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the Administration)

LegCo Panel on Food Safety and Environmental Hygiene

Minutes of Meeting
held on Monday, 25 February 2002 at 8:30 am
in Conference Room A of the Legislative Council Building

Members Present : Hon Tommy CHEUNG Yu-yan, JP (Deputy Chairman)
Dr Hon David CHU Yu-lin, JP
Hon James TO Kun-sun
Hon CHEUNG Man-kwong
Hon WONG Yung-kan
Hon Jasper TSANG Yok-sing, JP
Dr Hon YEUNG Sum
Hon CHOY So-yuk
Hon Andrew CHENG Kar-foo
Hon Michael MAK Kwok-fung
Dr Hon LO Wing-lok

Member attending : Hon IP Kwok-him, JP

Members absent : Hon Fred LI Wah-ming, JP (Deputy Chairman)
Hon LEUNG Fu-wah, MH, JP
Hon WONG Sing-chi

Public Officers Attending : Item III
Mrs Stella HUNG
Deputy Secretary for the Environment and Food (A)

Mr David LAU
Principal Assistant Secretary for the Environment and Food (A) 2

Mr W H CHEUK
Deputy Director (Environmental Hygiene)
Food and Environmental Hygiene Department

Mr HUNG Chi-pai
Assistant Director (Operations) 1
Food and Environmental Hygiene Department

Item IV

Mrs Stella HUNG
Deputy Secretary for the Environment and Food (A)

Mr David LAU
Principal Assistant Secretary for the Environment and Food (A) 2

Mr W H CHEUK
Deputy Director (Environmental Hygiene)
Food and Environmental Hygiene Department

Mr HUNG Chi-pai
Assistant Director (Operations) 1
Food and Environmental Hygiene Department

Mr WONG Siu-wing
Senior Superintendent (Licensing)
Food and Environmental Hygiene Department

Item V

Mrs Stella HUNG
Deputy Secretary for the Environment and Food (A)

Mrs Ingrid YEUNG
Principal Assistant Secretary for the Environment and Food (A) 1

Mr M K CHEUNG
Assistant Director of Fisheries Branch
Agriculture, Fisheries and Conservation Department

Mr K D P Wilson
Senior Fisheries Officer (Enforcement)
Fisheries Enforcement and Special Projects Division
Agriculture, Fisheries and Conservation Department

Clerk in Attendance : Mrs Constance LI
Chief Assistant Secretary (2)5

Staff in Attendance : Ms Joanne MAK
Senior Assistant Secretary (2)2

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I. Date of next meeting and items for discussion
(LC Paper Nos. CB(2)1135/01-02(01) and (02))

Mr Tommy CHEUNG, Deputy Chairman, chaired the meeting in the absence of the Chairman.

2. Members agreed to reschedule the next regular meeting from 25 March 2002 to 18 March 2002 (Monday) at 8:30 am, to avoid clashing with the special Finance Committee (FC) meetings which would be held on 25 to 27 March 2002 instead of 18 to 20 March 2002.

3. Members agreed to discuss the following items at the next regular meeting -

- (a) Review on control of disinfection of fish tank water for keeping live seafood;
- (b) Preparation for implementing the fixed penalty system for minor public cleanliness offences; and
- (c) Animal Trading Licence fee review.

4. The Deputy Chairman suggested that the Panel should also discuss at the next meeting the progress of discussion between farm operators and the Administration about the enhanced control measures for the prevention of avian flu, as well as the proposal of setting up an insurance fund for the industry. Mr WONG Yung-kan informed members that the farm operators would hold a meeting with the Administration the following day, and the Administration should be able to provide an information paper for the Panel meeting on 18 March 2002.

5. Deputy Secretary for the Environment and Food (A) (DS(EF)(A)) said that the AFCD was conducting an investigation on the recent outbreak of avian flu in local farms, and the findings would be available in about six weeks' time. In view of members' concerns, she suggested providing an information paper to the Panel on the developments so far.

6. The Deputy Chairman proposed that the Administration should provide an

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Admin information paper on the present position of the Administration's discussion with the industry concerning the enhanced control measures for local farms and transportation of live poultry, as well as the proposal of an insurance fund for the industry. The Deputy Chairman said that the Panel would decide, after receipt of the paper, whether a meeting should be held to follow up the matter. Members agreed.

