

1. The meeting was scheduled to start at 10 a.m. but was resumed at 10:40 a.m. on 2.12.2011.

2. The following Members and the Secretary were present in the meeting:

Mr. Thomas Chow

Chairman

Mr. Stanley Y.F. Wong

Vice-chairman

Mr. Y.K. Cheng

Mr. Felix W. Fong

Professor P.P. Ho

Professor Eddie C.M. Hui

Ms. Anna S.Y. Kwong

Dr. C.P. Lau

Mr. Clarence W.C. Leung

Mr. Roger K.H. Luk

Professor S.C. Wong

Director of Lands

Miss Annie Tam

Director of Planning

Mr. Jimmy Leung

Agenda Item 2

[Open Meeting (Presentation and Question Session only)]

Consideration of Representations and Comments to the
Draft Tseung Kwan O Outline Zoning Plan No. S/TKO/18
Group 2: R1(part) to R2467, R2468(part) to R2479, C1(part) to C66,
C67(part) to C163, C164(part) to C166 and C167(part) to C205
(TPB Paper No. 8939)

[The hearing was conducted in Cantonese.]

Presentation and Question Session

3. Members noted that it was already 40 minutes past the scheduled meeting commencement time at 10 a.m. but no representer/commenter had turned up to the meeting. Members agreed that the presentation and question session of the meeting had to be adjourned.

Deliberation

4. The Chairman suggested and Members agreed to have a discussion on the latest situation on the hearing proceeding of the Tseung Kwan O (TKO) Outline Zoning Plan (OZP) No. S/TKO/18. He said that the hearing procedures had been abused by the majority of the attendees as revealed by the filibuster strategy deployed in the previous meetings held on 30.11.2011 and 1.12.2011. Members agreed with his observation. A number of attendees kept repeating the same points in their presentations while a few representatives, also being the representatives and proxies of one another, had made presentations a number of times at the hearing. This had caused interruptions and undue delay to the progress of the hearing. The Chairman said that even though he had repeatedly reminded the representatives/commenters that they should not repeat the same points that had already been put forth by others, the situation had remained unchanged. As Members generally considered that they had under the present circumstances heard enough of the representations relating to the South East New Territories Landfill Extension (SENTLFX) amendment, the Secretary had consulted the Department of Justice (DoJ) and the Board unanimously agreed on the evening of 1.12.2011 to introduce in particular for

this hearing to counter the clear abuse of the statutory procedures a set of rules to allow each representer/commenter generally a maximum of 10 minutes for making presentation and only representer/commenter who had not yet presented would be allowed to make his/her presentation. He noted that the representatives who had made their presentations at the latter part of the meeting held on 1.12.2011 were generally able to complete their presentations within 10 minutes.

5. Regarding the resumption of the meeting, the Chairman said that as the hearing was not yet finished on 1.12.2011, he announced that the meeting would be resumed at 10 a.m. on 2.12.2011 as agreed by the Board. The meeting was then adjourned. However, some attendees refused to leave the conference room after the adjournment and said that they were not able to attend the meeting on 2.12.2011 due to other commitments.

6. The Secretary explained further the discussion with the remaining attendees on 1.12.2011 after the meeting was adjourned. She said that after discussing with Members, she first proposed to the remaining attendees, including two District Councillors, Ms. Fong Kwok Shan and Mr. Chan Kai Wai, the option of holding the hearing for OZP No. S/TKO/19 in the morning of 2.12.2011 and the continuation of the hearing for OZP No. S/TKO/18 in the afternoon of 2.12.2011. However, this proposed arrangement was declined and counter proposals on the meeting dates were raised. The Secretary said that she had explained to them that the meeting on 2.12.2011 was only a continuation of the meeting on 1.12.2011 and advance notification was not required. Ms. Fong did not discuss further and left the meeting at that point. After further discussion with Members, the Secretary informed a few attendees who had not yet left the conference meeting that the meeting could be further resumed at 9 a.m. on 3.12.2011, but they left without agreeing to the suggested meeting dates. The Secretary added that throughout the discussion, she noted that some attendees would like to participate in the Question and Answer (Q & A) session of the hearing.

7. The Secretary further said that DoJ had been consulted on the schedule of the extended hearing session, and DoJ advised that the Board had to act reasonably. She drew Members' attention to the fact that while the Board had a statutory duty to consider the representations/comments/further representations received in respect of the draft TKO OZP and to submit the draft plan together with the representations/comments/further

representations to the Chief Executive in Council (CE in C) for approval within nine months after 13.7.2011, the time to submit the draft plan for approval could be extended for six months subject to CE's approval. In this case, there was still time before the submission deadline. DoJ advised that the Board should bear this in mind in deciding on the way forward for the hearing.

