land leases should be subject to penalties for breach of tenancy conditions.

18. D of L said that the relevant bureau and departments were reviewing policies on land administration. He admitted that LandsD did not have sufficient manpower for land administration when compared with other departments carrying out enforcement duties. LandsD had an established mechanism for setting priorities for handling complaints about breach of tenancy conditions. As for the suggestion of imposing penalties, he reiterated that breaches of tenancy conditions of STTs were tenancy matters and penalties would not be applicable. The Administration would take steps such as increasing the deposits for those tenants who repeatedly breached the tenancy conditions. As regards the need or otherwise for referring the case to ICAC, the Administration needed to consider the circumstances of the case further.

19. Mr LI Kwok-ying declared interest as a member of Heung Yee Kuk. He asked whether the case in question had been handled in an unusual manner, and if so, the reasons for doing so. If the case had been handled in a normal manner, the Administration would need to explore the reasons leading to the overwhelming public attention drawn to the case to see whether the staffing was insufficient and/or the procedures for administrating the STT system were ineffective. He

requested the Administration to provide information on how the 30-odd STTs involving unauthorized change of use were handled.

20. As regards the way in which the case in question was handled, D of L said that information available from file records had already been included in the Administration's paper and he did not have further information to add. He said that LandsD would seek additional resources to handle matters related to STTs and would consider outsourcing part of the patrol and tenancy enforcement work.

21. Mr LEUNG Kwok-hung queried the Administration's decision of accepting the Power of Attorney given by Hing Shing Metal Company to Mr HEUNG Cheuk-kei and asked whether there was any precedent. He further criticized LandsD for failing to treat all STT tenants equally and to accord proper priority in handling cases involving breaches of tenancy conditions. He considered that preferential treatment had been given to those with higher social standing.

22. In response, D of L said that the incident was unprecedented. As regards the handling of breaches, he said that as could be seen from the cases being handled by the Office of the Ombudsman, LandsD had been treating all STT tenants alike and handling breaches in the proper priority based on considerations such as urgency and gravity of the breach.

23. Expressing concern on the irregularities revealed in the handling of the case in question, Dr KWOK Ka-ki requested the Administration to confirm whether it would refer the case in question to ICAC. Regarding the 349 STTs involving breaches, he requested the Administration to provide information on the nature of breaches and how the cases were handled.

24. Mr James TO said that Mr HEUNG could be invited to provide further information so that members could have a more balanced view about the case. He was concerned about the period of existence of the tenant of STT 315 and expressed doubt on the validity of the Power of Attorney if the tenant had become non-existent during the tenure of STT 315. He was also concerned whether the Administration would refer the case to the relevant authorities for investigation.

25. Noting that the Administration would respect the right of private enjoyment of tenancy of tenants, Miss TAM Heung-man queried how inspections could be conducted effectively without entering the premises where breaches might have been committed. She considered that the Administration should not have acceded to the requests from Mr HEUNG for modifying the tenancy conditions to include a kennel and a caretaker's quarter and expressed concern on the costs involved.

26. Mr LEE Wing-tat said that he understood that inspections were usually carried out by land executives and it was unusual for the then DLO/ST to have personally inspected the premises on 4 December 2002. He asked whether there

were any records explaining why the then DLO/ST inspected the premises at that time and whether the DLO/ST had made an inspection report.

27. Mr Albert CHAN considered it ridiculous for the Administration to accept the Power of Attorney and grant STT 958 to Mr HEUNG in 1993 without going through an open tender. He also found it ridiculous for the then DLO/ST to personally inspect the premises in 2002 without identifying any breach. He considered that ICAC should follow up the case.

28. Miss CHOY So-yuk requested the Administration to provide documents relating to the detected breaches (e.g. correspondence) and the actions taken (e.g. written reports on inspections) in respect of the case in question. She shared the view that a revamp of the STT system was required. She queried why a site in the Green Belt could be used for storage purpose. She also queried the Administration's impartiality in granting STTs to different applicants and cited the application by an applicant for a site to accommodate stray cows to illustrate the difficulties encountered by some applicants.

