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the Administration)

Panel on Food Safety and Environmental Hygiene
Subcommittee to Study the Streamlining of Food Business Licensing

Minutes of meeting
held on Tuesday, 28 June 2005 at 2:30 pm
in the Chamber of the Legislative Council Building

Members present : Hon Tommy CHEUNG Yu-yan, JP (Chairman)
Hon WONG Yung-kan, JP
Hon Andrew CHENG Kar-foo
Hon Vincent FANG Kang, JP
Hon WONG Kwok-hing, MH

Public Officers : Mr Vincent LIU
Attending Principal Assistant Secretary (Food & Environmental Hygiene) 2
Health, Welfare and Food Bureau

Ms Annette LEE
Deputy Director (Environmental Hygiene)
Food and Environmental Hygiene Department

Mr LO Fu-wai
Assistant Director (Operations)1
Food and Environmental Hygiene Department

Mr K M MO
Assistant Director /New Buildings1
Buildings Department

Mr CHEUNG Yin-chiu
Deputy Chief Fire Officer
(Licensing and Certification Command)
Fire Services Department

Mr KO Woon-ming
Housing Manager (Commercial Properties)
Housing Department

Mr CHAN Sze-to, Ben
Acting Principal Land Executive
(Village Improvement and Lease Enforcement/Land Control
Section)
Lands Department

Mrs Brenda YIP
Head, Business Facilitation Division
Economic Analysis and Business Facilitation Unit
Financial Secretary's Office

Mr MOK Shiu-lam
Chief Management Services Officer,
Business Facilitation Division
Economic Analysis and Business Facilitation Unit
Financial Secretary's Office

Attendance by invitation : A S Watson Group – PARKnSHOP

Ir Denny YEUNG
General Manager
Construction & Engineering Department

Mr Alvin SO
Licensing and Maintenance Manager
Construction & Engineering Department

Mr Peter Johnston
Quality Assurance Manager

Dairy Farm Company Limited – WELLCOME

Mr WONG Chi-tak
Projects Director

Ms FU Kwok-kiu
Senior Administrator

Circle K Convenience Stores (Hong Kong) Limited

Mr LEUNG Kwok-on, Wilson
Food Service Manager

Mr LI Tak-fai, Robert
Senior Zone Manager

Clerk in attendance : Mrs Constance LI
Chief Council Secretary (2)5

Staff in attendance : Mr Watson CHAN
Head, Research and Library Services Division

Ms Diana WONG
Research Officer 2

Miss Lolita SHEK
Senior Council Secretary (2)7

Ms Anna CHEUNG
Legislative Assistant (2)5

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I. Research report on “Licensing of food business”
[LC Paper No. RP08/04-05]

At the invitation of the Chairman, Head, Research and Library Services Division (H(RL)) briefed members on the research report on “Licensing of food business” prepared by the Division, in particular the nine issues highlighted in Chapter 6 “Analysis” of the report.

2. Mr Andrew CHENG asked whether the study showed that adoption of third party certification had shortened the time taken to process food business licence applications than before.

3. H(RL) explained that different practices were adopted by the four selected places for licensing of food business. In London, food premises only needed to be registered and third party certification was not required. In New York City, most applications were submitted by third party but certification of compliance was performed by relevant government departments instead of a third party. In Sydney and Singapore, it was not a mandatory requirement for the application or certification of compliance to be done by third party.

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4. Mr WONG Kwok-hing requested the Research and Library Services Division to provide a comparison on the licensing systems in the four selected places with that in Hong Kong, to facilitate members to consider areas which Hong Kong could make reference to for improving Hong Kong's food business licensing procedures.

LegCo
Secretariat

5. The Chairman requested H(RL) to provide a comparison of the food business licensing procedures and time required to process licence applications in the four places under study with those in Hong Kong for members' reference.

