

立法會
Legislative Council

LC Paper No. CB (2)373/12-13
(These minutes have been seen by
the Administration)

Ref : CB2/SS/1/12

**Subcommittee on
Public Health and Municipal Services Ordinance (Public Pleasure
Grounds) (Amendment of Fourth Schedule) (No.2) Order 2012**

**Minutes of meeting
held on Wednesday, 24 October 2012, at 8:30 am
in Conference Room 2A of the Legislative Council Complex**

Members present : Hon Cyd HO Sau-lan (Chairman)
Hon James TO Kun-sun
Hon Alan LEONG Kah-kit, SC
Hon WU Chi-wai, MH
Hon SIN Chung-kai, SBS, JP
Hon Christopher CHUNG Shu-kun, BBS, MH, JP

Public Officers attending : Item II
Home Affairs Bureau
Ms Elizabeth TAI
Principal Assistant Secretary for Home Affairs (West
Kowloon Cultural District)
Leisure and Cultural Services Department
Miss Margrit LI
Assistant Director (Leisure Services) 1
Mr Richard WONG
Chief Leisure Manager (Hong Kong West)

West Kowloon Cultural District Authority

Mr Michael Lynch
Chief Executive Officer

Dr CHAN Man-wai
Executive Director, Project Delivery

Ms Bonny WONG
Director, Chief Executive Officer's Office

Clerk in attendance : Ms Alice LEUNG
Chief Council Secretary (2) 2

Staff in attendance : Miss Winnie LO
Assistant Legal Adviser 7

Miss Jasmine TAM
Council Secretary (2) 2

Miss Emma CHEUNG
Legislative Assistant (2) 2

Action

I. Election of Chairman

Ms Cyd HO, the Member who had the highest precedence in the Council among those who were present at the meeting, presided over the election of the Chairman.

2. Ms Cyd HO invited nominations for the chairmanship of the Subcommittee. Ms Cyd HO was nominated by Mr WU Chi-wai and the nomination was seconded by Mr Christopher CHUNG. Ms HO accepted the nomination. As there was no other nomination, Ms Cyd HO was elected Chairman of the Subcommittee. Members agreed that election of a deputy chairman was not necessary.

Action

II. Meeting with the Administration

[File Ref: L/M(1) in LCS 19/HQ 813/00(18), L.N. 109 of 2012, LC Paper Nos. LS88/11-12, CB(2)69/12-13(02) & (03)]

3. The Subcommittee deliberated (index of proceedings attached at **Annex**).
4. Mr SIN Chung-kai declared that he was a member of the Board of the West Kowloon Cultural District Authority ("WKCDA").
5. At the request of members, WKCDA provided a copy of the West Kowloon Waterfront Promenade Regulations ("WKWPR"), a set of temporary rules prepared by WKCDA, for the management of the West Kowloon Waterfront Promenade ("Promenade") at the meeting.

(Post-meeting note: A copy of WKWPR provided by WKCDA and tabled at the meeting was issued to members vide LC Paper No. CB(2)84/12-13(01) on 24 October 2012.)

Follow-up actions required of the Administration/WKCDA

Admin
/WKCDA

6. The Administration/WKCDA was requested to provide/respond in writing to the following -
 - (a) a map showing the boundary of the Promenade in the current site of the West Kowloon Cultural District ("WKCD") and a layout plan indicating the location of the Promenade and the distribution of other venues/facilities to be built in WKCD;
 - (b) in respect of paragraph 6 of the Administration's paper (LC Paper No. CB(2)69/12-13(02)), a copy of the relevant minutes of meeting(s) of the Yau Tsim Mong District Council;
 - (c) a comparison of the provisions of the Pleasure Grounds Regulation (Cap. 132BC) governing the use of public pleasure grounds by members of the public with those set out in WKWPR prepared by WKCDA for the management of the Promenade (in a tabular form);
 - (d) information on WKCDA's arrangements (including manpower arrangements) in place to take over the Promenade from the Leisure and Cultural Services Department ("LCSD");

Action

- (e) explanations as to why WKCDA was not able to make a set of regulations concerning the use of the Promenade in accordance with section 37(1) of the West Kowloon Cultural District Authority Ordinance (Cap. 601) ("WKCDA Ordinance") before taking over the Promenade from LCSD; and
- (f) justifications for introducing an interim administrative arrangement for WKCDA to manage the Promenade with a set of temporary rules with no legal basis and the expected timing of submission of the bylaws to be made by WKCDA for the management of the Promenade to the Legislative Council for approval.

(Post-meeting note: The English and Chinese versions of the requisite information provided by the Administration/WKCDA were issued to members vide LC Paper No. CB(2)106/12-13(01) on 26 and 29 October 2012 respectively.)

