

立法會
Legislative Council

LC Paper No. CB(2) 30/12-13

Ref : CB2/H/5/12

House Committee of the Legislative Council

**Minutes of the 2nd meeting
held in Conference Room 1 of the Legislative Council Complex
at 4:18 pm on Friday, 12 October 2012**

Members present:

Hon Andrew LEUNG Kwan-yuen, GBS, JP (Chairman)

Hon Ronny TONG Ka-wah, SC (Deputy Chairman)

Hon Albert HO Chun-yan

Hon LEE Cheuk-yan

Hon James TO Kun-sun

Hon CHAN Kam-lam, SBS, JP

Hon LEUNG Yiu-chung

Dr Hon LAU Wong-fat, GBM, GBS, JP

Hon Emily LAU Wai-hing, JP

Hon TAM Yiu-chung, GBS, JP

Hon Abraham SHEK Lai-him, SBS, JP

Hon Tommy CHEUNG Yu-yan, SBS, JP

Hon Frederick FUNG Kin-kee, SBS, JP

Hon Vincent FANG Kang, SBS, JP

Hon WONG Kwok-hing, MH

Dr Hon Joseph LEE Kok-long, SBS, JP

Hon Jeffrey LAM Kin-fung, GBS, JP

Hon WONG Ting-kwong, SBS, JP

Hon Cyd HO Sau-lan

Hon Starry LEE Wai-king, JP

Dr Hon LAM Tai-fai, SBS, JP

Hon CHAN Hak-kan, JP

Hon CHAN Kin-por, BBS, JP

Dr Hon Priscilla LEUNG Mei-fun, JP

Hon CHEUNG Kwok-che

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

Hon Paul TSE Wai-chun, JP

Hon Alan LEONG Kah-kit, SC
Hon LEUNG Kwok-hung
Hon Albert CHAN Wai-yip
Hon Michael TIEN Puk-sun, BBS, JP
Hon Steven HO Chun-yin
Hon Frankie YICK Chi-ming
Hon WU Chi-wai, MH
Hon YIU Si-wing
Hon Gary FAN Kwok-wai
Hon Charles Peter MOK
Hon CHAN Chi-chuen
Hon CHAN Han-pan
Dr Hon Kenneth CHAN Ka-lok
Hon CHAN Yuen-han, SBS, JP
Hon LEUNG Che-cheung, BBS, MH, JP
Hon Kenneth LEUNG
Hon Alice MAK Mei-kuen, JP
Dr Hon KWOK Ka-ki
Hon KWOK Wai-keung
Hon Dennis KWOK
Hon Christopher CHEUNG Wah-fung, JP
Dr Hon Fernando CHEUNG Chiu-hung
Hon SIN Chung-kai, SBS, JP
Dr Hon Helena WONG Pik-wan
Hon IP Kin-yuen
Dr Hon Elizabeth QUAT, JP
Hon POON Siu-ping, BBS, MH
Hon TANG Ka-piu
Dr Hon CHIANG Lai-wan, JP
Ir Dr Hon LO Wai-kwok, BBS, MH, JP
Hon CHUNG Kwok-pan
Hon Christopher CHUNG Shu-kun, BBS, MH, JP
Hon Tony TSE Wai-chuen

Members absent:

Dr Hon LEUNG Ka-lau
Hon WONG Kwok-kin, BBS
Hon IP Kwok-him, GBS, JP
Hon WONG Yuk-man
Hon Claudia MO
Hon James TIEN Pei-chun, GBS, JP
Hon NG Leung-sing, SBS, JP
Hon MA Fung-kwok, SBS, JP
Hon Martin LIAO Cheung-kong, JP

Clerk in attendance :

Miss Flora TAI Clerk to the House Committee

Staff in attendance :