29. In response, D of L clarified that it was Mr HEUNG who arranged the tree-felling and the construction of the kennel, and the relevant costs were borne by Mr HEUNG, and the same applied to the demolition of the structure and restoration the premises after termination of the tenancy. The Administration had never paid for such expenses. He said that the Administration would seriously follow up members' suggestion of referring the case to ICAC. Regarding the 349 STTs involving breaches, he undertook to provide information on the nature of breaches and how the cases were handled. In relation to the inspection made on 4 December 2002, he said that there was no report on the inspection conducted by the then DLO/ST. Atg DLO/ST added that there was also no record on why the then DLO/ST inspected the premises at that time. In relation to the Power of Attorney, D of L explained that as the Power of Attorney in relation to STT 315 was open-ended, the tenancy could be maintained by paying the necessary rental. As regards the designated use of the site, he clarified that the site had already been used for storage purpose since 1976, long before the area was designated as "Green Belt" in 1990. LandsD had already spent a lot of efforts in identifying a suitable piece of vacant Government land for the applicant for an STT to accommodate stray cows. He assured members that the Administration would review policies relating to land administration.

30. The Deputy Chairman asked whether the Administration would carry out the improvement measures mentioned in the Administration's paper. In reply, D of L said that some of those improvement measures had already been implemented while others were being considered. The Deputy Chairman urged the Administration to consider Mr Albert CHAN's suggestion of revamping the entire land administration system.

Granting of STTs

31. Mr James TO enquired whether different STTs of the site in question had the same permitted uses. He pointed out that in relation to the granting of STT 958 to Mr HEUNG, although no public complaints had been received in the previous 10 years prior to the grant, there were several breaches detected. He queried whether LandsD was too lenient in granting STT 958 under such circumstances and whether public complaints were more important than breaches in tenancy conditions in considering whether to grant STTs. He also cast doubt on the granting of new STTs for the site in question after 1993 because he could not see the need for retaining the site for electricity and utilities network projects by then.

32. In reply, D of L said that the permitted uses of the site in question under each STT were given in the Annex to the Administration's paper. As the Government's policy was that STTs would not be granted for residential use, the tenant's request for amending the user condition of STT 958 to "workshop, recreation and residential uses" was refused.

33. Mr CHEUNG Hok-ming declared interest as member of Heung Yee Kuk. He asked whether the site in question was located within the boundaries of any Country Park and requested the Administration to provide the number of STTs with sites located in Country Parks, if any. Noting that the site was not needed for works projects after 1993, he asked whether the Administration had considered resuming the site for use by the public and enquired about the rationale for granting STT 958 and STT 1150 to the tenant.

34. In response, D of L advised that the site in question was not located within the boundaries of any Country Park. While he did not have information on hand on whether there were STTs with sites located in Country Parks, his understanding was that the Government's policy was not to grant STTs with sites located in Country Parks. The site in question had been used for storage purpose long before the area was zoned as "Green Belt" on the Interim Development Permission Area Plan (predecessor of Outline Zoning Plan) in 1990. Prior to this, the site had no designated use. As the policy at that time was to maintain the existing use of the site, the Administration did not re-possess the site. On termination of STT 1150, the site would be kept as "Green Belt".

35. Mr LEE Wing-tat queried why STTs were granted to Mr HEUNG without going through an open tender as this was not in line with the corruption prevention guidelines laid down by ICAC. He questioned why Mr HEUNG was considered to be the only person in need of the site and queried whether his status as a member of the Town Planning Board had any significance in making the decision. He commented that broadening the use of the site to include a kennel and allowing the tenant's watchperson to stay on site had legalized what should have been illegal and enabled the premises to be used as a residence. He considered that the Administration's paper could not provide a satisfactory explanation to the above queries and the case in question apparently involved serious dereliction of duty.

36. In reply, D of L said that he had personally inspected the file records and available information on the granting of STT 958 and STT 1150 had already been included in paragraphs 8 and 11 of the Administration's paper. He believed that the policy to avoid leaving sites vacant might be one of the considerations at that time. Entirely different views might be formed when applying present standards to past events. As many officials who handled the case had already left the Government, the Administration was unable to provide any supplementary information in addition to that available from the file records. He believed that ICAC would follow up the case if it considered it necessary to do so.

37. Mr Alan LEONG enquired about the procedures involved in renewing STTs. Atg DLO/ST explained that STTs were normally granted for a fixed period of one to three years in the first instance and then renewed on a quarterly basis thereafter until either party served a three-month notice to terminate the tenancy concerned. STT 958 was granted for one year from 1 January 1994 to 31 December 1994 and renewed on a quarterly basis since 1 January 1995, giving a total period of six years and two months. D of L added that the quarterly renewal was an automatic process requiring no action of either party.