Verbal report to the House Committee ("HC")

7. Mr James TO expressed a strong view that the Administration should not hastily gazette the Public Health and Municipal Services Ordinance (Public Pleasure Grounds) (Amendment of Fourth Schedule) (No.2) Order 2012 ("the Order") to the effect that the Promenade ceased to be set aside as a public pleasure ground before WKCDA had made its set of bylaws governing the use of the Promenade under section 37(1) of the WKCDA Ordinance. In view of the various concerns raised by members at the meeting, he suggested that the Subcommittee should consider whether there was a need to move a motion to repeal the Order.

8. Members noted that a resolution moved by the Chairman of HC was passed at the Council meeting on 17 October 2012 to extend the scrutiny period of the Order to 7 November 2012, and the deadline for giving notice of motion to amend the Order was 31 October 2012. Members agreed that subject to the responses from the Administration and WKCDA to members' concerns raised at the meeting, the Subcommittee would decide whether or not there was a need to move a motion to repeal the Order at the next meeting. Members further agreed that the Chairman would give a verbal report on the deliberations of the Subcommittee to HC on 26 October 2012.

Action

III. Any other business

Date of next meeting

9. Members agreed that the next meeting would be held on 29 October 2012 at 11:00 am to continue discussion with the Administration and WKCDA.

10. There being no other business, the meeting ended at 10:00 am.

Council Business Division 2
Legislative Council Secretariat
17 December 2012

**Proceedings of meeting of
Subcommittee on Public Health and Municipal Services Ordinance
(Public Pleasure Grounds) (Amendment of Fourth Schedule) (No.2) Order 2012
held on Wednesday, 24 October 2012, at 8:30 am
in Conference Room 2A of the Legislative Council Complex**

Time marker	Speaker	Subject(s)	Action Required
000252 - 000433	Ms Cyd HO Mr WU Chi-wai Mr Christopher CHUNG	Election of Chairman	
000434 - 000901	Chairman Admin	The Administration's briefing on its paper (LC Paper No. CB(2)69/12-13(02)).	
000902 - 000922	Chairman Mr SIN Chung-kai	Declaration by Mr SIN as a member of the Board of the West Kowloon Cultural District Authority ("WKCD").	
000923 - 001047	Chairman Mr Christopher CHUNG	The Administration/WKCD was requested to provide the following information - (a) a map showing the boundary of the West Kowloon Waterfront Promenade ("the Promenade") in the current site of the West Kowloon Cultural District ("WKCD") and a layout plan indicating the location of the Promenade and the distribution of other venues/facilities to be built in WKCD; and (b) a copy of the relevant minutes of meeting(s) of the Yau Tsim Mong District Council as referred to in paragraph 6 of the Administration's paper.	Admin/WKCD to provide the requested information (para. 6(a) and (b) of the minutes refers)
001048 - 002254	Chairman Mr James TO Admin WKCD	The Chairman and Mr TO raised concerns that the Promenade was no longer subject to statutory regulation upon cessation to be set aside as a public pleasure ground and that WKCD had yet to make a set of bylaws in accordance with section 37 of the West Kowloon Cultural District Authority Ordinance (Cap. 601) ("WKCD Ordinance") for the management of the Promenade. The Administration explained that as WKCD would soon proceed with the future park design which would have an impact on the rules for managing the future park in the long run, WKCD planned to draw up the relevant bylaws in accordance with section 37 of the WKCD Ordinance from a more holistic perspective during the park design process. As an interim arrangement, the Promenade would be managed by WKCD through a set of temporary and administrative	

Time marker	Speaker	Subject(s)	Action Required
		<p>house rules, which were drafted on the basis of the legal framework of the Pleasure Grounds Regulation (Cap. 132BC) ("PGR") and had been suitably modified and relaxed with a view to providing a more welcoming environment for the public.</p> <p>WKCDA stressed that it was WKCDA's long-term aspiration to manage WKCD as a place for everyone. The Joint Subcommittee to Monitor the Implementation of the West Kowloon Cultural District Project formed under the Fourth Legislative Council ("LegCo") had been briefed on the temporary uses at the WKCD site before commencement of active construction of permanent development in the site. WKCDA would continue to facilitate public enjoyment of the Promenade where practicable while ensuring that the public events to be held in the site would be organized in a safe and effective manner.</p> <p>The Administration/WKCDA was requested to provide a comparison table showing the differences between the house rules adopted by WKCDA for managing the Promenade and the relevant provisions of PGR.</p>	<p>Admin/WKCDA to provide the requested information (para. 6(c) of the minutes refers)</p>
002255 - 002812	Chairman Mr WU Chi-wai Admin	<p>Mr WU suggested that consideration could be given to adopting the mode of management of Nan Lian Garden, a designated public pleasure ground governed by PGR.</p> <p>The Administration responded that the management of the Promenade by WKCDA with a set of house rules was intended to be a temporary measure pending the closure of the Promenade for the relevant works of the future park. It was WKCDA's belief that the experience gained from managing the Promenade with the house rules would propitiously inform the formulation of the relevant by-laws for its management of the WKCD site.</p>	
002813 - 003911	Chairman Mr Alan LEONG Admin WKCDA	<p>In response to Mr LEONG's enquiry, the Administration advised that although the Promenade ceased to be subject to the regulation of PGR upon the gazettal of the Public Health and Municipal Services Ordinance (Public Pleasure Grounds) (Amendment of Fourth Schedule) (No.2) Order 2012 ("the Order") on 6 July 2012, the Promenade was still under the general management of the Leisure and Cultural</p>	