II. Information paper(s) issued since the last meeting

(LC Paper No. CB(2) 1083/01-02)

7. Members noted the Administration's paper (LC Paper No. CB(2)1083/01-02) providing supplementary information on control of drugs and chemicals for food animals and fish.

III. Arrangement for stallholders affected by the redevelopment of Central Market

(LC Paper Nos. CB(2) 1135(03), (04) and (05))

8. Referring to paragraph 5 of the Administration's paper, Assistant Director (Operations)1 (AD(Ops)1) of the Food and Environmental Hygiene Department (FEHD) briefed members on the revised proposal on arrangement for the Central Market stallholders. He said that the FEHD had sought the agreement of Lands Department to extend the temporary allocation of the Central Market site until 31 December 2002. Following discussions with stallholders in the Central Market, a revised proposal had been drawn up, as follows-

- (a) The ex-gratia payment would be increased from the previously proposed 15 months' rental to 24 months' rental. The payment would range from \$89,000 to \$286,000 with an average of about \$205,000; and
- (b) Stallholders would also be given the right to "restricted auction" of existing vacant stalls at FEHD markets, with upset prices set at 50% of the open market rent. Stallholders could choose to forego their right to "restricted auction" by receiving an extra sum equal to 3 months' rental, ranging from \$11,000 to \$35,000 with an average of about \$25,000.

9. AD(Ops)1 further said that the number of vacant stalls available to the Central Market stallholders at "restricted auction" had been increased from 380 to 470. As the stallholders wanted to continue their business in the same district or on Hong Kong Island, some larger vacant stalls for selling poultry, fish or meat, and some small vacant stalls for selling vegetables or fruit on Hong Kong Island had been reserved for bidding by these stallholders. Additional vacant poultry stalls at Western Wholesale Food Market had also been set aside for selection by the stallholders. Moreover,

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assistants or partners of the stallholders might be considered to take the place of the stallholders in the "restricted auction".

10. AD(Ops)1 said that the Administration had consulted the Food, Environment, Hygiene and Works Committee of the Central and Western District Council (C&WDC) on 24 January 2002. Most of the Central Market stallholders also considered the revised proposal acceptable. AD(Ops)1 appealed to members for their support of the revised proposal so that the Administration could seek the necessary funding approval from the Finance Committee.

Construction of new markets

11. Dr YEUNG Sum said that he generally accepted the revised arrangements which he understood had been agreed to in principle by stallholders in the Central Market. However, he pointed out that Government had originally promised to build a new market at the ex-Police Staff Quarters at Hollywood Road to re-provision the Central Market, but subsequently changed its mind after a review. Dr YEUNG said that he did not agree to the Administration's decision of not providing a new market to re-provision the Central Market on grounds that more consumers now switched to shop at private superstores than in public markets. He commented that the Administration's decision seemed to work to the interest of supermarkets and would consolidate their monopoly. He was of the view that the Administration should continue to provide wet markets to provide more choices for consumers, as the goods sold at markets were often cheaper and of greater variety. He urged the Administration to review its policy on the provision of new markets.

12. DS(EF)(A) responded that the Administration was still examining the policy on the provision of new markets and had not yet taken a decision. She stressed that viability would be the primary consideration in planning public markets. DS(EF)(A) assured members that their views would be taken into account in the review.

13. Dr YEUNG Sum said that the low patronage of some markets could be due to their inconvenient location and inadequate facilities, and that their patronage could be improved by retro-fitting of air-conditioning. He pointed out that public markets on the Hong Kong Island, for example, the Aberdeen Market, were popular because they were air-conditioned. He reiterated that the Administration's policy should aim at enabling healthy competition, instead of facilitating monopoly of supermarkets.

14. DS(EF)(A) stressed that the Administration had never formulated policies to facilitate monopoly of any business sector such as supermarkets. However, she believed that the growing trend of people buying food at supermarkets did have an impact on the business of public markets. She said that the decision of not providing a new market at Hollywood Road was mainly based on assessment of its viability.

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15. Dr LO Wing-lok requested the Administration to explain its policy for the provision of public markets. Given that substantial investment was put into the construction and management of public markets, he asked whether the Administration had a policy of achieving cost recovery in respect of these markets within a specified period. Dr LO also asked whether the Administration was currently subsidising the operation of public markets.