38. Mr Alan LEONG requested the Administration to provide a copy each of the tenancy agreements of the STTs in respect of the site at Kwun Yam Shan granted to Mr HEUNG Cheuk-kei. D of L said that the Administration would not normally disclose the contents of STTs to third parties. However, as an exceptional case, he undertook to provide the requested information to the Panel. He remarked that the terms of the two STTs in question were only standard tenancy terms.

Recovery of rental difference

39. Dr KWOK Ka-ki enquired about the estimated amount of difference in rental for the case in question due to change of use. In reply, D of L said that it would depend on the grounds for claiming damages as advised by the legal adviser. Different amounts of damages could be claimed based on different grounds and the amounts reported in the media were merely conjectures.

40. Miss TAM Heung-man requested that upon examination of the case in question with the Department of Justice, the Government should report on its decision as to whether it would institute legal action to claim damages from Mr HEUNG and the reasons for the decision. She asked how the Administration would calculate the difference in rental due to change of use and whether market value would be used in the calculation.

41. In response, D of L explained that as under the current policy, the Government would not grant STTs for residential use, there was no established basis for assessing the residential rental for calculating the difference in rental due to change of use. LandsD would need to study the issue further and more information would be available when the grounds for recouping the difference in rental were established.

42. Mr LI Kwok-ying expressed concern that the issue might have a far-reaching implication in that applying the same principle, the Government might need to claim damages on the basis of rental difference in respect of all unauthorized building works on Government land.

43. D of L noted Mr LI's concerns on the lack of a policy basis for determining residential rentals for STTs. As for the possible implication on unauthorized building works on Government land, he said that it was a fundamental issue which LandsD would need to reflect to its legal adviser.

Parties involved in the case in question

44. Mr LEUNG Kwok-hung sought information on the names of officials responsible for handling the case. As the Administration did not have complete information on hand, the Deputy Chairman requested the Administration to provide the names and tenures of the incumbents of the DLO/ST post since 1983.

45. Mr LEUNG Kwok-hung also asked whether Mr Donald TSANG was involved. In reply, D of L said that Mr Donald TSANG was the incumbent District Officer/Sha Tin from 1982 to 1984. Land administration in the New Territories was handled by the District Office of New Territories Administration prior to 1982 but the work was taken over by the Lands Department since 1982.

46. Mr LEE Wing-tat asked whether the files on the case had ever been sent to Mr Donald TSANG and whether he was aware of the matter at that time. In response, D of L said that he had examined the file records and found no evidence that Mr Donald TSANG had been involved in the case; or that the files had been sent to Mr TSANG for scrutiny; or that Mr TSANG had given any instructions in relation to the case. There was no reason to believe that Mr TSANG had been involved in handling the tenancies in question.

47. Mr LEE Wing-tat said that the incumbents of the DLO/ST post involved in the case should be invited to attend a meeting of the Panel. If they refused to attend, consideration could be given to summoning them to attend.

48. Mr Albert CHAN said that Hing Shing Metal Company, Mr HEUNG Cheuk-kei and the incumbents of the DLO/ST post involved should be invited to attend a meeting of the Panel to provide further information. If the information was still inadequate, consideration could then be given to arrange for a hearing.

49. Dr KWOK Ka-ki shared the view that the issue should be discussed again.
50. The Deputy Chairman said that the Panel would decide how to arrange for a meeting after receiving the requested information from the Administration.

(Post-meeting note: The Administration's information paper (LC Paper No. CB(1)2245/05-06(01)) providing the requested information was issued to members on 11 October 2006.)

II Planning issues relating to the reprovisioning of the Star Ferry Pier in Central including the proposed preservation of the building structure and clock tower of the existing Star Ferry Pier

- (LC Paper No. CB(1)2129/05-06(02) -- Letter dated 10 August 2006 from Dr Hon KWOK Ka-ki
- LC Paper No. CB(1)2199/05-06(01) -- Submission dated 4 September 2006 from The "Star" Ferry Company, Limited
- LC Paper No. CB(1)22 08/05-06(02) -- Information paper provided by the Administration)

Briefing by the Administration

51. The Deputy Secretary for Housing, Planning and Lands (Planning and Lands) 1 (DS/P&L1) said that the existing Star Ferry Pier would have to be demolished to make way for the planned Road P2 network in the Central Reclamation Phase III (CRIII) area and some underground works including the extension of the Airport Railway Hong Kong Station Extended Overrun Tunnel (EOT) and the extension of an existing drainage box culvert at Man Yiu Street. When the ferry service was relocated to the new Star Ferry Pier, the Administration would demolish the existing Star Ferry Pier. The historical heritage approach had been adopted for the design of the new Star Ferry Pier and the architectonic form of the pier building in 1912 had been used as the blueprint. A new clock with similar chimes had been installed in the new clock tower and the existing chime would be dismantled and displayed at the new clock tower. Through these arrangements, the new Star Ferry Pier would become a new landmark in the area.