II. Meeting with the Administration and deputations on recommendations on streamlining of food business licensing from the Economic and Employment Council Subgroup on Business Facilitation

[LC Paper Nos. CB(2) 1999/04-05(01) and CB(2) 2047/04-05(01)]

6. Head, Business Facilitation Division (H/BFD) highlighted the recommendations of the Retail Task Force of the Economic and Employment Council (EEC) Subgroup on Business Facilitation on its review of food retail businesses as detailed in the paper provided by Subgroup on Business Facilitation Secretariat [LC Paper No. CB(2) 1999/04-05(01)]. These recommendations included –

- (a) enhancing the public consultation mechanism;
- (b) combining the existing 12 food licences/permits for the retail of ready-to-eat food into one composite licence; and
- (c) introducing other improvement measures such as accepting certification of compliance of licensing conditions by private professional practitioners and registered contractors for the issue of full licences.

7. Deputy Director (Environmental Hygiene) (DD(EH)) briefed members on the Administration's response to the recommendations of the Retail Task Force as detailed in the Administration's letter dated 21 June 2005 [LC Paper No. CB(2) 2047/04-05(01)] as follows –

- (a) the Food and Environmental Hygiene Department (FEHD) generally supported the recommendations of the Retail Task Force;
- (b) FEHD would step up its consultation with the trade on new proposals. While FEHD would take into account the trade's views as appropriate, it would not be possible to accept them en bloc, as there was a need to balance the trade's interest against public interest;

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- (c) while FEHD would consider the proposal for composite licensing for ready-to-eat food, the intention was to retain the existing food permit system in parallel to cater for small operators selling only a few food items. Legislative amendments would be required for introduction of a composite licence, and the trade and Legislative Council (LegCo) would be consulted; and
- (d) FEHD was prepared to consider the acceptance of certificates of compliance signed by professionals for the issue of a composite licence.

Meeting with deputations

A S Watson Group – PARKnSHOP

8. Mr Peter Johnston, Quality Assurance Manager of A S Watson Group – PARKnSHOP said that the Group had urged FEHD to review the existing licensing procedures and enhance the public consultation procedure, as the existing mechanism was not very effective and not advantageous to the development of food business in Hong Kong. He added that the Group had worked closely with EEC and supported the proposal for a composite licence for ready-to-eat food.

9. Ir Denny YEUNG, General Manager, Construction & Engineering Department of A S Watson Group – PARKnSHOP said that the Retail Task Force had consulted the food business trade on its recommendations. The trade was most concerned about the time taken to process licence applications. Mr YEUNG considered that the trade should be given the choice of submitting applications under the existing licensing procedures or through the proposed system of third party certification for compliance of licensing conditions.

Dairy Farm Company Limited

[LC Paper No. CB(2)2094/04-05(01)]

10. Mr WONG Chi-tak, Projects Director of Dairy Farm Company Limited, said that the Company had participated in the discussions of the Retail Task Force and supported its recommendations. He suggested that –

- (a) the transparency of the consultation process should be enhanced so that operators of both small and large food businesses could express their views on the food licensing policy;
- (b) the Administration should inform the food business trade of its final plan to streamline the food business licensing system before implementation;
- (c) the Administration should expedite the processing of applications for

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revision to plans and formulate performance pledge in this regard; and

- (d) the Administration should implement the proposed system of third party certification of compliance for the issue of full food business licences as soon as possible.

Circle K Convenience Stores (Hong Kong) Limited

11. Mr Alex LI, Operations Training Manager of Circle K Convenience Stores (Hong Kong) Limited supported the introduction of a composite licence for the retail of the ready-to-eat food, as it would shorten the time for processing applications for different licences/permits. He suggested that the Buildings Department (BD)'s approval should not be necessary for minor alterations to layout plans, and urged the Administration to expedite the processing of these applications.

12. In response to the Chairman, Mr LI informed members that the Circle K Convenience Stores (Hong Kong) Limited had to apply for a total of four different food permits and three food business licences for each outlet under the existing food business licensing system.

Discussion

Public consultation mechanism

13. The Chairman asked whether the Administration would consult the trade on the recommendations of the Retail Task Force. DD(EH) responded that the Administration would listen to the views of the trade on its proposals to streamline food business licensing. She said that FEHD had a system to meet with representatives of the food trade regularly.