16. DS(EF)(A) responded that the Administration was reviewing the policy for the provision and management of markets which were previously the responsibilities of the former municipal councils. She said that there had not been a new policy for public markets after the abolition of the two provisional municipal councils in January 2000. DS(EF)(A) further said that given the current level of rental charged for public market stalls, it was impossible for the Administration to recover the capital cost and the recurrent expenditure of public markets. Deputy Director (Environmental Hygiene) (DD(EH)) of FEHD supplemented that the Administration was subsidising about \$100 million each year in the operation of public markets.

17. Dr YEUNG Sum stressed that there was a need to provide a public market in the Central District. He requested the Environment and Food Bureau to reflect his view to the Urban Renewal Authority for its consideration when planning redevelopment of the district.

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Resiting arrangements

18. Dr YEUNG Sum asked about the detailed arrangements for the re-siting of pork stalls in the Central Market.

19. AD(Ops)1 replied that 14 pork stallholders had requested to be resited together, and 12 pork stalls in Sheung Wan Market had been reserved for this purpose. As regards the two remaining stalls, the Administration had agreed to reserve, between the present time until the clearance of stallholders from Central Market in the end of 2002, two more pork stalls in Sheung Wan Market when such vacant stalls became available. AD(Ops)1 said that the affected pork stallholders accepted the proposed arrangement.

20. Mr IP Kwok-him said that C&WDC was very concerned about the arrangement for stallholders in the Central Market. He welcomed the pragmatic approach adopted by the Administration in dealing with the case, and he noted that the Administration had listened to the views of the affected stallholders and C&WDC. Mr IP pointed out that it was most important that the Central Market stallholders could continue their business elsewhere in order that their livelihood would not be affected. He also welcomed the proposed arrangements of setting aside vacant market stalls at Western Wholesale Food Market, and resiting the pork stalls in the Central Market together to Sheung Wan Market.

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21. Mr IP Kwok-him asked whether the area of the pork stalls reserved in Sheung Wan Market was large enough to meet the needs of the Central Market pork stallholders who operated both as retailers and wholesalers. AD(Ops)1 responded that the area of each of the pork stalls reserved in Sheung Wan Market was about 15 square metres which was similar to that of the pork stalls in the Central Market.

22. Mr IP Kwok-him further asked whether the clearance of stallholders from the Central Market and their resiting could be dovetailed so that there would not be a gap in-between causing disruption of business to the stallholders. AD(Ops)1 responded that while the stalls would be required to move out of the Central Market when the current lease ended on 31 December 2002, the proposed resiting arrangement could take place as soon as FC had approved the funding. Moreover, the remodelling work for the vacant poultry stalls at Western Wholesale Food Market would be completed before the end of 2002. He did not envisage any problem in dovetailing and the stallholders should be able to continue their business in other FEHD markets before the end of 2002.

23. Mr WONG Yung-kan asked about the size of the vacant stalls at Western Wholesale Food Market reserved for the affected Central Market stallholders. AD(Ops)1 responded that the area of each of the pork stalls and fish stalls reserved at Western Wholesale Food Market was about 10 square metres which was similar to those in the Central Market. The area of each frozen meat stall or beef/lamb stall was about 12 square metres.

24. Mr WONG Yung-kan asked whether the Administration had consulted the stallholders at Western Wholesale Food Market about the proposed arrangement. He was worried that the business of existing wholesalers at Western Wholesale Food Market might not be compatible with the retail business of the stalls resited from the Central Market. AD(Ops)1 responded that the Administration would consult existing stallholders at Western Wholesale Food Market. He believed that there should not be any incompatibility in the business nature as envisaged by Mr WONG.

25. As regards the arrangement for tenants on the Central Market Escalator Link, AD(Ops)1 said that although they were ineligible for the proposed arrangement for the 101 eligible Central Market stallholders, the Administration would still consider their request to bid for vacant stalls in other markets.

Ex-gratia payment

26. Mr IP Kwok-him said that some stallholders were not entirely satisfied with the revised ex-gratia payment (EGP) as they considered the proposed amount of 24 months' rental insufficient.

27. AD(Ops)1 pointed out that under the revised proposal, the EGP had been increased from an amount equivalent to 15 months' rent to that of 24 months' rent. He

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said that so far 83% of the stallholders had indicated acceptance of the proposed amount for EGP, and only some pork stallholders had suggested a further increase in the amount of EGP. However, these pork stallholders did not indicate any specific amount and they had said that they would follow the majority decision on the matter.