8. The Vice-chairman considered that whether CE would grant the draft TKO OZP an extension of time for its submission to CE in C should not affect the Board's decision in handling the hearing procedures. He said that after spending over 20 hours hearing the presentations made by the representers/commenters in a highly attentive manner, he was concerned whether it was reasonable to continue spending more long hours on hearing the repetitive representations/comments. He considered that enough had been heard from the representers/commenters and hence some rules had to be clearly set out and enforced. Members agreed and said that they had been hearing the same points repeatedly for the last 20 hours and enough had been heard. However, they noted that some representers/commenters were not yet able to make a presentation. The Chairman said that though the time for submitting the draft plan to CE in C for approval could be extended for six months, the extension would only be granted by CE under special circumstances. There was no guarantee that CE would approve the extension of time for submitting the draft TKO OZP and the Board had the duty to ensure that the hearing would be completed in a reasonable manner. Members considered that there had been a serious abuse of the hearing procedures and they all supported the setting up of house rules for the remaining part of the hearing.

Rules for Presentation

9. Noting that the hearing had already been conducted for a long period of time, a Member said that the Board should provide an opportunity for those who had not presented their views to say their piece. Some Members agreed that it was necessary and reasonable for the Board to set a time limit for each representer/commenter to make his/her presentation. A few Members said that it might not be necessary to continue with the presentation by the representers/commenters as a lot of views had been heard and many of those were repetitive. The Chairman said that every representer/commenter had the right to be heard. The Secretary said that it might not be appropriate not to allow presentations

by the representers/commenters who had not presented before as the Board would not know whether there would be new points or arguments in the presentations. In this regard, the Board had to give each representer/commenter who attended the meeting a fair chance to make presentation. Given that over 20 hours had been spent on the presentations, she said that the Board could consider setting a time limit for each representer/commenter. Mr. Jimmy Leung pointed out that it was clearly demonstrated in the hearing during the evening of 1.12.2011 that a few representers were able to finish their presentations within 10 minutes. He agreed to the setting of a time limit. He observed that some representers who had attended the meeting in the last two days did not have the chance to present their views and they should be given an opportunity to do so.

10. A Member noted that a representer had pointed out on the evening of 1.12.2011 that the introduction of the 10-minute rule was unfair to those representers/commenters who had not yet presented. This Member considered that the 10-minute rule was appropriate given that the Board had heard enough and many of the views presented were repetitive. However, to allow chance for new points to be made, each representer/commenter would be given a maximum of 10 minutes for his/her presentation. If the points presented were irrelevant or repetitive, the Chairman should stop the presentation. On the contrary, if the presentation contained relevant substances, the Chairman should exercise his discretion to allow extension of time. Another Member agreed that the 10-minute rule was appropriate and the Chairman could exercise his discretion to allow more time for the presentation. Members agreed that the 10-minute rule should generally apply to the remaining hearing session and should be strictly followed, save for presentations over which the Chairman had full discretion to allow a slight time extension.

11. A Member said that the approach adopted by the District Council meetings could be considered such that the 10-minute rule would apply to the first round of the presentation with a much shorter time for the second and third rounds of the presentation for each representer/commenter. Another Member said that the presentation should be made in one go. Members then discussed the extension of time that could be allowed and finally agreed that the Chairman should be given full discretion to allow extension of time where justified and the maximum time allowed would depend on the circumstances of each case but that should not be too long.

12. A Member suggested setting out a presentation sequence and inviting certain representers to make their presentations first. The Secretary said that since the presentation session of the OZP No. S/TKO/18 had gone on for quite some time, it might not be necessary to devise a particular presentation sequence.

13. A Member suggested that if a representer/commenter simply read out the contents of a book/report, he/she should be requested to make a copy for Members' reference instead of spending time to read out the entire contents. Members agreed.

14. Members also agreed that the house rules which were set down to maintain the order of the hearing should be strictly followed. If any representer/commenter did not comply with the rule, the Chairman would give warnings. After repeated warnings, the Chairman could ask the representer/commenter to leave the conference room. Once excluded, the representer/commenter should not be allowed to return for the remaining part of the hearing.

Rules for the Q & A Session

15. The Chairman invited Members to consider if the 10-minute rule would also be applicable to the Q & A session. The Vice-chairman said that the Q & A session was for Members to ask the government representatives or the representers, commenters and their representatives questions on points which they needed clarification. The questions should be directed by the Chairman to the appropriate party and the answers must be relevant, precise and concise. It would therefore not be appropriate to set a time limit. Another Member agreed.

16. The Vice-chairman said that according to his understanding, many representers/commenters would like to hear the responses from the representatives of the Environmental Protection Department with regard to their concerns. He expected that the Q & A session would bring about a more thorough understanding of the subject matter.

Rules for the Proxy

17. A Member commented that at the hearing held in the last few days, a person holding a proxy from a representer/commenter was allowed to make presentation. As a result, the same person had presented many times at the same hearing using different proxies. The same Member considered that the 10-minute rule should apply to the person holding proxy and if one person held a number of proxies, he/she would have to summarise the representations that he/she represented in a limited period of time. Another Member said that according to the practice of other official meetings, a person holding proxy should not be allowed to make a presentation. The proxy would give the right of such person to vote but not to speak. The Secretary said that the Board's practice in handling proxy was not very well set out. She asked Members to consider the amount of time that should be allowed for a person holding many proxies. According to DoJ's advice, the Board might consider setting a maximum of 30 minutes for a person holding many proxies and if that person was found repeating his/her views, the Board could decide if that person was allowed to continue the presentation. Members agreed to set a maximum period of 30 minutes for a person holding many proxies.

