

立法會
Legislative Council

LC Paper No. CB(2) 336/12-13

Ref : CB2/H/5/12

House Committee of the Legislative Council

**Minutes of the 10th meeting
held in Conference Room 1 of the Legislative Council Complex
at 2:30 pm on Friday, 7 December 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 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 Kin-por, BBS, JP

Hon CHEUNG Kwok-che

Hon WONG Kwok-kin, BBS

Hon IP Kwok-him, GBS, JP

Hon Paul TSE Wai-chun, JP

Hon Alan LEONG Kah-kit, SC

Hon LEUNG Kwok-hung

Hon Claudia MO

Hon Michael TIEN Puk-sun, BBS, JP

Hon James TIEN Pei-chun, GBS, JP
Hon NG Leung-sing, SBS, 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 MA Fung-kwok, SBS, JP
Hon Charles Peter MOK
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 Martin LIAO Cheung-kong, 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 Christopher CHUNG Shu-kun, BBS, MH, JP
Hon Tony TSE Wai-chuen

Members absent:

Hon Abraham SHEK Lai-him, SBS, JP
Hon CHAN Hak-kan, JP
Dr Hon Priscilla LEUNG Mei-fun, JP
Dr Hon LEUNG Ka-lau
Hon Mrs Regina IP LAU Suk-yee, GBS, JP
Hon Albert CHAN Wai-yip
Hon WONG Yuk-man
Hon CHAN Chi-chuen
Hon CHUNG Kwok-pan

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
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
Ms Wendy KAN	Assistant Legal Adviser 6
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

Action

I. Confirmation of verbatim transcript/minutes of meetings

(a) Verbatim transcript of the special meeting held on 23 November 2012

(LC Paper No. CB(2) 297/12-13 issued vide LC Paper No. CB(2) 298/12-13 dated 3 December 2012)

(b) Minutes of the 9th meeting held on 30 November 2012

(LC Paper No. CB(2) 301/12-13)

The two sets of verbatim transcript/minutes of meetings were confirmed.

II. Matters arising

Report by the Chairman on his meeting with the Chief Secretary for Administration ("CS")

(LC Paper No. CB(2) 317/12-13 on "Attendance of the Chief Executive at Legislative Council meetings")

2. The Chairman said that during their meeting, CS had advised that the Chief Executive ("CE") would attend a Question and Answer Session ("Q&A Session") on Monday, 10 December 2012 from 5:00 pm to 6:30 pm. The Chairman informed the meeting that he and the Deputy Chairman had raised with CS Members' request that CE should extend the duration of the Q&A Session. CS had indicated that she would convey Members' request to CE. The Chairman added that during his meeting with the President in the morning of the day of this House Committee ("HC") meeting, the President had indicated that the matter should be followed-up with CE's Office as well.

3. Ms Emily LAU said that Members belonging to different political parties and groupings hoped that the duration of the Q&A Session could be extended to allow more time for Members to raise questions. She requested that written information including CE's speaking notes be provided in advance for Members' perusal to facilitate Members' putting questions to CE.

4. The Chairman requested the Secretariat to relay Ms Emily LAU's request to CE's Office. In response to Ms Emily LAU, the Chairman said that he would make his best efforts to follow up with the Administration Members' request that the duration of the Q&A Session be extended.

5. Mr LEE Cheuk-yan expressed support for Ms Emily LAU's request for provision of written information in advance. Mr LEE sought clarification on whether CE had made it clear that the Q&A Session on 10 December 2012 would not be dedicated to questions on the unauthorized building works ("UBWs") at CE's properties on the Peak. Mr LEE was concerned that if Members were allowed to put questions to CE on any subject, one and a half hours would not be sufficient for Members to probe into the UBWs at CE's properties, which was the main issue of concern to the public.

6. Referring Members to the reply from the Private Secretary to CE dated 5 December 2012 which had been circulated to Members vide LC Paper No. CB(2)310/12-13(01), the Chairman said that while it was stated therein that CE welcomed the opportunity to have a Q&A Session with Members to discuss subjects of public concern, he believed that Members would focus their questions on the UBWs at CE's properties, given that it was the main issue of concern to the public.