28. Dr LO Wing-lok asked whether the proposed arrangement on EGP for the stallholders were made out of contractual obligations or with regard to previous practice. DS(EF)(A) responded that according to the tenancy agreements signed between Government and the stallholders, there was no contractual obligation on the part of Government to make compensation to the stallholders when Government terminated tenancy agreements with them, as long as sufficient notice had been given. She said that the proposed arrangement was made with regard to previous practice.

29. Mr IP Kwok-him asked whether the proposed amount of EGP for stallholders in the Central Market would set a precedent for future redevelopment cases. DS(EF)(A) explained that the arrangement of granting EGP to stallholders affected by redevelopment projects was determined on a case-by-case basis, having regard to the merits of each case. She said that the present case would not set a precedent for future redevelopment projects. AD(Ops)1 added that there had only been one case (Tong Mei Road Market) in 1995 in which the affected market stalls could not be reprovisioned and the stallholders concerned had been granted EGP of \$22,000 in lieu. He stressed that not all redevelopment cases would involve EGP, and the proposed amount of EGP for the Central Market would not necessarily apply to other cases.

Rental in Western Wholesale Market

30. The Deputy Chairman asked about the rental for those stalls at Western Wholesale Food Market reserved for the stallholders in the Central Market. AD(Ops)1 said that the stall rental would be based on the successful bid at the "restricted auction". He said that FEHD would work out with Agriculture, Fisheries and Conservation Department (AFCD) the mechanism for determining the rent of these stalls for Finance Bureau's approval. He added that the rental would be different from that for the Central Market stalls.

31. Mr IP Kwok-him pointed out that the existing rent of stalls at Western Wholesale Food Market was much cheaper than that charged for stalls at public markets because of the different nature of their business. He asked whether the public market stall rental calculation method would apply to those stalls at Western Wholesale Food Market reserved for the Central Market stallholders. He said that if that was the case, there would be two different rental calculation mechanisms for stalls at Western Wholesale Food Market.

32. AD(Ops)1 replied that the same rental calculation method for existing stalls at Western Wholesale Food Market would be used to calculate the rent of those stalls reserved for the Central Market stallholders. Mr IP welcomed such an approach.

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33. In concluding the discussion, the Deputy Chairman said that the Panel supported the Administration's revised proposal on arrangements for the affected Central Market stallholders.

IV. Report on the outcome of the consultation on outside seating accommodation (OSA) and the way forward

(LC Papers Nos. CB(2) 1135/01-02(06) and 1198/01-02(01))

34. The Deputy Chairman said that Mrs Selina CHOW had provided a submission expressing views on the subject (the submission was tabled at the meeting).

35. Senior Superintendent (Licensing) of FEHD briefed members on the Administration's paper. He said that the Administration had consulted the trade and the District Councils (DCs) on the proposed arrangements for the licensing of outside seating accommodation (OSA) for licensed restaurants. The Administration's paper gave details on the outcome of such consultation and implementation proposals.

Locations for operating OSA

36. Mr CHEUNG Man-kwong expressed concern about the proposed arrangement as these would take effect from March 2002. He asked whether the Administration had already drawn up a list of locations that were considered suitable for providing OSA, so that interested parties could submit applications immediately.

37. DD(EH) responded that according to FEHD's survey, about 160 unlicensed OSAs in Hong Kong (including some in tourist areas) were initially found feasible for licensing. He said that any existing licensee could apply for operating OSA if they met the licensing requirements as outlined in paragraphs 6-12 of the Administration's paper, and their applications would be processed expeditiously. He further said that FEHD would also issue letters to the trade informing them the way to apply for operating OSA.

38. DD(EH) also clarified that the proposed arrangement for approving OSA was not meant to encourage restaurants to extend their operation onto the pedestrian pavements or any public areas. He explained that the purpose of the proposed arrangement was to enhance the attractiveness of Hong Kong to tourists by properly regulating outdoor dining and ensuring that the accommodation for such activities was provided at suitable places such as the scenic spots.

39. Mr CHEUNG Man-kwong asked whether Tsim Sha Tsui East Promenade was one of the 160 locations identified by FEHD. DD(EH) replied that the Administration welcomed applications for operating OSA at that site, subject to their meeting the land use requirements.