Rules for the Representer's Representatives

18. In response to a question from a Member, the Secretary clarified that according to the Board's practice, a representer might bring along a team of representatives and no limit had been set on the number of representatives allowed to make presentation at the hearing. A Member pointed out that this was one of the reasons why the hearing had been going on for such a long time as one of the representers had brought along a large number of representatives to make presentations in the last two days of the hearing. Members agreed that a rule should be set in dealing with such situation in the future hearings.

[The meeting was adjourned for a short break of 5 minutes.]

Site Visit

19. The Vice-chairman suggested the Board to consider whether a site visit to the SENTLF area should be conducted before deliberation. The Vice-chairman and some other Members indicated that they had visited the TKO area before but considered that it was not appropriate for them to raise their hands at the time when they were asked by Ms. Fong Kwok Shan at the meeting held on 30.11.2011 whether they had been to TKO. The Secretary said that the Board had previously conducted site visits to places including Pak Shui Wun, Lin Ma Hang, Po Lin Monastery and Discovery Bay as part of its annual visit. In *Smart Gain Investment Limited v. Town Planning Board*, and *Smart Gain Investment Limited v. Chief Executive in Council and Town Planning Board* (HCAL 12/2006 and HCAL 12/2007), the Judge had pointed out that the Board had the responsibility to find out the actual situation of a site when the Planning Department and the objector had different views on the site situation. A Member said that for the present case, even though a site visit was conducted, Members' observation at a particular point of time might not be accepted by the representers/commenters as the site situation might be different at different times of the year. The same Member further pointed out that the subject amendment was mainly related to the proposed SENTLFX which, unlike SENTLF, would only allow the disposal of construction waste in future. The problems pointed out by the representers/commenters were related to the existing SENTLF and the Board did not have the authority to stop its operation. The Secretary said that in deciding whether a site visit was required, Members should consider whether there were issues that needed to be verified on site. Another Member said that there was no major dispute between the government departments and the representers/commenters on the matter of malodour and environmental hygiene problems associated with the SENTLF. A few Members considered that it might not be necessary for the Board to conduct a site visit to the SENTLF area at this stage. As suggested by another Member, those Members who considered it necessary to visit the site could always do so himself/herself and the Secretariat of the Board could assist in the transport arrangement, if required. The matter of whether site visit would be necessary before a decision on the representations was made would be further considered after hearing all the representations at the deliberation session.

Others

20. A Member asked whether the Board should consider new information that was only mentioned in the oral presentation but not in the written submission. The Secretary said that whether new information could be accepted was an issue raised in a Judicial Review lodged by the Real Estate Developers Association (REDA) yet to be heard by the Court. According to the statutory plan-making procedures, representations had to be published for comment and if new information was submitted at the hearing, the public would not have the chance to make comment on the new information. However, representers were allowed to elaborate on their representations at the hearing, which might sometimes include new information. It should be noted that representers/commenters received the Town Planning Board Paper one week before the hearing and hence they might want to respond to the points included in the Paper at the hearing. The Chairman added that in some cases, the written representations only covered some general statements and at the hearing, the representers/commenters would elaborate on their submissions by providing more detailed information. The Secretary said that before the Court's ruling was available, the Board had been taking a more lenient approach in deciding whether new information could be accepted.

21. A Member asked if the draft minutes on the previous hearing sessions could be made available to Members to facilitate the deliberation. The Chairman replied that the relevant materials and the video recording of all the meetings would be distributed to Members before the deliberation session.

22. After further deliberation, the Chairman concluded that Members agreed that a site visit by the Board was considered not required. If individual Member considered it necessary, he/she could always do so himself/herself and the Secretariat of the Board could provide transport arrangement, if required. Members also considered that the hearing procedures had been seriously abused by some attendees and they agreed to set a maximum limit of 10 minutes for each representer/commenter's presentation. The Chairman could exercise full discretion to allow an extension of time depending on the circumstances of each case. On the matter of proxy, Members agreed that a person holding one proxy would be allowed 10 minutes for the presentation and a person holding many proxies would be subject to a maximum of 30 minutes for the presentation. Members agreed to

adjourn the meeting at this point as no representer/commenter had arrived to join the meeting. Members noted that since some attendees had been informed that the meeting would be resumed at 9 a.m. on 3.12.2011, it would be prudent for the Board to resume the meeting on 3.12.2011.

23. After discussion, the Chairman concluded that the meeting would be resumed at 9 a.m. on 3.12.2011 and if it could not be finished, it would continue at 9 a.m. on 7.12.2011.

24. The meeting was adjourned at 12:30 p.m. and the meeting would be resumed at 9 a.m. on 3.12.2011.