Action

7. Ms Emily LAU said that in his letter to CE dated 23 November 2012, the Chairman had made it clear that the purpose of the proposed Q&A Session was for CE to account for the UBWs at his properties on the Peak. She hoped that both Members and CE would focus their questions and answers on the said UBWs. Noting that it was the normal practice for CE to attend four Q&A Sessions in each legislative session, she sought clarification on whether the one to be held on 10 December 2012 would be counted as one of the four Q&A Sessions for the current session or whether it would be an additional one. In her view, the forthcoming Q&A Session should not be counted as one of the Q&A Sessions scheduled for the current session.

8. The Chairman requested the Secretariat to clarify Ms Emily LAU's enquiry with the Administration.

9. Mr James TIEN shared the view that Members should focus their questions on the UBWs at CE's properties on the Peak at the forthcoming Q&A Session, which would facilitate Members' decision on how to vote on the motion on "Vote of no confidence in the Chief Executive" to be moved by Mr WU Chi-wai at the Council meeting of 12 December 2012.

10. The Chairman considered it inappropriate to impose any restriction on the content of Members' questions to be put to CE. He pointed out that the Q&A Session was an open meeting and Members were accountable to the public for the questions they put to CE.

11. Dr KWOK Ka-ki echoed the view that one and a half hours would not be sufficient even for Members to put questions to CE just on the UBWs at his properties on the Peak, not to mention if questions on other subjects could also be raised. Dr KWOK stressed that as Members' invitation to CE to attend a Q&A Session was for him to account for the UBWs at his properties, the Q&A Session should focus only on that matter.

12. The Chairman reiterated that while Members could ask whatever questions they wanted to as long as they were in order under the Rules of Procedure, they would be watched over by the public.

13. Mr LEUNG Kwok-hung stressed that the purpose of the forthcoming Q&A Session was for CE to explain the UBWs at his properties on the Peak. He strongly criticized CE for letting the Q&A Session open to questions on any subject of public concern, which, in his view, was an insult to the Legislative Council ("LegCo"). Mr LEUNG further said that if CE indeed wished to explain in Council the UBWs at his properties, he should refuse to answer questions on other matters.

III. Further business for the Council meeting of 12 December 2012

Tabling of papers

Report No. 7/12-13 of the House Committee on Consideration of Subsidiary Legislation and Other Instruments

(LC Paper No. CB(2) 303/12-13 issued vide LC Paper No. CB(3) 211/12-13 dated 6 December 2012)

14. The Chairman said that the Report covered eight items of subsidiary legislation the period for amendment of which would expire on 12 December 2012, including six items of subsidiary legislation which had been studied by three subcommittees respectively (i.e. three items of subsidiary legislation made under the Banking Ordinance (Cap. 155) (L.N.156 to L.N.158), two items of subsidiary legislation made under the Telecommunications Ordinance (Cap. 106) (L.N.161 and L.N. 162) and the Mediation Ordinance (Commencement) Notice (L.N. 167)).

15. The Chairman further said that as the Chairmen of the three subcommittees concerned had indicated intention respectively to speak on the relevant items of subsidiary legislation, a motion would be moved at the Council meeting of 12 December 2012 to take note of the Report in relation to the six items of subsidiary legislation. As the motion related to various items of subsidiary legislation, the Chairman proposed that the debate be divided into three sessions, with the first one covering L.N. 156 to L.N. 158, the second L.N.161 and L.N. 162 and the third L.N. 167. Members agreed. The Chairman informed Members that the speaking time limit for each Member was 15 minutes for each session.

16. Mr LEUNG Kwok-hung said that he wished to move a motion for adjournment under Rule 16(4) of the Rules of Procedure at the Council meeting of 12 December 2012 and requested that his proposal be discussed at this HC meeting. The Chairman said that as Mr LEUNG's proposal was not raised before this HC meeting and it was not on the agenda of the meeting, it could not be dealt with at this meeting. He advised Mr LEUNG to raise his proposal for discussion at the next HC meeting should he wish to do so.

