

立法會
Legislative Council

LC Paper No. CB(2)770/16-17
(These minutes have been
seen by the Administration)

Ref : CB2/BC/1/16

Bills Committee on Private Columbaria Bill

Minutes of the first meeting
held on Friday, 9 December 2016, from 8:45 am to 10:30 am
in Conference Room 3 of the Legislative Council Complex

Members present : Hon CHAN Hak-kan, BBS, JP (Chairman)
Hon Tanya CHAN (Deputy Chairman)
Hon LEUNG Yiu-chung
Hon Tommy CHEUNG Yu-yan, GBS, JP
Hon WONG Ting-kwong, SBS, JP
Hon Starry LEE Wai-king, SBS, JP
Dr Hon Priscilla LEUNG Mei-fun, SBS, JP
Hon Paul TSE Wai-chun, JP
Hon LEUNG Kwok-hung
Hon Steven HO Chun-yin, BBS
Hon MA Fung-kwok, SBS, JP
Hon CHAN Chi-chuen
Hon LEUNG Che-cheung, BBS, MH, JP
Dr Hon KWOK Ka-ki
Dr Hon Fernando CHEUNG Chiu-hung
Dr Hon Helena WONG Pik-wan
Dr Hon Elizabeth QUAT, JP
Hon Martin LIAO Cheung-kong, SBS, JP
Hon POON Siu-ping, BBS, MH
Ir Dr Hon LO Wai-kwok, SBS, MH, JP
Hon CHU Hoi-dick
Hon Jimmy NG Wing-ka, JP
Dr Hon Junius HO Kwan-yiu, JP
Hon HO Kai-ming
Hon Holden CHOW Ho-ding
Hon SHIU Ka-chun

Hon Wilson OR Chong-shing, MH
Hon YUNG Hoi-yan
Hon CHEUNG Kwok-kwan, JP
Hon LUK Chung-hung
Hon LAU Kwok-fan, MH
Hon Nathan LAW Kwun-chung
Dr Hon LAU Siu-lai

**Members
absent** : Hon Alice MAK Mei-kuen, BBS, JP

**Members
attending** : Hon CHAN Han-pan, JP

Public Officers : Item II
attending

Mr Daniel CHENG, JP
Deputy Secretary for Food and Health (Food) 1
Food and Health Bureau

Miss Diane WONG
Principal Assistant Secretary for Food and Health
(Food) 2
Food and Health Bureau

Mr Peter SZE
Senior Government Counsel
Department of Justice

Miss Cindy CHEUK
Senior Government Counsel
Department of Justice

Mr CHIU Yu-chow
Assistant Director (Grade Management and
Development)
Food and Environmental Hygiene Department

Mr Thomas LEUNG
Assistant Director/ New Buildings 1

Buildings Department

Ms Doris CHOW
Assistant Director (Estate Management) (Lands
Administration Office/ Headquarters)
Lands Department

Ms Christine TSE
Assistant Director of Planning /Special Duties
Planning Department

**Clerk in
attendance** : Mr Colin CHUI
Chief Council Secretary (2) 4

**Staff in
attendance** : Ms Wendy KAN
Assistant Legal Adviser 6

Ms Catherina YU
Senior Council Secretary (2) 4

Miss Kay CHU
Council Secretary (2) 4

Miss Alison HUI
Legislative Assistant (2) 4

Miss Meisy KWOK
Legislative Assistant (2) 6

Miss LEE Wai-yan
Clerical Assistant (2) 4

Miss Natalie WU
Clerical Assistant (2) 6

I. Election of Chairman and Deputy Chairman

Election of Chairman

Mr LEUNG Yiu-chung, member who had the highest precedence in Council among members of the Bills Committee present, presided over the election of the Chairman. He invited nominations for the chairmanship of the Bills Committee.

2. Mr CHAN Hak-kan was nominated by Dr Priscilla LEUNG and the nomination was seconded by Mr Tommy CHEUNG. Mr CHAN Hak-kan accepted the nomination.

3. Ms Tanya CHAN was nominated by Mr Nathan LAW and the nomination was seconded by Mr CHAN Chi-chuen. Ms Tanya CHAN accepted the nomination.