Mr Kenneth CHEN, SBS	Secretary General
Mr Jimmy MA, JP	Legal Adviser
Mrs Justina LAM	Deputy Secretary General
Mr Andy LAU	Assistant Secretary General 1
Miss Odelia LEUNG	Assistant Secretary General 3
Mrs Percy MA	Assistant Secretary General 4
Ms Connie FUNG	Senior Assistant Legal Adviser 1
Mr Arthur CHEUNG	Senior Assistant Legal Adviser 2
Mr KAU Kin-wah	Senior Assistant Legal Adviser 3
Miss Erin TSANG	Acting Principal Council Secretary (Complaints)
Mr Simon WONG	Chief Public Information Officer
Ms Amy YU	Chief Council Secretary (2)6
Mr Kelvin LEE	Assistant Legal Adviser 1
Mr Timothy TSO	Assistant Legal Adviser 2
Mr Bonny LOO	Assistant Legal Adviser 3
Miss Kitty CHENG	Assistant Legal Adviser 5
Miss Winnie LO	Assistant Legal Adviser 7
Mr YICK Wing-kin	Assistant Legal Adviser 8
Ms Clara TAM	Assistant Legal Adviser 9
Miss Evelyn LEE	Assistant Legal Adviser 10
Miss Josephine SO	Senior Council Secretary (2)2
Mr Jove CHAN	Senior Council Secretary (2)6
Ms Judy TING	Council Secretary (2)6
Ms Anna CHEUNG	Senior Legislative Assistant (2)3
Mr Arthur KAN	Legislative Assistant (2)7

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I. Legal Service Division report on subsidiary legislation gazetted between 15 June and 28 September 2012
(LC Paper No. LS 2/12-13)

[Previous papers in respect of the four items of subsidiary legislation gazetted on 15 and 29 June 2012:

Extract from the minutes of the 28th House Committee meeting on 22 June 2012 (LC Paper No. CB(2) 6/12-13(01) and;

Extract from the minutes of the 30th House Committee meeting on 6 July 2012 (LC Paper No. CB(2) 6/12-13(02))]

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[Previous papers in respect of the four items of subsidiary legislation made under the United Nations Sanctions Ordinance gazetted on 28 September 2012:

Further Report of the Subcommittee to Examine the Implementation in Hong Kong of Resolutions of the United Nations Security Council in relation to Sanctions (LC Paper No. CB(1)2244/11-12); and

Extract from the minutes of the 29th House Committee meeting on 29 June 2012 (LC Paper No. CB(2) 6/12-13(03))]

At the invitation of the Chairman, Legal Adviser ("LA") briefed Members on the Legal Service Division ("LSD") report which covered the following two groups of subsidiary legislation -

- (a) five items of subsidiary legislation tabled before the Fourth Legislative Council ("LegCo") between 20 June and 11 July 2012, the period for amendment of which was deemed to extend to and expire on the day after the second meeting of the Fifth LegCo (i.e. 17 October 2012) unless extended by resolution of LegCo; and
- (b) 10 items of subsidiary legislation gazetted between 13 July and 28 September 2012, including seven items of subsidiary legislation which were not required to be tabled before LegCo and were not subject to amendment by LegCo. Except for the items not required to be tabled in Council, the deadline for amending them was 7 November 2012 unless extended by resolution of LegCo.

2. Regarding the Public Health and Municipal Services Ordinance (Public Pleasure Grounds) (Amendment of Fourth Schedule) (No. 2) Order 2012 (L.N. 109), LA said that it was to cease to set aside the West Kowloon Waterfront Promenade ("the venue") for use as a public pleasure ground. According to the relevant LegCo Brief, the venue would be handed over from the Leisure and Cultural Services Department ("LCSD") to the West Kowloon Cultural District Authority ("WKCDA") for use and management subject to the completion of relevant procedures.

3. Ms Cyd HO said that it was her understanding that LCSD enforced the relevant regulations relating to the management of public pleasure grounds in a restrictive manner. She was concerned whether the same approach would be adopted by WKCDA in its management of the venue. She considered it necessary to form a subcommittee to study the Order in detail. Members agreed. The following Members agreed to join the subcommittee: Mr James TO, Ms Cyd HO, Mr Alan LEONG, Mr WU Chi-wai, Mr Dennis KWOK and Mr SIN Chung-kai.

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4. The Chairman said that as the deadline for amending the Order was 17 October 2012, he proposed to move a motion, in his capacity as Chairman of the House Committee, at the Council meeting of 17 October 2012 to extend the scrutiny period of the Order to 7 November 2012. Members agreed.