IV. Business for the Council meeting of 19 December 2012

(a) **Questions**

(LC Paper No. CB(3) 206/12-13)

17. 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**

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

(c) **Government motion**

Proposed resolution to be moved by the Secretary for Commerce and Economic Development under section 23 of the Hong Kong Export Credit Insurance Corporation Ordinance (Cap. 1115)

(Wording of the proposed resolution issued vide LC Paper No. CB(3) 192/12-13 dated 29 November 2012.)

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

19. At the invitation of the Chairman, Legal Adviser ("LA") said that the proposed resolution was for seeking the Council's approval to increase the maximum contingent liability permitted to be incurred by the Hong Kong Export Credit Insurance Corporation under contracts of insurance at any time from \$30,000 million to \$40,000 million. LA further said that the Panel on Commerce and Industry had been consulted on the Administration's proposal and supported it in principle. Subsequently, the Administration also issued an information note to the Finance Committee on the proposal. LA added that no difficulties had been identified in the legal and drafting aspects of the proposed resolution.

20. Members did not raise objection to the Administration moving the above proposed resolution at the Council meeting.

(d) **Members' motions**

(i) **Motion to be moved by Hon CHUNG Kwok-pan**

21. The Chairman said that the subject of the motion to be moved by Mr CHUNG Kwok-pan was "Small and Medium Enterprises Financing Guarantee Scheme".

(ii) **Motion to be moved by Hon Mrs Regina IP LAU Suk-ye**

22. The Chairman said that the subject of the motion to be moved by Mrs Regina IP was "Reviving the quality of local education and stopping the blind industrialization of education".

23. The Chairman reminded Members that the deadline for giving notice of amendments, if any, to the motions was Wednesday, 12 December 2012.

Report on study of subsidiary legislation

24. The Chairman invited Members to note the list containing two items of subsidiary legislation tabled at the meeting, the period for amendment of which would expire on 19 December 2012. Members who wished to speak on the subsidiary legislation should indicate their intention by 5:00 pm on Tuesday, 11 December 2012.

V. Position on Bills Committees and subcommittees

(LC Paper No. CB(2) 302/12-13)

25. The Chairman said that as at 6 December 2012, there were four subcommittees under HC (i.e. one subcommittee on subsidiary legislation, one subcommittee on policy issues and two subcommittees on other Council business) and five subcommittees on policy issues under Panels in action.

VI. Proposals for authorizing the Panel on Development to exercise powers under section 9(1) of the Legislative Council (Powers and Privileges) Ordinance ("the powers") for inquiring into policies and procedures of the Government in the handling of the unauthorized building works at the Chief Executive's properties at Peel Rise, The Peak; and for appointing a select committee which is to inquire into the unauthorized building works at the said properties, and to be authorized to exercise the powers when conducting the inquiry

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

(a) Letter from Hon Alan LEONG

(Letter dated 28 November 2012 from Hon Alan LEONG (LC Paper No. CB(2) 288/12-13(01)))

(b) **Letter from Hon LEE Cheuk-yan**

(Letter dated 29 November 2012 from Hon LEE Cheuk-yan (LC Paper No. CB(2) 288/12-13(02)))

26. The Chairman suggested that a joint discussion be held on the two respective proposals from Mr Alan LEONG and Mr LEE Cheuk-yan.

27. At the invitation of the Chairman, Mr Alan LEONG said that the Chairman of the Panel on Development had consulted members' views on whether a special Panel meeting should be held in the morning of the day of this HC meeting to discuss his proposal for authorizing the Panel to exercise the powers under the Legislative Council (Powers and Privileges) Ordinance (Cap. 382) ("the P&P Ordinance") to inquire into the policies and procedures of the Government in handling the UBWs at CE's properties at Peel Rise, The Peak. However, on the basis of the outcome of the consultation, it was decided that his proposal would be discussed at the next regular Panel meeting scheduled for 17 December 2012. Noting that Mr LEE Cheuk-yan would move a proposed resolution under the P&P Ordinance at the Council meeting of 19 December 2012 to seek the Council's authorization for appointing a select committee to inquire into the UBWs at CE's properties, Mr LEONG informed the meeting that he had decided not to pursue his proposal at this HC meeting and Members could focus their discussion on Mr LEE's proposal.