4. The Bills Committee proceeded with the election. Eighteen members voted for Mr CHAN Hak-kan and four members voted for Ms Tanya CHAN. Mr LEUNG Yiu-chung declared Mr CHAN Hak-kan elected as the Chairman of the Bills Committee. Mr CHAN Hak-kan then took the chair.

Election of Deputy Chairman

5. The Chairman called for nominations for the deputy chairmanship of the Bills Committee. Ms Tanya CHAN was nominated by Mr Nathan LAW. The nomination was seconded by Mr Tommy CHEUNG. Ms Tanya CHAN accepted the nomination. There being no other nomination, Ms Tanya CHAN was elected the Deputy Chairman of the Bills Committee.

II. Application for late membership

6. In response to the Chairman's invitation of views, members accepted the application for late membership by Mr SHIU Ka-chun vide his letter dated 8 December 2016 (LC Paper No. CB(2)383/16-17(01)).

III. Meeting with the Administration

[File Ref.: FH CR 2/3751/07; LC Paper Nos. CB(3)113/16-17, LS10/16-17, CB(2)345/16-17(01) to (05), CB(2)382/16-17(01) and CB(2)384/16-17(01)]

7. The Bills Committee deliberated (index of proceedings attached at **Annex**).

8. The Bills Committee requested the Administration to provide a summary of key concerns/views of the Bills Committee formed in the Fifth Legislative Council and of the public on the former Private Columbaria Bill ("the former Bill") as well as the Administration's response to these concerns/views. The summary should also include Committee stage amendments proposed to the former Bill which had been incorporated into the current Private Columbaria Bill ("the Bill").

(Post-meeting note: The Administration's response was issued to members vide LC Paper No. CB(2)449/16-17(01) on 19 December 2016.)

IV. Date of next meeting

9. Members noted that the next meeting would be held on Tuesday, 20 December 2016 at 4:30 p.m.

V. Any other business

10. There being no other business, the meeting ended at 10:32 am.

Council Business Division 2
Legislative Council Secretariat
7 February 2017

**Proceedings of the first meeting of the
Bills Committee on Private Columbaria Bill
on Friday, 9 December 2016, from 8:45 am to 10:30 am
in Conference Room 3 of the Legislative Council Complex**

Time marker	Speaker(s)	Subject(s)	Action required
<i>Agenda item I – Election of Chairman and Deputy Chairman</i>			
000126-000925	Mr LEUNG Yiu-chung Dr Priscilla LEUNG Mr Tommy CHEUNG Mr CHAN Hak-kan Mr Nathan LAW Ms Tanya CHAN Mr CHAN Chi-chuen Dr Junius HO Clerk	Nominations for the chairmanship of the Bills Committee. Election of Chairman	
000926-001033	Chairman Mr LEUNG Che-cheung Mr Paul TSE Mr Nathan LAW Mr Tommy CHEUNG Ms Tanya CHAN	Election of Deputy Chairman	
001034-001054	Chairman	Late application for membership (LC Paper No. CB(2)383/16-17(01)) The Bills Committee accepted Mr SHIU Ka-chun's application for late membership.	
<i>Agenda item II – Meeting with the Administration</i>			
001055-005804	Chairman Administration	A powerpoint presentation by the Administration on a general introduction of the Private Columbaria Bill ("the Bill"). The presentation materials (LC Paper No. CB(2)384/16-17(01)) were tabled at the meeting.	
005805-005810	Chairman	Members noted that a submission from the Hong Kong Columbarium Merchants Association Limited (LC Paper No. CB(2)382/16-17(01)) was tabled at the meeting.	
005811-010659	Chairman Deputy Chairman Administration	The Deputy Chairman's enquiries and the Administration's responses regarding: (a) collection of information on niches (including the number of and photos on sold and occupied niches, sold but not yet occupied niches, and niches available for sale) through the administrative Notification Scheme ("the Notification Scheme") and the	