5. In response to Mr James TO's enquiry, LA confirmed that the relevant regulations relating to the management of public pleasure grounds enforced by LCSD would cease to apply to the venue after the completion of the handover.

6. Regarding the four items of subsidiary legislation made under the United Nations Sanctions Ordinance (Cap. 537) ("UNSO") which were not required to be tabled in Council (L.N. 139 to L.N. 142), LA said that a subcommittee was formed under the House Committee in the Third and the Fourth LegCo respectively to consider regulations made under UNSO for implementing in Hong Kong resolutions of the United Nations Security Council in relation to sanctions. Members might wish to consider whether a similar subcommittee should be formed in the Fifth LegCo.

7. Ms Cyd HO said that she was a member of the Subcommittee formed in the Fourth LegCo. The Subcommittee was of the view that the Administration should use the model law approach in preparing the regulations made under UNSO. She considered it necessary to follow up the matter and proposed that a similar subcommittee be formed in the Fifth LegCo. Members agreed. The following Members agreed to join the subcommittee: Mr James TO, Ms Cyd HO, Dr Kenneth CHAN, Mr Kenneth LEUNG and Mr Dennis KWOK.

8. The Chairman said that L.N. 139 to L.N. 142 would be referred to the Subcommittee for consideration. Members agreed.

9. Members did not raise any queries on the other 10 items of subsidiary legislation (L.N. 105 to L.N. 108, L.N. 110, L.N. 136 to L.N. 138, L.N. 143 and L.N. 144) covered in the LSD report.

II. Legal Service Division report on subsidiary legislation gazetted on 5 October 2012

(LC Paper No. LS 3/12-13)

10. At the invitation of the Chairman, LA said that a total of five items of subsidiary legislation, including three Commencement Notices, were gazetted on 5 October 2012 and tabled in the Council on 10 October 2012.

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11. Regarding the three items of subsidiary legislation relating to the expansion of the legal aid schemes, i.e. Legal Aid Ordinance - Resolution of the Legislative Council (Commencement) Notice (L.N. 148), Legal Aid (Amendment) Regulation 2012 (L.N. 145) and Legal Aid (Assessment of Resources and Contributions) (Amendment) Regulation 2012 (L.N. 146), Mr Albert HO considered it necessary to form a subcommittee to examine them in detail. Members agreed. The following Members agreed to join the subcommittee: Mr Albert HO, Ms Cyd HO, Mr WU Chi-wai and Mr Dennis KWOK.

12. Members did not raise any queries on the other two items of subsidiary legislation (L.N. 147 and L.N. 149).

13. The Chairman reminded Members that the deadline for amending the subsidiary legislation was 7 November 2012.

III. Business for the Council meeting of 17 October 2012

14. The Chairman said that he had just received a letter from Mr CHAN Hak-kan requesting to discuss at this House Committee meeting his proposal for raising an urgent oral question relating to tree safety at the Council meeting of 17 October 2012. He had acceded to the request and the matter would be discussed under agenda item XI "Any other business".

Taking of the LegCo Oath by Mr WONG Yuk-man

15. The Chairman informed Members that Mr WONG Yuk-man would re-take the LegCo Oath at the Council meeting of 17 October 2012.

16. Ms Emily LAU enquired about the impact of Mr WONG Yuk-man's presence at the meetings of the Council and other committees held on 10 October 2012.

17. At the invitation of the Chairman, LA said that LSD had studied the matter in the light of the relevant legal principles. Should there be doubt as to the legal status of a person who had attended and voted at a meeting, the material consideration was whether the vote cast by the person concerned had any material impact on the voting result. Having considered the proceedings of the meetings of the Council and other committees attended by Mr WONG Yuk-man held since 10 October 2012, LSD had come to the view that even though Mr WONG had yet to comply with the legal requirements for the taking of the LegCo Oath, the votes he had cast at the elections of the President and the relevant

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committee chairmen conducted at those meetings should not affect the validity of the relevant election results.

18. Mr Paul TSE sought clarification from LA on whether a Member who had yet to comply with the requirements for the taking of the LegCo Oath was eligible to stand for election as the chairman or deputy chairman of a Panel.