28. Mr Alan LEONG further said that Members belonging to the Civic Party considered it necessary and appropriate to invoke the powers under the P&P Ordinance to conduct an inquiry into the handling of the matter by the Development Bureau and the Buildings Department ("BD"). According to media reports, staff of BD had conducted inspections of CE's properties on the Peak on 26 June 2012 and had subsequently issued four letters to CE concerning a suspicious wall found in the basement of House No. 4. As the details and findings of those inspections had not been made known to the public, an inquiry should be conducted into the matter to enable the public to obtain information on the follow-up actions taken by BD in respect of the suspicious wall and CE's response to the letters issued by BD.

29. Mr Alan LEONG added that the proposed inquiry would also provide an opportunity for front-line staff of BD conducting the said inspections to give evidence on the matter, including to whom they had reported the matter and any directions given by their supervisors. Mr LEONG stressed that such evidence was important in assessing whether CE had abused his power and exerted pressure on Government officials on the handling of the UBWs at his properties, and whether the

Action

Government departments concerned had covered up for CE. He said that Members belonging to the Civic Party supported Mr LEE Cheuk-yan's proposal.

30. The Chairman said that in view of Mr Alan LEONG's decision, Members should focus their discussion on Mr LEE Cheuk-yan's proposal.

31. At the invitation of the Chairman, Mr LEE Cheuk-yan said that the public was deeply concerned about the integrity crisis faced by CE. Based on the ways CE had responded to media enquiries, he doubted whether CE had the sincerity to explain the matter in a frank and transparent manner as he had publicly claimed. He also criticized CE for adopting a delaying tactic on the matter, which had infuriated many members of the public. He cautioned that the doubts about CE's integrity was a very serious matter as it would undermine public confidence in the whole governance team. Having regard to the gravity of the issues, he appealed to Members to support his proposal.

32. Mr LEE Cheuk-yan further said that the CE's suggestions that the Q&A Session to be held next Monday was only for one and half hours and the subject of discussion was not limited to the UBWs at CE's properties showed that CE was not sincere in giving a full account of the matter. He queried whether CE was trying to muddle through and let the matter gradually die down after the Q&A Session. He stressed that Members should not let CE off easily. In his view, invoking the powers under the P&P Ordinance to conduct an in-depth inquiry into the matter would do justice to all parties concerned, including the staff of BD who were alleged to have covered up for CE, and enable the public to find out the truth. Mr LEE added that in order to expedite the conduct of the proposed inquiry, he had given notice to move a proposed resolution at the Council meeting of 19 December 2012 to seek the Council's authorization for the appointment of a select committee. Should Members support his proposal, the proposed resolution should be moved by the HC Chairman instead.

33. The Chairman said that should HC support Mr LEE Cheuk-yan's proposal, he, in his capacity as the HC Chairman, would move the proposed resolution for the appointment of a select committee at the Council meeting, subject to compliance with the relevant requirements under the Rules of Procedure. Should HC not support the proposal, Mr LEE would still move in his individual capacity the proposed resolution at the Council meeting of 19 December 2012. He invited Members' views on Mr LEE's proposal.

Action

34. Mr LEUNG Kwok-hung expressed support for Mr LEE Cheuk-yan's proposal. He pointed out that the issues at stake were much more serious than the allegations made against CE concerning his involvement as a member of the jury in the West Kowloon Reclamation Concept Plan Competition. Given that a select committee had been appointed by LegCo to inquire into the latter, he saw no reason why the same should not be done in respect of the present case. He stressed that Members were accountable to the public and had the responsibility to find out the truth. In his view, CE's explanation alone could not reveal the truth and the invocation of the powers under the P&P Ordinance to inquire into the matter was the most effective means to find out the truth.