14. Ir Denny YEUNG said that although FEHD did meet with representatives of the trade regularly, little improvement had been introduced to the food business licensing mechanism over the past years despite requests from the trade. He recalled that in the last consultancy study on food business licensing commissioned by FEHD, the consultant agreed to the views of the trade and had so reflected in its report. However, no follow up action had been taken and little improvement had been made since then. Mr YEUNG added that the trade had to put in a lot of efforts to fight for improvements to the licensing regime.

15. The Chairman said that the trade had reflected similar views to both himself and Mr Vincent FANG. He added that the relevant trades were welcome to reflect their views through himself and Mr FANG, who were their representatives in LegCo.

16. Mr Vincent FANG informed members that operators of small and medium enterprises had complained against their lack of representativeness on the Advisory Council on Food and Environmental Hygiene. Mr FANG suggested that the

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Administration should disclose the membership of the Advisory Council so that the relevant trades would know their representatives on the Advisory Council. He also requested the Administration to increase the number of representatives of small and medium enterprises on the Advisory Council.

17. DD(EH) explained that FEHD had maintained a list of representatives of the trade and invited them to discuss and give views on new proposals. FEHD would welcome additions to the list.

18. Referring to paragraph 8 of the paper provided by the Subgroup on Business Facilitation Secretariat, the Chairman enquired whether the Administration would conduct Regulatory Impact Assessment (RIA) studies on proposals which had significant impact on the food business sector before such proposals were submitted to the LegCo. He considered that the Administration should also disclose the brief for the RIA studies so that the trade could give their views on the impact of the proposals.

19. DD(EH) replied that it would be useful for the Administration to first gauge LegCo's views before deciding whether RIA studies should be conducted to weed out non-starters as such studies often involved substantial cost. The Administration would consider the impact of any new proposals on the trade and consult stakeholders accordingly.

Composite licensing

20. Referring to Retail Task Force's recommendation to combine 12 existing food licences/permits for the retail of the ready-to-eat food into one composite licence, Mr Vincent FANG pointed out that operators of small and medium enterprises might only need to apply for a few types of these food licences/permits. He sought clarification on the fees for such licences.

21. DD(EH) responded that the Administration would examine the 12 food licences/permits as well as other food licences/permits to see whether and how they should be grouped under one composite licence. She noted that small operators selling only a few food items might not need a composite licence combining all 12 types of licences or permits and there was a need to build in flexibility for those operators. The intention was to link the licence fees to the number of permits/licences granted, as in the case of licence for fresh provision shop. The Administration would take into account the interests of small operators when examining the proposal for a composite licence.

Revisions of layout plans

22. In response to Retail Task Force's recommendations and deputations' suggestions, Assistant Director/New Buildings 1 of the Buildings Department (AD/BD) informed members that for revisions of plans or alternative proposals for

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non-restaurant food business licences, it was BD's internal performance target to process 85% of these cases within 28 working days. He agreed with some deputations and the Retail Task Force that it would facilitate applications for revisions of plans by providing clearer guidelines on details that should be shown on layout plans, and adopting certification of compliance of building safety requirements by private professionals.

23. AD/BD added that the BD would review the existing requirements to see whether clear guidelines had been provided to the trade on revisions of plans, and whether the set of guidelines for restaurant licences in this respect would be applicable to non-restaurant food business licences.

24. The Chairman urged the Administration to consult the trade on measures to expedite the processing of applications for revisions of layout plans.

Third party certification for compliance of licensing requirements

25. The Chairman asked whether BD supported Retail Task Force's recommendation for further use of private professional practitioners and registered contractors to speed up the licensing approval process, and for a full licence to be issued upon receipt of private certification.