Time marker	Speaker(s)	Subject(s)	Action required
		<p>accuracy of the information collected;</p> <p>(b) how agreements for sale of interment rights ("the agreements") could safeguard consumers' interests;</p> <p>(c) whether payments for the purchase of interment rights could be stakeheld by solicitors appointed by purchasers so as to protect purchasers in the event that the agreements were not honoured by sellers; and</p> <p>(d) definition of "domestic premises" in the context of domestic keeping of ashes.</p> <p>The Administration's further advice that Part 2 of Schedule 4 set out essential terms to be included in the agreements and clause 7 stipulated the definition of "domestic premises".</p> <p>The Deputy Chairman's view that:</p> <p>(a) private columbaria run by operators who were uncooperative in providing information of niches under the Notification Scheme were likely non-compliant columbaria; and</p> <p>(b) the Administration should consider making the requirement for stakeholding payments for the purchase of interment rights a term in the agreements.</p>	
010700-011251	Chairman Dr Junius HO Administration	Dr Junius HO's enquiry and the Administration's response regarding handling of claims for the return of ashes by authorized representatives, relatives of the deceased and the same-sex partner who was married to the deceased at a place outside Hong Kong ("same-sex partner").	
011252-011837	Chairman Mr LEUNG Yiu-chung Administration	<p>Mr LEUNG Yiu-chung's suggestion of inviting deputations to attend a meeting of the Bills Committee to give views on the Bill as well as on the inclusion of the same-sex partner of the deceased in the definition of "relative" in relation to a deceased person.</p> <p>Mr LEUNG's enquiry and the Administration's response regarding whether the Administration would consider disposing of the ashes interred in newly-built public niches which had not been attended to by descendants for many years so as to free up some public niches, thereby increasing the supply of public niches.</p>	

Time marker	Speaker(s)	Subject(s)	Action required
		<p>Enquiries of the Chairman and Mr LEUNG Yiu-chung about whether there was a projection of the number of the existing public niches and whether a mechanism was in place to vacate the aforesaid public niches. The Administration's response that there was no validity period for the interment of ashes in existing public niches hitherto.</p>	
011838-012254	<p>Chairman Mr LAU Kwok-fan Administration</p>	<p>Mr LAU Kwok-fan's enquiry and the Administration's response regarding whether the burial sector such as stonemasons which kept ashes temporarily would be allowed under the Bill to keep ashes in their premises. The Administration advised that if such stonemasons also held an undertaker's licence, the Bill did not apply to keeping of ashes in licensed premises of licensed undertakers of burials. Undertakers of burials were regulated under the Undertakers of Burials Regulations (Cap. 132 sub. leg. CB). If such stonemasons did not have an undertaker's licence, the Administration's explanation of the administrative arrangements to facilitate the return ashes after cremation to descendant through the Cemeteries and Crematoria offices of the Food and Environmental Hygiene Department.</p> <p>In response to Mr LAU's enquiry, the Administration advised that it had met with representatives of the burial trade after the lapse of the consideration of the former Bill upon the prorogation of the Fifth Legislative Council ("LegCo") in July 2016 and would continue to communicate with them with a view to addressing their concerns.</p>	
012255-013102	<p>Chairman Ir Dr LO Wai-kwok Administration</p>	<p>Ir Dr LO Wai-kwok's request for the Administration to provide a summary of key concerns/views of the Bills Committee formed in the Fifth LegCo ("the former Bills Committee") and of the public on the former Bill as well as the Administration's response to these concerns/views to facilitate the scrutiny of the Bill.</p> <p>Members noted that the Administration had provided papers regarding the former Bill and the Bill (LC Paper No. CB(2)345/16-17(05)).</p> <p>The Chairman's view that the Committee stage amendments ("CSAs") proposed to the former Bill which had been incorporated into the current Bill should also be included in the summary.</p>	