35. Mr WU Chi-wai considered it necessary for LegCo to conduct an inquiry into the matter, given the grave public doubts about CE's integrity and the impartiality of BD's enforcement work. In his view, an inquiry by LegCo in an open and transparent manner would enable the public to find out whether BD, in the course of inspecting the UBWs at CE's properties on the Peak, had enforced the law independently and impartially and would do justice to all parties concerned, including BD. In the light of these considerations, Members belonging to the Democratic Party supported Mr LEE Cheuk-yan's proposal.

36. Mr Tony TSE expressed regrets that staff of BD were alleged to have handled the UBWs at CE's properties on the Peak in a biased manner and to have covered up for CE. In his view, it was grossly unfair and unjust to make such serious allegations against the professional staff of BD in the absence of substantiated evidence. Should Members agree to the appointment of a select committee to conduct an inquiry, it would be tantamount to questioning the professional ethics of the civil service team. Mr TSE indicated his strong objection to the proposed invocation of the powers under the P&P Ordinance to inquire into the Government's policies and procedures in the handling of the UBWs at CE's properties on the Peak.

37. Ms Cyd HO said that she supported the two proposals raised by Mr Alan LEONG and Mr LEE Cheuk-yan to inquire into the matter. She hoped that HC would support an inquiry as it would reflect the stance of the Legislature on integrity and corruption. In her view, the matter was unfair to civil servants who were merely acting on the instructions of their supervisors. She queried the different attitudes towards UBWs adopted by CS, who was a former Secretary for Development, in the cases of Mr Henry TANG and CE. She stressed that the proposed inquiry would provide a platform for the civil servants concerned to come forward to tell the truth, so as to do them justice. The select committee could also exercise the powers under the P&P Ordinance to order the

Action

production of the relevant information which would enable the public to find out the truth of the matter. She appealed to Members to support Mr LEE Cheuk-yan's proposal.

38. Ms Emily LAU also expressed support for Mr LEE Cheuk-yan's proposal. Referring to a joint statement issued by the Buildings Department Local Building Surveyors' Association and the Buildings Department Survey Officer Working Group on 30 November 2012 wherein it was stated that professional and technical staff of BD were committed to safeguarding their professional ethics and enforcing the law impartially irrespective of a property owner's identity, she reckoned that professional staff of BD were supportive of the proposed appointment of a select committee which would provide them with an opportunity to clarify the matter to the public under the protection afforded by the P&P Ordinance.

39. Mr TAM Yiu-chung said that Members belonging to the Democratic Alliance for the Betterment and Progress of Hong Kong objected to the proposed invocation of the powers under the P&P Ordinance to inquire into the matter. They would explain their stance when the motion to be moved by Mr LEE Cheuk-yan under the P&P Ordinance was debated at the Council meeting of 19 December 2012.

40. Mr Frederick FUNG said that he was supportive of Mr LEE Cheuk-yan's proposal, given the Legislature's responsibility to watch over the Executive. He further said that the public found the different conflicting versions of explanations given by CE on the UBWs at his properties intolerable, and his credibility was called into question. The different approaches adopted by BD in enforcing the law against CE and the general public had also caused doubts. He considered it necessary for LegCo to conduct an inquiry to clear the doubts surrounding the matter.

41. Dr Helena WONG expressed support for Mr LEE Cheuk-yan's proposal. She did not subscribe to the view that initiating an inquiry was tantamount to questioning the professional ethics of the civil servants and officials concerned. In her view, the proposed inquiry was to clear the many doubts in the community about the matter, including whether the Director of Buildings and the former and incumbent Secretaries for Development had covered up for CE, whether the Government had adopted double standards in dealing with cases of UBWs and whether there was abuse of power on the part of CE or any public officers. In view of the seriousness of the allegations and their impact on the governance of Hong Kong, she considered it necessary to invoke the powers under the P&P Ordinance to inquire into the matter to find out the truth.