26. AD/BD responded that BD was open-minded about the recommendation. AD/BD further said that in the Administration's written responses to suggestions to streamline food business licensing [LC Paper No. CB(2) 2047/04-05(03)], BD had recommended the adoption of a private sector certification system for building safety requirements. Under such system, BD would continue to set safety standards and requirements for each licence applications. The Authorised Person, or the applicant as appropriate, would certify compliance with the standards and requirements. BD would no longer need to conduct site inspection for confirmation of compliance of building safety requirements for the issuance of a full licence. In addition, BD would review the 3-tier system for verification of compliance with building safety requirements to see whether some of the Category 3 items could be re-classified into Category 2 requirements, the compliance of which could be certified by a private professional. These measures would expedite the processing of applications for food business licences.

27. In response to Mr Vincent FANG, Deputy Chief Fire Officer (Licensing and Certification Command) of Fire Services Department (DCFO/FSD) said that FSD supported the recommendation for third party certification for compliance of licensing requirements. He explained that to implement the private sector certification system for fire safety requirements, a Registered Fire Engineer (RFE) system would have to be introduced, and the RFE should be a recognised professional. However, such a profession had not yet been established in Hong Kong. FSD was now working closely with relevant professional institutions, in particular the Hong Kong Institute of Engineers and the Institution of Fire Engineers,

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to establish the RFE profession. The Hong Kong Institute of Engineers was consulting its members on the creation of a Fire Engineering discipline in the Institute. The introduction of the new RFE system would require new legislation to provide for the registration and discipline of RFEs. It was expected that it would take about five years to go through all the process for the establishment of the RFE profession.

28. The Chairman sought clarification on the items for which RFE would be allowed to certify compliance of the licensing conditions. DCFO/FSD replied that at the initial stage, FSD was prepared to accept the private sector certification for compliance with those requirements issued by FSD, and private professionals could be allowed to conduct risk assessment at a later stage. He further explained that under the current system, upon receipt of food business licence applications referred by FEHD, FSD would conduct risk assessment to the premises concerned, and issue fire safety and ventilation requirements to the applicants. In normal circumstances, the applicant will apply for a provisional licence in addition to a full licence. When the applicant considered that all the essential requirements imposed for the food premises had been complied with, he would report compliance to FEHD by submission of prescribed forms compiled by respective professionals for the application of a provisional licence. FSD would then conduct compliance checks, and notify FEHD if the essential requirements were complied with. DCFO/FSD added that at present, there was not a profession in Hong Kong that could conduct risk assessment and authorised by law to conduct compliance checks.

29. The Chairman asked whether private professionals could be allowed to take up part of FSD's work, such as compliance checks for ventilation requirements, pending amendments to the relevant legislation.

30. DCFO/FSD replied that the problem was that there was currently no legislation providing for the registration, monitoring and discipline of private professionals and the certificates of compliance prepared by these private professionals would not be legally effective. DCFO/FSD reiterated that the Administration was actively pursuing the matter with the Hong Kong Institute of Engineers and the Institution of Fire Engineers with a view to establishing the RFE profession.

31. Mr Vincent FANG considered it unacceptable that it had to take five years to implement the private sector certification system. He urged the Administration to provide the system as soon as possible, as delays in this respect would slow down the implementation of related improvements.

32. The Chairman remarked that there were few complaints about delays by FSD in processing applications for food business licence.

33. Mr Vincent FANG expressed concern that small and medium enterprises would not be able to afford expensive fees charged by private professionals for

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certifying compliance of licensing requirements. He suggested that a maximum limit should be set for the fees. The Chairman said that the fees would be determined by market forces.

Establishment of a centralised licensing office

34. In response to the Chairman, H/BFD informed members that the Retail Task Force had considered the subject of centralised licensing office in May 2005. According to a comparison of the licensing procedures in several overseas countries, none of the countries under study had a centralised licensing office as proposed by the LegCo Subcommittee members, and relevant government departments had their own licensing process to address specific requirements in terms of fire safety, building structure and food hygiene matters.

35. H/BFD added that the one-stop service provided by Home Affairs Department (HAD) on licensing of club-houses covered fire safety and building safety aspects only. On the other hand, FEHD had put in place a genuine one-stop service for food business licensing. In addition to its role as the licensing authority, FEHD acted as a coordinator between applicants and BD, FSD, and other related government departments in processing licence applications.