19. LA responded that Rule 1 of the Rules of Procedure ("RoP") stipulated that no Member of the Council should attend a meeting or vote therein until he had made or subscribed an oath or affirmation in accordance with the provisions of the Oaths and Declarations Ordinance (Cap. 11) ("ODO"). The term of office of Members of the Fifth LegCo had commenced on 1 October 2012 and a Member was deemed duly elected unless he was disqualified from office. In accordance with the procedure for the election of chairman and deputy chairman of Panels as set out in the House Rules ("HR"), an absent member could be nominated for office provided that the member making the nomination stated that the absent member's acceptance of the nomination for office had been secured.

20. Mr WONG Kwok-hing sought clarification from LA on the validity of the oath taken by a Member if he had not signed the oath.

21. LA responded that a Member was only required under ODO to read out the prescribed oath and it was not a legal requirement for Members to sign the oath. The signing of oaths by Members was only a long standing ceremonial arrangement adopted by the Legislature.

22. Mr LEUNG Kwok-hung said that it was his understanding that Mr WONG Yuk-man's mandate and his rights as a Member, other than the rights to attend a meeting of the Council or vote therein, were not affected by the question of the validity of the oath he had taken. He sought clarification on whether his understanding was correct.

23. At the invitation of the Chairman, LA said that there was no legal concept of "mandate" under the law of Hong Kong. Article 104 of the Basic Law ("BL") of the Hong Kong Special Administrative Region of the People's Republic of China ("HKSAR") stipulated that, when assuming office, Members of LegCo must, in accordance with law, swear to uphold BL and swear allegiance to HKSAR. In accordance with sections 19 and 16 of ODO, a Member of LegCo should take the LegCo Oath as soon as possible after the commencement of his term of office, and the LegCo Oath should be in the form as stipulated in Part IV in Schedule 2 to ODO.

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24. Mr LEUNG Kwok-hung stressed that the concept of "mandate" was very important. He pointed out that Mr WONG Yuk-man had won the LegCo Election and was given mandate by electors to serve as LegCo Member. He considered it necessary to clarify the impact of Mr WONG Yuk-man's oath being non-compliant with the statutory form of the LegCo Oath.

25. At the invitation of the Chairman, Secretary General ("SG") said that Mr WONG Yuk-man's term of office as LegCo Member commenced on 1 October 2012. Having considered legal advice on the legality of the oath that Mr WONG purportedly took at the Council meeting of 10 October 2012, the President had ruled that Mr WONG had not subscribed an oath in accordance with the provisions of ODO. The President had also given approval for Mr WONG to re-take the LegCo Oath at the Council meeting of 17 October 2012. Before his fulfilment of the oath-taking requirement, Mr WONG should not attend Council or committee meetings or vote therein. This notwithstanding, Mr WONG's right to be nominated and to stand for election as chairman or deputy chairman of a Panel would not be affected.

26. In response to Mr LEUNG Kwok-hung, the Chairman reiterated that the non-compliance of Mr WONG Yuk-man's oath with the requirements of ODO would not affect his eligibility for nomination as chairman or deputy chairman of a Panel.

27. Mr Kenneth LEUNG sought clarification on whether Mr WONG Yuk-man's entitlement to remuneration and various kinds of reimbursements for expenses arising from LegCo duties would be affected by the invalidity of the oath that Mr WONG had taken at the Council meeting of 10 October 2012.

28. At the invitation of the Chairman, LA replied in the negative.

29. Mr Ronny TONG said that the Laws of Hong Kong did not provide for the concept of "mandate". According to the relevant statutory provisions, a person duly elected as LegCo Member should take the LegCo Oath in the form as prescribed in law. Under section 21(a) of ODO, any person who declined or neglected to take the oath duly requested which he was required to take should, if he had already entered on his office, vacate it. It was his understanding that Mr WONG Yuk-man had not declined or neglected to take the LegCo Oath. As such, his office as LegCo Member was not affected. However, Mr WONG should re-take the oath at the earliest opportunity so that he could attend Council and committee meetings.