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40. Mr CHEUNG Man-kwong queried why the Administration did not publicise the 160 locations for operating OSA to facilitate the trade's consideration, especially if the proposed arrangement was to take place in the following month. He criticised the Administration for adopting a passive and secretive approach in this matter.

41. DD(EH) disagreed that FEHD had adopted a secretive approach in the matter. He pointed out that FEHD's role was mainly to license and regulate the operation of OSA. It would be for the trade to identify suitable places which would be commercially viable for operating OSA. He added that applicants would also need to comply with the necessary requirements on land use, fire safety and building safety for the operation of OSA. DD(EH) explained that the survey carried out by FEHD was mainly to ascertain the extent of prevalence of illegal OSA. The survey revealed that outdoor dining activities had already been provided at some 200 locations, and some of them were illegal extensions which did not meet the necessary requirements for OSA. As FEHD had not confirmed that the conditions of the 160 locations would meet all the licensing requirements, publicising the list would send a wrong message to the trade that these locations were readily available and suitable in all respects for operating OSA. DD(EH) assured members that FEHD would adopt an open approach in considering OSA applications, and priority would be given to applications for operating OSA at popular sites frequented by tourists.

42. Mr CHEUNG Man-kwong said that FEHD should at least publicise those locations which were on Government land so that the trade could make applications for operating OSA on these sites immediately. DD(EH) pointed out that if FEHD was to publicise these locations, it would have to check with the departments concerned the relevant land use requirements and whether there were any illegal structures, etc. This process would inevitably delay the implementation of the proposed scheme. He said that under the current proposal, the trade could submit applications as early as March 2002, and FEHD would provide a "one-stop-shop" licensing service to ensure that such applications would be processed expeditiously.

43. Mr CHEUNG Man-kwong remained of the view that the Administration should at least identify locations on Government land which were suitable for operating OSA and invite the trade to bid for operating OSA at those locations. Referring to the discussion at the Panel meeting on 26 March 2001, Mr CHEUNG said that the Administration had at that time already considered that certain places, such as parks, promenades, areas adjacent to museums and the Cultural Centre, and newly developed areas (such as the West Kowloon Reclamation and Southeast Kowloon), would be suitable for operating OSA. He queried why the Administration did not proceed to plan for the development of OSA at those places and invite the trade to apply. He further said that unlike development of OSA in residential areas, the development of OSA in tourist areas should not meet with much opposition. He suggested that the Administration should first try out the proposed OSA licensing arrangement in tourist areas.

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44. Mr Andrew CHENG and Miss CHOY So-yuk expressed support for the suggestion that the Administration should take the lead in identifying suitable locations for operating OSA and inviting the trade to apply. Mr CHENG suggested that OSA should first be developed at public places and tourist areas such as Tsim Sha Tsui East Promenade and the sea front at Lei King Wan. He considered it more cost-effective for the Administration to take the lead and make the necessary coordination, as this would simplify the procedures and shorten the processing time for OSA applications. He further suggested that relevant government departments, such as Lands Department and Planning Department (PD), should discuss with Hong Kong Tourism Board (HKTB) the proposed locations for OSA and invite the trade to tender for operation at these places.

45. Miss CHOY So-yuk added that for large sites which were suitable for operating OSA and other tourist activities, such as the seafront along the Eastern Corridor, it would need several operators to fully realise the potentials of the sites. A proactive approach by the Administration would be necessary to facilitate the development of OSA in large sites.

46. Dr LO Wing-lok expressed a different view. Dr LO did not consider it cost-effective for the Administration to take the initiative to identify suitable locations for operating OSA. He said that he preferred relying on the business sense of the private sector in identifying viable locations for OSA operation. He said that it might not be necessary to set up an inter-departmental working group, but the Commissioner for Tourism could be requested to advise FEHD of any tourist areas suitable for operating OSA.

Admin 47. DD(EH) agreed to relay members' suggestions to the Commissioner for Tourism.

Processing time for OSA applications

48. Mr CHEUNG Man-kwong and Mr Andrew CHENG expressed concern about the time required to process OSA applications. Referring to Mrs Selina CHOW's submission, Mr CHEUNG pointed out that the trade considered the estimated processing time of three months for obtaining a short-term-tenancy (STT) from the Lands Department unacceptably long.