Time marker	Speaker	Subject(s)	Action Required
		<p>Services Department ("LCSD") before it was handed over to WKCDA for use and management on 3 October 2012 following the commencement of the relevant short-term tenancy entered into between WKCDA and the Lands Department.</p> <p>Mr LEONG raised query about why the Administration had to hastily gazette the Order to the effect that the Promenade ceased to be set aside as a public pleasure ground, and concern that the Order might create a "legal vacuum" in respect of the management of the Promenade.</p> <p>WKCDA responded that the handover of the Promenade to WKCDA was a transition from split management of the relevant parts of the WKCD site to consolidated management of the area concerned by WKCDA to facilitate the organization of interim activities for the public. WKCDA intended to draw up a simple set of house rules for the Promenade to guide the transition of its management from LCSD to WKCDA.</p>	
003912 - 005011	Chairman Mr SIN Chung-kai WKCDA Mr James TO	<p>WKCDA's response to members' concerns about whether WKCDA had the required experience and expertise to ensure the effective management of the Promenade.</p> <p>The Administration/WKCDA was requested to provide information on WKCDA's arrangements (including manpower arrangements) in place to take over the Promenade from LCSD.</p>	Admin/WKCDA to provide the requested information (para. 6(d) of the minutes refers)
005012 - 010045	Chairman Mr Christopher CHUNG Admin WKCDA	The Administration's and WKCDA's response to the concern and query raised by Mr CHUNG about WKCDA's capacity to take over the management of the Promenade from LCSD and whether it was a proper arrangement to hand over the Promenade to WKCDA.	
010046 - 010651	Chairman Mr James TO	<p>Mr TO reiterated his concern about the situation that the Promenade was no longer subject to statutory regulation and was currently managed by WKCDA with a set of temporary house rules without any legal basis. He requested the Administration/WKCDA to explain why WKCDA was not able to draw up a set of bylaws concerning the use of the Promenade in accordance with section 37 of WKCDA Ordinance before taking over the Promenade from LCSD.</p> <p>Mr TO made comments on specific</p>	Admin/WKCDA to provide a written response (para. 6(e) of the minutes refers)

Time marker	Speaker	Subject(s)	Action Required
		regulations (e.g. item 1 on "Private Land" and item 19 on "Manager to demand persons to leave the Promenade") in the West Kowloon Waterfront Promenade Regulations.	
010652 - 012609	Chairman Mr James TO Mr Alan LEONG Clerk Admin Mr WU Chi-wai	<p>Mr TO suggested that in view of the various concerns raised by members, the Subcommittee should consider whether there was a need to repeal the Order.</p> <p>Members deliberated and agreed to hold a further meeting to consider the responses from the Administration and WKCDA to members' concerns and requests before making such a decision.</p> <p>In response to members' concerns, the Administration advised that given the short time span before the closure of the Promenade in phases from early 2013 for advance works, it was considered more practical for WKCDA to manage the Promenade by a set of temporary house rules. WKCDA planned to draw up the relevant bylaws in accordance with section 37 of the WKCDA Ordinance from a more holistic perspective during the park design process. Members were assured that any such bylaws would be subject to the approval of LegCo and Members would be consulted in early course.</p> <p>The Administration/WKCDA was requested to provide justifications for introducing an interim administrative arrangement for WKCDA to manage the Promenade with a set of temporary rules with no legal basis and the expected timing of submission of the bylaws to be made by WKCDA for the management of the Promenade to LegCo for approval.</p>	<p>Admin/WKCDA to provide a written response (para. 6(f) of the minutes refers)</p>
012610 - 013059	Chairman Mr James TO Mr Alan LEONG Mr WU Chi-wai Mr SIN Chung-kai	Date of next meeting	