(a) **Address by the Chief Executive**

30. The Chairman said that the Chief Executive ("CE") would address the Council in accordance with RoP 8(a) to elaborate on his concept of governance, review progress in the first three months of the Fourth Term Government, and outline his policy direction and work priorities in 2013. The address was expected to take about 45 minutes.

31. Noting that CE would address the Council in accordance with RoP 8(a), Ms Emily LAU sought clarification on whether CE would stay after his address to answer Members' questions put to him. In her view, CE should stay to answer Members' questions on his address, and at least one hour should be set aside for such purpose. She added that Members belonging to the Democratic Party considered it unacceptable should Members be unable to put questions to CE after his address at the Council meeting.

32. At the invitation of the Chairman, SG said that it was his understanding that CE would only address the Council at the meeting of 17 October 2012 and had no plan to answer Members' questions after the address.

33. Ms Emily LAU reiterated her view that Members should be able to put questions to CE after his address and CE should answer Members' questions put to him at the Council meeting.

34. Mr SIN Chung-kai said that according to his recollection, there were occasions in the past where Members could put questions to CE after his address for the purpose of seeking elucidation of some points raised by CE in the course of his address. The holding of a CE's Question and Answer Session was an alternative arrangement.

35. Mr LEUNG Kwok-hung said that it was a convention for CE to answer Members' questions put to him when attending a Council meeting.

36. The Chairman said that it was his understanding that there was no such convention. There were precedents where CE addressed the Council on particular subjects under RoP 8 or specifically under RoP 8(a). He further said that subject to Members' views, he would write to CE after the House Committee meeting to convey Members' request that he should stay after the address to answer questions put to him.

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37. Mr LEUNG Kwok-hung said that if CE had other engagements and was unable to stay behind after his address at the Council meeting of 17 October 2012, he should make arrangement to attend a LegCo meeting at another time to answer Members' questions on his address.

38. Miss CHAN Yuen-han said that to enhance the relationship between the Executive Authorities and the new term LegCo, CE should find time to come to LegCo to respond to Members' questions.

39. Dr Helena WONG stressed that the Executive Authorities were accountable to the Legislature. Should CE refuse to stay after his address to answer Members' questions, it would seriously damage the relationship between the Executive Authorities and the Legislature. She requested the Chairman to relay to CE Members' strong views in this regard.

40. Mr Kenneth LEUNG said that in his opinion, according to the wording of RoP 8, while CE might at his discretion attend meetings of the Council, he could not specify whether his attendance was for the purpose provided in RoP 8(a) or 8(b) only, having regard to the use of the conjunction "and" in RoP 8(b). In other words, CE could not decline to answer questions put to him by Members at a Council meeting. He sought advice on whether his interpretation of RoP 8 was correct.

41. At the invitation of the Chairman, SG said that during the Third LegCo, there was an occasion on which CE had requested to address the Council under RoP 8(a) on a particular subject. On that occasion, the President had, after due consideration of the relevant rule, ruled that CE was not obliged to answer Members' questions after his address. In the light of this precedent, the Secretariat had followed the same arrangement in preparing the Agenda for the Council meeting of 17 October 2012.

42. Mr Ronny TONG considered that there were ambiguities in the existing provisions under RoP 8. Members might request that the matter be referred to the Committee on Rules of Procedure for consideration.

43. The Chairman said that he would write to CE to convey Members' strong request that he should stay after the address to answer questions put to him. Members agreed.

(b) **Questions**

(LC Paper No. CB(3) 19/12-13)

44. The Chairman said that 20 questions (six oral and 14 written) had been scheduled for the meeting.

(c) **Bills - First Reading and moving of Second Reading**

45. The Chairman said that no notice had been received yet.

(d) **Government motion**

46. The Chairman said that no notice had been received yet.

(e) **Members' motions**

(i) **Motion on "Urging the Government to withdraw the curriculum guide of Moral and National Education subject and requesting the Secretary for Education, Mr Eddie NG, to step down"**

(Wording of the motion issued vide LC Paper No. CB(3) 22/12-13 dated 10 October 2012.)

(ii) **Motion on "Legislating for the regulation of working hours"**

(Wording of the motion issued vide LC Paper No. CB(3) 22/12-13 dated 10 October 2012.)