49. DD(EH) explained that restaurateurs operating OSA on Government land would need to secure the right to use the land by obtaining an STT from Lands Department, and the processing time for STT would be about three months. However, he pointed out that under the "one-stop-shop" licensing service, restaurateurs need not make a separate application to Lands Department, as FEHD would make the necessary referrals and follow through the whole process. As for applications for operating OSA on private land, DD(EH) said that if the owner concerned indicated no objection to the

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proposed use, the processing time could be even shorter. DD(EH) added that if an OSA applicant was not currently holding a licence to operate food business on the premises, he could first apply for a provisional licence which could be issued within one and a half months to two months.

50. Mr Andrew CHENG pointed out that based on his experience in dealing with complaints on food business licences and land use, the approval process was often cumbersome and protracted. To expedite the process for approving OSA applications, Mr CHENG remained of the view that the Administration should first identify suitable locations especially in tourist areas for operating OSA and resolve the land use problems before inviting the trade to apply. He said that during the initial stage of implementation, departments concerned should make collaborated efforts to assist the trade.

51. The Deputy Chairman asked whether the Administration could respond to the points raised in Mrs Selina CHOW's submission. DD(EH) said that he would relay Mrs CHOW's concern to the Lands Department that three months was considered unacceptably long for processing STT. As regards Mrs CHOW's suggestion of issuing a provisional licence first to enable business to proceed pending an application for a permanent OSA licence, DD(EH) pointed out that a provisional licence would only be issued if the applicant could meet the basic requirements, and that the average processing time for a provisional food business licence would also take about two months. At the request of the Deputy Chairman, DD(EH) agreed to provide a written response to Mrs CHOW's submission.

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Business hours

52. Referring to paragraph 11 of the Administration's paper, Mr Andrew CHENG asked about the meaning of "close proximity to residential buildings". He said that DCs were concerned about the possible noise nuisance if the business hours of OSA were up to 11:00 pm. He considered that there should be clear guidelines, such as whether OSA could operate on the ground floor or at the podium of a residential building, or only in commercial cum residential buildings.

53. DD(EH) responded that it was difficult to precisely define "close proximity" in concrete terms. He said that the trade and the residents held different views in this regard. However, OSA operating on the ground floor or at podium of a residential building would very likely be regarded to be "in close proximity to residential buildings". He agreed to consider providing clearer and more specific guidelines in this respect. DD(EH) pointed out that there would still be "grey areas", and consultation with residents in the vicinity would be necessary before an application could be approved. He added that FEHD would consult the residents through Home Affairs Department, or the DCs concerned as appropriate.

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54. The Deputy Chairman asked whether FEHD would revoke a licence for the OSA or restrict its business hours upon renewal of licence, if complaints or objections were received after a licence was issued. DD(EH) said that the Administration would carefully consider every OSA application before the issue of a licence. If complaints were received after a licence was issued, FEHD would assess the actual situation and examine the justifications for such complaints. He stressed that the Administration acknowledged the need to provide stability to OSA operators and complaints would be dealt with objectively and vigilantly.

55. Miss CHOY So-yuk cited the case of Lei King Wan. She said that 90% of the residents in Lei King Wan had expressed objection to the provision of OSA in the rest garden at Lei King Wan. However, she noted that the food premises in Lei King Wan would be interested to apply for operating OSA there when the new arrangement on OSA was announced the following month. She asked how the Administration would deal with the case.

56. Dr YEUNG Sum shared the concern raised by Miss CHOY So-yuk. Dr YEUNG said that he had no objection in principle to the development of OSA along the sea front to promote tourism. However, he pointed out that there would be objection from nearby residents if the OSA was located in close proximity to residential buildings. He urged the Administration not to overlook residents' interests when promoting tourism, and that the residents in the vicinity should be consulted before approving OSA applications.

Admin 57. AD(Ops)1 responded that the Administration would look into the merits of each individual case. The Administration would also take into account the views of residents in the vicinity and the DCs concerned. As requested by the Deputy Chairman, AD(Ops)1 agreed to provide further information on the progress of the case of Lei King Wan.

58. Miss CHOY so-yuk asked about the position of those OSA which operated illegally along the sea front of Stanley and causing traffic obstructions. AD(Ops)1 responded that the application for enlarging the outdoor seating capacity in the pedestrian area in Stanley was now under serious consideration.