Action

42. Citing a recent complaint from a squatter resident on BD's enforcement work, Mr LEUNG Yiu-chung queried whether BD was enforcing the law in an impartial and objective manner, and not adopting double standards in handling UBWs found at the properties of CE and the general public. He supported conducting an inquiry into the matter, as an open and transparent inquiry process would enable the public to find out the truth and would do justice to all parties concerned, including the staff of BD.

43. Dr KWOK Ka-ki stressed that the matter concerned not only the enforcement of law by BD but also CE's integrity and the Administration's governance which were at stake. Dr KWOK further said that during the CE Election, Mr LEUNG Chun-ying had picked on the UBWs at the residence of Mr Henry TANG, another CE candidate, which had undermined Mr TANG's integrity. The different approaches adopted in BD's handling of CE's case and that of Mr Henry TANG had raised public doubts. CE aside, the matter also involved a candidate of the CE Election and principal officials including former and incumbent Secretaries for Development. Dr KWOK added that Members were not trying to put the blame on the professional staff of BD; they were only concerned whether the professional staff of BD had come under pressure from their supervisors and principal officials. An inquiry by LegCo would provide an opportunity for staff of BD to tell the truth under the protection afforded by the P&P Ordinance. He supported Mr LEE Cheuk-yan's proposal.

44. Mr Ronny TONG said that should HC support the proposal to appoint a select committee to inquire into the matter, the focus of the inquiry should be on whether there was any dereliction of duty on the part of senior officials, including the Director of Buildings. Mr TONG pointed out that the Director of Buildings had avoided the media for five days after media reports on the suspicious wall in CE's properties were published, and when he subsequently spoke to the media on the matter, he refused to take questions. The media generally considered the account of the matter given by the Director of Buildings unsatisfactory. In Mr TONG's view, the proposed inquiry would provide an opportunity for staff of BD to clarify the matter to the public and to clear their name. Based on evidence available and information disclosed by the media, he considered that there was a prima facie case warranting an inquiry by LegCo. He expressed support for Mr LEE Cheuk-yan's proposal.

45. Ir Dr LO Wai-kwok said that he did not subscribe to the view that civil servants were only carrying out the orders given by their supervisors. He stressed that in discharging their duties, professional staff in the civil

Action

service including engineers and surveyors were required to comply not only with the relevant regulations and guidelines promulgated by the authorities concerned, but also their professional ethics. In his view, making allegations against the professional staff of BD for harbouring CE merely on the basis of media reports without substantiated evidence was an affront to them. He did not support the proposed invocation of the powers under the P&P Ordinance to inquire into matter.

46. Mr James TIEN said that Members belonging to the Liberal Party did not support the proposal for the Chairman of HC to move a proposed resolution, on behalf of Members, to seek the Council's authorization to appoint a select committee to inquire into the matter. They would explain their views on the matter during the debate on the proposed resolution to be moved by Mr LEE Cheuk-yan under the P&P Ordinance at the Council meeting of 19 December 2012.

47. Mr LEE Cheuk-yan noted from the joint statement issued by the Buildings Department Local Building Surveyors' Association and the Buildings Department Survey Officer Working Group that the staff associations were supportive of BD explaining the relevant law enforcement criteria to the public clearly to facilitate just and fair public discussion on the matter. In his view, invoking the powers under the P&P Ordinance to conduct an inquiry into the matter was the best way to find out the truth and to do justice to the staff of BD. He appealed to Members to support his proposal as HC's support would send a strong message to the public on the importance attached by Members to the matter.

48. Ir Dr LO Wai-kwok reiterated that it was inappropriate for LegCo to invoke lightly the powers under the P&P Ordinance to inquire into allegations against certain individuals or Government departments unless there were sufficient justifications for doing so. He pointed out that there were many means through which the Government departments concerned could clarify the matter to the public, and the powers under the P&P Ordinance did not have to be invoked for such a purpose.

49. Mr LEUNG Kwok-hung stressed that the matter was of wide public concern. In his view, the different degree of severity of the enforcement actions taken in respect of Mr Henry TANG's case and CE's case had raised doubts which warranted the conduct of an inquiry.