47. The Chairman said that the above two motions would be moved by Mr IP Kin-yuen and Mr CHEUNG Kwok-che respectively, and the wording of the motions had been issued to Members.

48. The Chairman reminded Members that the deadline for giving notice of amendments, if any, to the motions was 12 October 2012, i.e. the day of the House Committee meeting.

Report No. 1/12-13 of the House Committee on Consideration of Subsidiary Legislation and Other Instruments

49. Members noted that no Member had indicated intention to speak on any item of the subsidiary legislation in the Report and that subject to the President's approval, the Report would be placed on the Agenda for the Council meeting of 17 October 2012.

IV. Business for the Council meeting of 24 October 2012

(a) Questions

(LC Paper No. CB(3) 20/12-13)

50. The Chairman said that 20 questions (six oral and 14 written) had been scheduled for the meeting.

(b) Bills - First Reading and moving of Second Reading

51. The Chairman said that no notice had been received yet.

(c) Government motion

52. The Chairman said that no notice had been received yet.

(d) Members' motions

(i) Motion to be moved by Hon Emily LAU

53. The Chairman said that the subject of the motion to be moved by Ms Emily LAU was "North East New Territories New Development Areas Planning and Engineering Study".

(ii) Motion to be moved by Dr Hon Fernando CHEUNG

54. The Chairman said that the subject of the motion to be moved by Dr Fernando CHEUNG was "Universal retirement protection system".

55. The Chairman reminded Members that the deadline for giving notice of amendments, if any, to the motions was Tuesday, 16 October 2012.

V. Procedure for the nomination and election of Members for appointment to the Public Accounts Committee, Committee on Members' Interests and Committee on Rules of Procedure

(LC Paper No. CB(4) 12/12-13)

56. Members endorsed the proposed procedure for the nomination and election of Members for appointment to the three committees as set out in paragraphs 3 and 4 of as well as Appendix IV to the paper. Members also agreed that the nomination and election be held at the next House Committee meeting on 19 October 2012.

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VI. Determination of a date for the election of members of The Legislative Council Commission

(LC Paper No. AS 34/12-13)

57. Members agreed that the election of members of The Legislative Council Commission be held at the House Committee meeting on 26 October 2012.

VII. Proposed arrangement for signification of membership of the Parliamentary Liaison Subcommittee

(LC Paper No. CB(4) 13/12-13)

58. The Chairman said that at the House Committee meeting of the Fourth LegCo on 10 October 2008, Members agreed that it was not necessary to set a limit on the membership size of the Parliamentary Liaison Subcommittee. Having regard to the arrangement adopted by the House Committee of the Fourth LegCo, it was proposed that no limit on the membership size of the Parliamentary Liaison Subcommittee should be set for the Fifth LegCo. Members agreed.

59. The Chairman said that Members might join the Subcommittee by submission of a return to the Secretariat by the deadline specified in a circular to be issued to Members.

VIII. Procedure for the nomination and election of Members of the Legislative Council to advisory/governing bodies

(LC Paper No. CB(2) 7/12-13)

60. Members endorsed the proposed nomination and election procedure as set out in paragraph 11 of the paper. Members also agreed that the nomination and election be held at the next House Committee meeting on 19 October 2012.

IX. Proposal from Hon Frederick FUNG for setting up a subcommittee on poverty under the House Committee

(Two letters dated 24 September and 4 October 2012 respectively from Hon Frederick FUNG (LC Paper Nos. CB(2) 6/12-13(04) and (05)))

61. Mr Frederick FUNG said that in November 2004, a subcommittee was appointed under the House Committee to study the subject of combating poverty. In January 2005, the Administration established a Commission on Poverty ("CoP") to examine issues relating to poverty in

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Hong Kong, but its term of office ended in June 2007. CE had recently established the Preparatory Task Force on CoP with a view to reinstating CoP in the Fourth Term Government. Mr FUNG considered it important for LegCo to set up a subcommittee on poverty under the House Committee to ensure effective monitoring of the work of the inter-departmental commission to be reinstated and provide a forum for Members to express their views to CoP. He referred Members to his proposal on the terms of reference of the subcommittee, which included studying policies and issues relating to poverty alleviation, monitoring and following up on the work of CoP, and putting forward proposals for aiding the poor. He appealed to Members to support his proposal.