36. The Chairman pointed out that under the current system, FEHD had to refer licence applications to the relevant departments, and some of these departments, such as BD, could not expedite the processing of these applications because of limited manpower resources. He asked whether accommodating those staff involved in processing licence applications in different departments under one roof could shorten the processing time.

37. H/BFD said that according to the Retail Task Force's study, accommodating staff of different concerned departments in one office would not give much benefit to licence applicants because different departments were still involved in vetting applications. Under the present system, applicants had been able to enjoy one-stop service as they were only required to submit one food business licence application to FEHD's regional licensing office. Relevant departments had also set performance pledges on the time for processing licence applications on their parts. If the process was smooth, a food business licence could be issued within a reasonable time. The establishment of a centralised licensing office would not have significant impact on the processing time of licence applications.

Other recommendations

38. The Chairman noted that in paragraph 11 of the paper provided by the Subgroup on Business Facilitation Secretariat, the Retail Task Force had recommended that the Administration should revisit the licensing procedures to remove the non-value added tasks. He sought clarification on the recommendation.

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39. H/BFD said that the Retail Task Force had suggested several procedural improvement measures, one of them being enhancing the communication and data sharing between the licensing and district offices in FEHD, in order to expedite processing of licence applications.

III The Administration's response to suggestions to improve the food business licensing regime

[LC Paper No. CB(2) 2047/04-05(02) and (03)]

40. At the invitation of the Chairman, Principal Assistant Secretary (Food & Environmental Hygiene) 2 of the Health, Welfare and Food Bureau (PAS/HWF) highlighted the salient points in the Administration's paper [LC Paper No. CB(2) 2047/04-05(03)]. Regarding the suggestion for the implementation of a private sector certification system, PAS/HWF said that BD, Housing Department (HD) and FEHD had no objection in principle. But they needed to consult the trade and interested parties, and make amendments to the legislation before adopting the system. However, as the new RFE profession which was crucial to the implementation of the system had not been established in Hong Kong, it was expected that it would take several years before the RFE system for the issue of Fire Safety Certificate could be implemented. In the meantime, the Administration would make its best efforts to streamline the licensing procedures. He added that the trade also had a role to play in the licensing process. To expedite the issuance of licences, applicants should ensure that the private professionals would provide all the necessary certificates as soon as possible, and should appoint persons who were familiar with licensing procedures to coordinate their licence applications.

41. Mr WONG Kwok-hing welcomed the private sector certification system and hoped the Administration could expedite the implementation. However, Mr WONG expressed disappointment that the Administration did not agree to establish a centralised licensing office to provide one-stop service for all types of food business licences. He considered that as the one-stop service provided by HAD had proved to be a successful model, FEHD should adopt a similar approach in processing food business licences.

42. At the invitation of the Chairman, H/BFD recapitulated the result of the study on the licensing procedures of several overseas countries conducted by the Retail Task Force. She added that operators of club-houses would still be required to apply for the necessary licences/permits from FEHD separately, if food safety was involved. New legislation was required to bring the powers and requirements of the relevant departments under the centralised licensing office, and the legislative process might take a long time.

43. Mr WONG Kwok-hing reiterated that as the one-stop service provided by HAD had proved to be successful, a similar model should be adopted for food business licences in Hong Kong, even though a centralised licensing office had not

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been established in other overseas countries, or the processing time could only be shortened slightly. Mr WONG said that the trade had expressed concern about the delay in processing applications for revisions of layout plans, and a centralised licensing office could reduce the time for transferring documents between departments.

44. The Chairman said that the Subcommittee had unanimously supported the establishment of a centralised licensing office, as this would reduce the time for delivery of documents and help improve communication among relevant departments in processing licence applications. He urged the Administration to give favourable consideration to establishing a centralised licensing office.