52. The Principal Assistant Secretary for Home Affairs (Culture) 2 said that the Administration had conducted a Built Heritage Impact Assessment for the CRIII in 2001 and briefed the Antiquities Advisory Board (AAB) in March 2002 regarding the findings and recommendations of the assessment. AAB noted the reprovisioning arrangements for the Star Ferry Pier, which was built in 1957 and was neither a declared monument nor a graded historical building with sufficient heritage value for in-situ preservation. AAB also noted the adoption of the historical heritage approach for the general layout and design of the new Star Ferry

Pier based on the 1912 pier building and the recreation of the clock tower as a landmark of the new Star Ferry Pier. AAB did not raise any objection to the reprovisioning arrangements regarding the Star Ferry Pier and its clock tower.

53. The Deputy Secretary for the Environment, Transport and Works (Transport) 1 said that Road P2 would alleviate traffic congestion in the area around International Finance Centre I & II, Airport Railway Hong Kong Station and the Central ferry piers. The completion of Road P2 would also provide great relief to the very congested junctions of Man Yiu Street/Harbour View Street and Connaught Place/Connaught Road Central. The Transport Department had already made complementary transport arrangements to prepare for the reprovisioning of the Star Ferry Pier. The Central & Western District Council (C&WDC) had been briefed in June 2006 and August 2006 on related arrangements such as relocation of bus stops, road signage and direction signage. The Administration would continue to communicate with the District Council to ensure that transport arrangements would be smooth after the reprovisioning of the Star Ferry Pier.

Presentation by deputations

*The Hong Kong Institute of Architects (HKIA)
(LC Paper No. CB(1)2236/05-06(04), received after the meeting and issued to members on 21 September 2006)*

54. Mr Vincent NG, Vice President of HKIA, delivered his presentation, the details of which were given in the relevant submission.

*SEE Network (SEE)
(LC Paper No. CB(1)2227/05-06(01))*

55. Ms CHENG Man-wah, Director of SEE, delivered her presentation, the details of which were given in the relevant submission.

Central & Western District Council

56. Mr CHAN Tak-chor, Chairman of C&WDC, said that C&WDC objected to the demolition of the existing Star Ferry Pier. The relocation of the Star Ferry Pier was not people-oriented because the new pier was inconveniently located, especially for the elderly and disabled persons. Although there would be travelators inside the proposed groundscraper to facilitate access to the new pier, the groundscraper did not receive support from C&WDC and the Legislative Council. Complementary traffic arrangements were poor and there was inadequate assessment on the characteristics of ferry passengers. The Administration also had to address traffic congestion in Man Yiu Street and Connaught Road. Unless the Administration could provide more information for the consideration of C&WDC, C&WDC would not change its position.

Action Group on Protection of The Harbour (AGPTH)

57. Ms CHENG Lai-king, Representative of AGPTH, said that Edinburgh Place was an ideal location for organizing activities and she was worried that there would be no similar places for organizing activities in the future. The Queen's Pier was the boarding pier for past Governors of Hong Kong. There were related structures with historic value in the vicinity. If historic structures were not preserved, future generations would be unable to appreciate the existence of those structures. As regards the design of the new pier, she considered that a design based on the pier building in 1912 would not inspire a sense of identification from the current generation who had no memory of the pier building in 1912. She emphasized that the important point was how to preserve collective memory of the present.

The Conservancy Association (TCA)

(LC Paper No. CB(1)2236/05-06(03), tabled and issued to members on 21 September 2006)

58. Dr HUNG Wing-tat, Director of TCA, delivered his presentation, the details of which were given in the relevant submission.

Designing Hong Kong Harbour District (DHKHD)

(LC Paper No. CB(1)2236/05-06(01), received after the meeting and issued to members on 21 September 2006, and LC Paper No. CB(1)2236/05-06(02), tabled and issued to members on 21 September 2006)

59. Mr Paul ZIMMERMAN, Convenor of DHKHD, delivered his presentation, the details of which were given in the relevant submissions.