62. The Chairman said that the Subcommittee to Study the Subject of Combating Poverty was formed under the House Committee in the Third LegCo while the Subcommittee on Poverty Alleviation was formed under the Panel on Welfare Services in the Fourth LegCo. In accordance with rule 22(t) of HR, two or more Panels might appoint joint subcommittees to study any matter of common interest to the relevant Panels. He invited Members' views on Mr Frederick FUNG's proposal.

63. Ms Emily LAU expressed support for Mr Frederick FUNG's proposal for setting up a subcommittee on poverty under the House Committee.

64. Members agreed that the proposed subcommittee on poverty be appointed under the House Committee. Members also endorsed the proposed terms of reference, work plan and time frame of the subcommittee as set out in Mr Frederick FUNG's letter dated 4 October 2012 (LC Paper No. CB(2)6/12-13(05)). The following Members agreed to join the Subcommittee: Mr Albert HO, Mr LEE Cheuk-yan, Mr Frederick FUNG, Ms Cyd HO and Mr Alan LEONG.

X. Proposal from Dr Hon Kenneth CHAN for moving a motion for adjournment under Rule 16(4) of the Rules of Procedure at the Council meeting of 17 October 2012 for the purpose of debating the following issue: follow-up work relating to the 1 October maritime disaster

(Letter dated 9 October 2012 from Dr Hon Kenneth CHAN (LC Paper No. CB(2) 6/12-13(06)))

65. Dr Kenneth CHAN said that while the Chief Secretary for Administration and relevant Government officials had attended a special House Committee meeting held before this regular meeting to brief Members on the vessel collision incident near the Lamma Island and the

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handling of the aftermath, he noted that many Members were unable to raise questions at the meeting owing to time constraint. Furthermore, the Administration had not fully answered the questions raised by Members. His proposal for moving a motion for adjournment at the Council meeting of 17 October 2012 would therefore provide an opportunity for Members to further discuss the matter. He appealed to Members to support his proposal.

66. Members supported Dr Kenneth CHAN's proposal for moving a motion for adjournment under RoP 16(4) at the Council meeting of 17 October 2012 relating to the follow-up work of the 1 October maritime disaster.

XI. Any other business

Proposal from Mr CHAN Hak-kan for asking an urgent oral question under RoP 24(4) at the Council meeting of 17 October 2012

67. Mr CHAN Hak-kan referred to the tree falling incident at Lam Tsuen San Tsuen in Tai Po on 11 October 2012 causing death and injury. He recalled that during the prorogation of the Council, there had been incidents of collapse of trees which had resulted in injuries. He considered it necessary to obtain information on the latest progress of work of the Tree Management Office ("TMO") under the Development Bureau ("DEVB") in enhancing tree safety, with a view to avoiding recurrence of similar incidents in future. He referred Members to the draft wording of his proposed question attached to his letter and appealed to them to support his proposal for asking an urgent oral question under RoP 24(4) at the Council meeting of 17 October 2012.

(Post-meeting note: Mr CHAN Hak-kan's letter to the Chairman of the House Committee dated 12 October 2012, which was tabled at the meeting, was circulated to Members vide LC Paper No. CB(2) 15/12-13(01) on 15 October 2012.)

68. Ms Emily LAU said that she did not support Mr CHAN Hak-kan's proposal as there was no urgency in asking the proposed question at the Council meeting of 17 October 2012. In her view, the matter could be followed up by the relevant Panel. She stressed that although RoP 24(4) provided for the raising of urgent oral questions, Members should follow the queuing system for oral question slots and urgent questions should be raised only when there was genuine urgency to do so. She added that it would be difficult for the public and the media to focus their attention if too many oral questions were raised at a Council meeting.

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69. Dr Kenneth CHAN said that he had written to relevant bureaux/ Government departments on the incident the day before the House Committee meeting. In his view, not only TMO and DEVB but the Lands Department should also respond to questions raised by the public and Members as early as possible. Given the importance of the matter, he hoped that an appropriate arrangement could be made for Members to follow up on it.