59. Mr Andrew CHENG asked whether different business hours would apply to OSA which also sold liquor. The Deputy Chairman requested the Administration to clarify whether OSA would be allowed to sell liquor, and what conditions would be imposed for selling liquor at OSA. DD(EH) advised that selling liquor at OSA would require a liquor licence which would be approved by the Liquor Licensing Board under existing criteria.

60. Mr WONG Yung-kan asked whether operation of OSA would be allowed in promenades and parks, and whether OSA at these places would be subject to the same restrictions on business hours.

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61. DD(EH) replied that parks and promenade were not included in FEHD's current list of 160 potential OSAs. However, licensees of existing restaurants in parks could also apply for operating OSAs outside their restaurants. The business hours for such OSA would be determined with regard to the merits of individual case and the views of the DCs concerned. He added that applications to operate OSA in parks and open space would be processed under the "one-stop-shop" licensing service of FEHD, and separate applications to the Leisure and Cultural Services Department would not be required. DD(EH) further said that if only light refreshment and re-heating of cooked food were involved, such applications could be dealt with under the category of Food Factory Licence instead.

Hygiene requirements

62. Referring to paragraph 10 of the Administration's paper, Dr LO Wing-lok asked about the criteria for relaxing the requirement that restaurant operating OSA should provide additional food preparation and scullery area of up to at least one-tenth of the OSA floor area.

63. DD(EH) replied that some existing food premises might have difficulties in meeting such requirements due to inadequate space, and the Administration would consider relaxing such requirements provided that the food hygiene and safety standards would not be compromised. For example, the dishes could be washed in another place and delivered to the premises when ready for use. However, DD(EH) said that for new operators, the hygiene requirements would be strictly applied.

64. The Deputy Chairman asked whether the hygiene requirement would also be relaxed if the OSA was operated only on a part-time basis, or only during weekends. He also asked whether the use of disposable utensils could be an alternative if the requirement for additional scullery area could not be met. DD(EH) replied that the Administration hoped that new operators could comply with the hygiene requirements, but the requirements would be applied flexibly to existing operators having regard to the practical difficulties of each case.

65. In concluding the discussion, the Deputy Chairman said that members supported the proposed arrangement on the licensing of OSA. He further said that except Dr LO Wing-lok, members were generally of the view that the Administration should take a proactive approach to identify suitable locations for operating OSA to facilitate the trade to apply. He also requested the Administration to consider members' views that the Administration should draw up clear guidelines for approval of such applications and consult residents in the vicinity in considering OSA applications.

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V. Marine Fish Culture (Amendment) Bill 2002
(LC Paper No. CB(2)1135/01-02(07))

66. Principal Assistant Secretary for the Environment and Food (A) 1 (PAS(EF)(A)1) briefed members on the background and objective of the legislative proposal. PAS(EF)(A)1 said that under the Marine Fish Culture Ordinance, marine fish culture was only permitted within specific areas within Hong Kong waters designated as fish culture zones. Since 1991, no new fish culture zones had been designated because of competing use of Hong Kong waters and environmental protection considerations. PAS(EF)(A)1 further said that at present fish culture licences were not transferable, and most fish culture farms were family-based operations. Due to their small scale, these operations usually lacked efficiency and became less profitable. However, there was little incentive for these operators to surrender their licences because they had to clear the licensed area including dismantling the rafts at their own expenses. PAS(EF)(A)1 explained that the legislative amendment was to allow transfer of fish culture licences to enable the fishing industry to restructure under market forces. To prevent speculation, a licence would not be allowed for transfer if it was held by the applicant for less than two years.

67. DS(EF)(A) said that the Administration aimed to introduce the proposed legislative amendments to the Legislative Council (LegCo) within the current session. PAS(EF)(A)1 added that the opportunity was also taken to improve some provisions of the Ordinance.

68. Mr WONG Yung-kan declared that he was the chairman of the Aquaculture Subcommittee of the Advisory Committee on Agriculture and Fisheries and the chairman of the Federation of Aquaculture Associations. He expressed support for the proposed amendments to the Marine Fish Culture Ordinance (Cap 353). He said that the fish culture industry had in the past three years requested that transfer of fish culture licences should be allowed to enable new entrants to join the industry. He had consulted members of the industry and they did not raise objection to the proposed legislative amendments.