Discussion

60. Dr KWOK Ka-ki commented that the views of the deputations were unanimous that the Administration had failed to adopt a people-oriented approach in handling the matter. He considered CRIII a catastrophe for Central and Western District and pointed out that commercial developments on CRIII would create additional traffic. This was contrary to the Administration's saying that CRIII was needed for constructing road infrastructure to alleviate traffic congestion and creating open space for public enjoyment. He urged the Administration to undertake not to demolish the clock tower of the existing Star Ferry Pier as the move was unacceptable to the public. According to the views of some deputations, preserving the Star Ferry Pier and its clock tower would not affect the construction of Road P2. He criticized that the Antiquities and Monuments Office and AAB had failed to perform their roles in preserving historic buildings. Once demolished, historic buildings would be lost forever.

61. Miss CHOY So-yuk pointed out that the existing Star Ferry Pier in Central was a pride for Hong Kong. Although its age would not enable it to be preserved as a declared monument or a graded historic building, there was public consensus on the desire to preserve the pier. According to the views of some deputations, the Administration could preserve the pier by making some slight amendments to the current planning. She demanded that the Administration defer the demolition of the pier to allow more time for rational discussion on how best to take the matter forward. If the Administration insisted on demolishing the pier, she would query whether eradication of the historic traces of the extent of harbour reclamation was the underlying reason. She shared the view that historic buildings would be lost forever once demolished. It would be too late to regret if the decision for demolition was later found to be inappropriate.

62. Mr Albert CHAN said that through education, the middle class in Hong Kong gradually built up an awareness of the importance of heritage preservation. He considered that the clock tower of the Star Ferry Pier had historic value and was part of the collective memory of Hong Kong people. He disagreed to relocation of the clock tower, not to mention its demolition. He was unconvinced that the clock tower could not be preserved and urged the Administration to adjust the planning to preserve it. He considered that valuable heritage assets should be kept regardless of the cost. He commended Macao for its efforts on preserving historic buildings and criticized the Administration for failing to do so.

63. Mr Alan LEONG said that the views expressed by other members were similar to those of his own views. It would also be futile for him to present further views as the Administration would simply conceive anybody who raised concerns on environmental protection and preservation of culture and history as anti-development. He urged the Administration to change this mindset that Hong Kong people might in the future wonder why the Administration had made such a decision. The Administration would then have to bear the consequences of its decision.

Motion

64. Mr Alan LEONG moved the following motion which was seconded by Dr KWOK Ka-ki –

"本委員會促請政府暫緩清拆現有中環天星碼頭及鐘樓計劃，在進行廣泛公眾諮詢後，把現有鐘樓與相關建築融入將來中環新發展規劃藍圖，在「以民為本」的基礎上，保留具集體回憶的歷史痕跡。"

(Translation)

"That the Panel urges the Government to defer its plan to demolish the existing Star Ferry Pier and its clock tower in Central and to incorporate, upon extensive public consultation, the existing clock tower together with the relevant building structures into the future new development plan for

the Central District, with a view to preserving, on a people-oriented basis, the historical traces that form part of the collective memory."

65. Members agreed to proceed with the motion. The Deputy Chairman then put the motion to vote. Except for the Deputy Chairman who did not exercise his voting right, of the other four members present, all voted for motion. The Deputy Chairman declared that the motion was carried.

66. Dr KWOK Ka-ki considered that the issue should be discussed again at a future meeting of the Panel, preferably in October 2006, after receiving the Administration's response to the motion. He said that consideration could be given to inviting the Secretary for Housing, Planning and Lands and deputations to attend the meeting.

67. The Deputy Chairman urged the Administration to give a response to the motion as soon as possible and further investigate the possibility of deferring the demolition of the Star Ferry Pier.

(Post-meeting note: The terms of the motion (Annex to LC Paper No. CB(1)2240/05-06) and the Administration's written response to the motion (LC Paper No. CB(1)46/06-07(01)) were issued to members on 21 September 2006 and 12 October 2006 respectively.)

68. DS/P&L1 reiterated the need to demolish the Star Ferry Pier to allow the works on CRIII to proceed and the current plan to relocate the ferry services of The "Star" Ferry Company, Limited to the new Star Ferry Pier tentatively scheduled for 12 November 2006, after which the Administration would demolish the existing Star Ferry Pier.

69. Miss CHOY So-yuk considered that the Administration should undertake to defer the demolition of the Star Ferry Pier as soon as possible, failing which she would consider pursuing the issue at the House Committee or a future Council meeting.

III Any other business

70. There being no other business, the meeting ended at 12:30 pm.