Time marker	Speaker(s)	Subject(s)	Action required
		<p>Mr CHAN Chi-chuen's expression of support for the provision of the aforesaid summary by the Administration. The Administration undertook to provide the required information.</p> <p><i>(Post-meeting note:</i> The Administration's paper entitled "Key issues of Concerns discussed at the Bills Committee formed under the Fifth LegCo with Committee Stage Amendments ("CSAs") incorporated into the re-introduced Bill (this Bill)" was issued to members vide LC paper No. CB(2)449/16-17(01) on 19 December 2016.)</p> <p>In response to Ir Dr LO's enquiry, the Administration advised that if a pre-cut-off columbarium operator applying for an exemption or a licence did not hold the columbarium premises directly from the Government under a lease, they were required to prove to the satisfaction of the future Private Columbaria Licensing Board that they had the right to continue to use the columbarium premises for at least five years beginning on the date on which the exemption or licence, if issued, was to take effect.</p>	Admin (paragraph 8 of the minutes)
013103-013533	Chairman Mr CHAN Chi-chuen Administration	<p>Mr CHAN Chi-chuen's view that sexual minorities concern groups should be provided with an opportunity to express views on claiming for the return of ashes by the same-sex partner of the deceased. The Bills Committee should invite deputations to attend a meeting of the Bills Committee to give views on the Bill.</p> <p>Mr CHAN's views that the Bill should facilitate descendants/relatives of the deceased persons to claim for the return of ashes when non-compliant private columbaria ceased operation. The Administration's response to Mr CHAN's enquiry about whether the Administration had re-examined and would re-consider the suggestion of including the same-sex partner of the deceased in the definition of "relative".</p> <p>Mr CHAN called on the Administration to consider including the same-sex partner of the deceased in the definition of "relative".</p>	
013534-014011	Chairman Mr Holden CHOW Administration	Mr Holden CHOW's view that the inclusion of the same-sex partner of the deceased in the definition of "relative" should be handled carefully as such an inclusion might, in a way, become a legal recognition of same-sex marriages which would have a great impact on traditional family values and the existing	

Time marker	Speaker(s)	Subject(s)	Action required
		<p>marriage system. Given that the same-sex partner of the deceased could claim for the return of ashes in the capacity of an authorized representative, he considered the proposed inclusion unnecessary.</p> <p>The Administration's response to Mr CHOW's enquiries about whether the Bill also covered leasing of niches, the protection for purchasers in the event that the agreements were not enforceable and how these purchasers could recover the amount paid under the agreements. The Administration advised that Division 1 of Part 5 of the Bill stipulated the payment recovery arrangements for a purchaser if an unenforceable agreement was cancelled.</p>	
014012-014208	Chairman Administration	<p>The Administration's briefing on its proposed work plan (LC Paper No. CB(2)345/16-17(03)).</p> <p>The Chairman drew members' attention to the Administration's proposed time frame for scrutiny of the Bill, submission of the Bills Committee report to the House Committee and resumption of the Second Reading debate on the Bill.</p>	
014209-014535	Chairman Dr Priscilla LEUNG Mr Holden CHOW Mr CHAN Chi-chuen	<p>Invitation of views on the arrangement for receiving public views on the Bill by the Chairman.</p> <p>Dr Priscilla LEUNG and Mr Holden CHOW considered it unnecessary to invite deputations to attend a meeting of the Bill Committee. Dr LEUNG's view that members might meet with individual deputations at their request.</p> <p>Mr CHAN Chi-chuen's view that members of the public should be invited to make oral representations to the Bills Committee.</p> <p>The Chairman's suggestion of inviting members of the public to make written submissions to the Bills Committee on the Bill instead.</p> <p><i>(Extension of the meeting for five minutes beyond the appointed ending time by the Chairman.)</i></p>	
014536- 014720	Chairman Mr LEUNG Yiu-chung Mr LEUNG Kwok-hung Dr Helena WONG	Views of Mr LEUNG Yiu-chung, Mr LEUNG Kwok-hung and Dr Helena WONG that members should listen to public views on the Bill.	
014721-014944	Chairman Mr LEUNG Che-cheung	In response to Mr LEUNG Che-cheung's enquiry, the Administration advised that it had maintained	

Time marker	Speaker(s)	Subject(s)	Action required
	Mr LEUNG Yiu-chung Administration	<p>contact with the sector and would approach individual deputations if necessary.</p> <p>Mr LEUNG Che-cheung's suggestion that members could meet with representatives of the Hong Kong Columbarium Merchants Association Limited.</p> <p>The Chairman's advice that members of the public would be invited to make written submissions to the Bills Committee on the Bill and whether to invite deputations to attend a meeting of the Bills Committee should be further discussed at the next meeting.</p> <p>Mr LEUNG Yiu-chung's suggestion that members of the public should also be asked whether they wished to make oral representations to the Bills Committee on the Bill.</p>	
014945-015024	Chairman	Date of next meeting	