50. The Chairman suggested putting to vote the proposal of Mr LEE Cheuk-yan, given the divided views among Members.

Action

51. Referring to the paper prepared by the Legal Service Division ("LSD"), in response to Members' request made at the last HC meeting, on issues concerning LegCo's power to summon witnesses (LC Paper No. LS13/12-13), Ms Emily LAU hoped that Members would be briefed on the paper after a vote had been taken on Mr LEE Cheuk-yan's proposal.

52. The Chairman said that should the proposed resolution concerning the appointment of the proposed select committee be passed at the Council meeting of 19 December 2012, the select committee would discuss how the inquiry should be conducted, including the need to summon any witnesses. He considered it more appropriate for the relevant committee to discuss the paper prepared by LSD at that stage.

53. Mr Ronny TONG said that matters involving important points of law should only be discussed against specific factual background. He considered it more appropriate for Members to discuss the issues raised in LSD's paper in detail when the need for LegCo to summon CE arose in future.

54. Ms Emily LAU was concerned that the conduct of the inquiry concerned would be delayed if the issues raised in LSD's paper were discussed only when LegCo found it necessary to summon CE.

55. The Chairman put to vote Mr LEE Cheuk-yan's proposal for appointing a select committee which was to inquire into the UBWs at CE's properties at Peel Rise, The Peak, and to be authorized to exercise the powers under section 9(1) of the P&P Ordinance when conducting the inquiry. Mr LEE Cheuk-yan requested a division.

56. The Chairman informed Members that an enhancement had been made to the Electronic Voting System in response to Members' suggestion. After the voting procedure had been completed, the seating plan showing individual Members' voting intention would be displayed not only on the plasma screens in Conference Room 1, but also on the Information Display System on Members' desks, which would facilitate Members to verify their votes.

The following Members voted in favour of the proposal:

Mr Albert HO, Mr LEE Cheuk-yan, Mr James TO, Mr LEUNG Yiu-chung, Ms Emily LAU, Mr Frederick FUNG, Dr Joseph LEE, Mr Ronny TONG, Ms Cyd HO, Mr CHEUNG Kwok-che, Mr Alan LEONG, Mr LEUNG Kwok-hung, Mr WU Chi-wai, Mr Gary FAN, Mr Charles MOK, Dr Kenneth CHAN, Mr Kenneth LEUNG, Dr KWOK Ka-ki, Mr

Action

Dennis KWOK, Dr Fernando CHEUNG, Mr SIN Chung-kai, Dr Helena WONG and Mr IP Kin-yuen.

(23 Members)

The following Members voted against the proposal:

Mr CHAN Kam-lam, Dr LAU Wong-fat, Mr TAM Yiu-chung, Mr Tommy CHEUNG, Mr Vincent FANG, Mr WONG Kwok-hing, Mr Jeffrey LAM, Mr WONG Ting-kwong, Ms Starry LEE, Mr CHAN Kin-por, Mr WONG Kwok-kin, Mr IP Kwok-him, Mr Michael TIEN, Mr James TIEN, Mr NG Leung-sing, Mr Steven HO, Mr Frankie YICK, Mr YIU Si-wing, Mr MA Fung-kwok, Mr CHAN Han-pan, Miss CHAN Yuen-han, Mr LEUNG Che-cheung, Miss Alice MAK, Mr KWOK Wai-keung, Mr Christopher CHEUNG, Dr Elizabeth QUAT, Mr Martin LIAO, Mr POON Siu-ping, Mr TANG Ka-piu, Dr CHIANG Lai-wan, Mr Dr LO Wai-kwok, Mr Christopher CHUNG and Mr Tony TSE.

(33 Members)

57. The Chairman declared that 23 Members voted for the proposal, 33 Members voted against it and no Member abstained. The Chairman declared that Mr LEE Cheuk-yan's proposal was negated.

VII. Any other business

58. There being no other business, the meeting ended at 3:32 pm.