69. Mr WONG Yung-kan said that the industry had also requested that leisure fishing activity be allowed in the fish culture farms. He asked whether the Administration would consider the suggestion. PAS(EF)(A)1 responded that marine fish culture was an industry, and it was different from leisure fishing which was a recreational activity. She explained that the object of the Ordinance was to provide for the regulation and protection of the fish culture industry, and it would not be appropriate to include new provisions relating to the conduct of leisure fishing activity. PAS(EF)(A)1 added that the Administration would consider the suggestion of developing leisure agriculture and fishing in Hong Kong separately.

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70. Dr LO Wing-lok asked about the extent of fish culture farms which were abandoned or not in active operation. Senior Fisheries Officer (Enforcement) replied that about 25% (roughly 300) of existing fish culture farms were not in high level of production, and some 30 fish culture licences from inactive farms had been surrendered in the past two years. Assistant Director of Fisheries Branch (AD(FB)) of AFCD added that regular inspections of fish culture farms were conducted. If any of such farms were found abandoned, the mariculturists concerned would be required to surrender their licences. For those fish culture farms which were not in active production (i.e. at a low level of productivity or effectiveness), the legislative proposal would facilitate the transfer of licences of such farms to the more effective operators or to new entrants to the industry. DS(EF) said that the proposal would also encourage investment by progressive large-scale and company-based operators.

71. Dr LO Wing-lok asked whether the Administration had formulated any fisheries policy and estimated the number (or size) of fish culture zones that Hong Kong could accommodate. He also asked what measures the Administration would take to foster development of the marine fish culture industry.

72. PAS(EF)(A)1 responded that since 1991, no new fish culture zones had been designated because of the limited area and competing use of Hong Kong waters. At present, there were some 1 300 fish culture licences and permits and it was the optimal number that Hong Kong could accommodate. She said that AFCD had been providing technical support to the industry to upgrade its operations as well as to enhance its productivity and effectiveness.

73. Mr WONG Yung-kan commented that the Administration did not have a policy for the long-term or sustainable development of agriculture and fisheries industries in Hong Kong, and that it did not provide adequate support to the fish culture farms. He pointed out that most marine fish culture farms in Hong Kong were small-scale family-type operations, while those in overseas countries were much larger in size (about 1000 m² - 1500 m²). He said that it was necessary for the industry to be restructured to keep in pace with new development. As no new licence would be issued because of limitations of Hong Kong waters, the legislative proposal was necessary to facilitate the transfer of existing licences for better development of the industry.

74. The Deputy Chairman asked whether the Administration could identify new rearing grounds for marine fish culture farms. PAS(EF)(A)1 said that up to the present moment, the Administration could not find any new waters that could be designated as a new fish culture zone. She added that no new licence had been issued in order to avoid overcrowding of fish culture farms and to protect the environment. She said that the Administration's policy was to provide technical support to the industry to upgrade their operations and to promote their sustainability by assisting them to adopt more cost-effective and environmental-friendly techniques.

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75. Referring to paragraph 3 of the Administration's paper, Mr CHEUNG Man-kwong said that while some 1 300 fish culture licences and permits had been issued, only about 2 300 persons were employed for culture fish operations. He expressed concern that most fish culture farms appeared to be of low productivity and were not effective. He said that the Administration should provide information on the number of inactive fish culture farms when the Bill was introduced into LegCo. Mr CHEUNG Man-kwong also sought clarification as to how the proposed legislative amendment could achieve the objective of facilitating large-scale company-based operations.

76. PAS(EF)(A)1 explained that many existing fish culture farms were family-based and they needed not employ many people. She said that these family-based mariculturists in general lacked the means and knowledge to invest in modern and environmental-friendly practices to upgrade their operations and enhance their productivity. The Administration believed that by making the licences transferable, it would facilitate the establishment of larger-scale operations and attract new investment. AD(FB) added that some small-scale fish culture farms only had a size of about 100m². The legislative proposal would enable the transfer and amalgamation of a number of existing licences to form a large fish culture farm, through re-zoning of the fish culture farms concerned.

77. In concluding the discussion, the Deputy Chairman said that the Panel supported the legislative proposal.

VI. Any other business

78. There being no other business, the meeting ended at 10:40 am.

Council Business Division 2
Legislative Council Secretariat
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