70. Mr Jeffrey LAM recalled that the House Committee of the Fourth LegCo, in considering requests from individual Members for asking urgent oral questions, had discussed the criteria for considering such requests. Given that Mr CHAN Hak-kan's proposed question covered various issues, he considered it more appropriate for the relevant Panel to follow up, as the some 20 minutes allocated for an oral question was insufficient for addressing all the issues thoroughly. He further said that Members should be prudent in considering requests for asking urgent oral questions as they were in effect jumping the queue for oral question slots.

71. Mr Christopher CHUNG said that collapse of trees was an important issue as deaths and injuries were involved. He had made a visit to the Victoria Park, accompanied by officers of LCSD, the day before the House Committee meeting and was given to understand that a number of trees there had health or structural problems, posing potential danger to members of the public. In his view, TMO should provide information on trees posing danger to public safety as early as possible and it was incumbent upon Members to monitor the work of TMO.

72. Mrs Regina IP said that following a fatal tree-falling incident which occurred in June 2010, she had proposed to ask an urgent oral question on the relevant issues in Council and the President had given permission to her request. She surmised that it might be due to the wording of her proposed question and the on-set of the typhoon season that the President gave permission for her urgent question to be raised at that Council meeting. In the present case, it could be said that the typhoon season was over. However, she did not object to Mr CHAN's proposal. She hoped that in considering Mr CHAN Hak-kan's proposal, the House Committee and the President would consider whether there was urgency in asking the proposed question.

73. The Chairman said that while the House Committee could provide the President with its recommendation, it was for the President to decide whether the proposed question related to a matter of urgent public importance and whether permission should be given for raising it at the Council meeting of 17 October 2012.

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74. Mr CHAN Chi-chuen said that he had made a site visit to Lam Tsuen in the morning of the day of the House Committee meeting and found out that the scene, contrary to what some government officials claimed, had high traffic flow. He considered it necessary to ascertain whether the Administration was trying to shirk its responsibility.

75. Mr CHAN Han-pan said that Hong Kong's typhoon season had yet to pass.

76. Mr LEE Cheuk-yan considered it more appropriate for the matter to be followed up by relevant Panel at the earliest possible opportunity after the elections of the chairmen and deputy chairmen of the 18 Panels had taken place on 16 October 2012, as it would provide Members with more time to discuss the matter with the Administration in a thorough manner.

77. Mr CHAN Hak-kan said that as the recent tree-falling incident had caused fatality and injury, he considered it urgent to request the Administration to provide information on, among others, dangerous trees in areas with high pedestrian or traffic flow. As the 18 Panels had yet to come into operation, he wished to seize the earliest opportunity to follow up on the matter with the Administration by way of asking an urgent oral question at the Council meeting of 17 October 2012. He also planned to bring up the matter for discussion at a meeting of the Panel on Development.

78. Given Members' diverse views on Mr CHAN Hak-kan's proposal, the Chairman said that Members could consider putting the matter to vote.

79. Ms Emily LAU suggested that instead of putting the matter to vote, the different views expressed by Members be conveyed to the President for his consideration in deciding on Mr CHAN Hak-kan's proposal. Members agreed.

Up-to-date position on the signification of membership of Panels

80. The Chairman said that the position on the signification of membership of the 18 Panels as at 12:00 noon on the day of the House Committee meeting was tabled at the meeting. He reminded Members that the deadline for joining the Panels was 12:00 noon, Saturday, 13 October 2012.

Action

81. In response to Ms Emily LAU's enquiry of the consequence of not meeting the deadline for joining the Panels, the Chairman said that Members who signified membership after the deadline could not take part in the election of the chairman and deputy chairman of the relevant Panels.

82. At the invitation of the Chairman, the Clerk supplemented that the relevant Panels would consider applications for late membership of Panels after the election of the chairman and deputy chairman. It was for the chairman of the relevant Panel to decide whether an application for late membership should be accepted if the ground for application for late membership was indisposition, or absence from Hong Kong, during the time when a Member should signify his membership.

83. There being no other business, the meeting ended at 5:11 pm.