45. PAS/HWF explained that the Administration's major consideration was whether the establishment of the centralised licensing office could shorten processing time of licence applications. It was estimated that this could only shorten the processing time by only half or one day which was originally spent on transferring documents between departments. The Administration considered that the implementation of other measures to streamline the licensing procedures might be more effective in expediting the processing of licence applications. PAS/HWF reiterated that other countries had not established a centralised licensing office.

46. The Chairman said that he did not agree that the establishment of a centralised licensing office would not help much in shortening the licence processing time. The Chairman was of the view that although departments might have different licensing requirements, the processing procedures should be similar. If licensing staff were accommodated in one office, they would feel pressure on improving their performance, and this might help expedite the processing of licence applications. Nevertheless, the Chairman noted that the time taken by HAD in processing Certificates of Compliance for club-houses was longer than that taken by FEHD to process food business licence applications.

47. Mr WONG Yung-kan pointed out that the licensing authority in Shenzhen was more efficient in processing food business licence applications than that in Hong Kong. He urged the Administration to expedite the processing of food business licences further, while at the same time safeguarding food safety. Mr WONG added that as the trade had expressed support for the Retail Task Force's recommendations, the Administration should accept and implement all the recommendations.

48. PAS/HWF assured members that the Administration would implement the eight short-term improvement measures listed in its paper which would expedite the processing of food business licence applications. The Administration would study the other recommendations of the Retail Task Force and consider whether any of them would be implemented. He noted that establishing a centralised licensing office was not a recommendation of the Retail task force.

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49. As regards the time taken to process food business licence applications in other countries/places, PAS/HWF pointed out that a food business licence could be issued in only 28 days in the United Kingdom because compliance of food safety and other requirements was not necessary for the issuance of the licence. He stressed that the Administration had to safeguard safety of the food premises in all aspects in Hong Kong. It was therefore necessary to ensure that all licensing requirements had been complied with for the issuance of a full food business licence.

50. The Chairman commented that while there was no objection to the Administration taking forward the eight short-term measures, these measures were piece-meal in nature and could not entirely meet members' expectations. Both members and the trade had requested for more comprehensive measures to shorten the time taken to process licence applications significantly. The Chairman requested the Administration to provide response to the trades' proposed measures to streamline the licensing procedures. PAS/HWF responded that the Administration had provided its response to the trade's views in the Annex to the Administration's paper.

51. Regarding certification of licensing requirements by private professionals, the Chairman asked whether the Administration was able to monitor the qualification and performance of the companies and professionals engaged in certification for compliance of licensing requirements. PAS/HWF replied that the departments concerned had lists of authorised persons and professionals for carrying out the work required to meet the licensing requirements.

52. The Chairman noted from paragraph 6 of the Administration's paper that HD would also be involved in the implementation of the private sector certification system. The Chairman said that with the divestment of the retail and car-parking facilities of the Housing Authority and the listing of The Link Real Estate Investment Trust (The Link REIT) in the near future, the shopping arcades in the public housing estates concerned would no longer be overseen by HD. He asked about the arrangements for processing licence applications from tenants in these shopping arcades.

53. Housing Manager (Commercial Properties) of HD (HM/HD) advised that HD would ensure compliance of building safety requirements in shopping malls in public housing estates not sold to The Link Management Limited (The Link Management). As regards those shopping arcades sold to The Link Management, they would be regarded as arcades owned by private company, and HD would further discuss with BD on the arrangements in this regard.

54. The Chairman urged the Administration to work out the arrangements as soon as possible since The Link REIT would be listed soon.

55. HM/HD assured members that HD would continue to process the licence applications from tenants in the shopping arcades sold to The Link Management

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during the transitional period after the listing of The Link REIT.

56. AD/BD supplemented that public housing blocks sold under the Tenants Purchase Scheme were subject to the regulation of the Building Ordinance (Cap. 123). The Director of Buildings had delegated his authority to the Director of Housing under the Ordinance to take enforcement action in these housing blocks. Similar arrangements could be made for the shopping arcades sold to The Link Management. AD/BD assured members that BD would liaise with HD on the licensing arrangements and revert to the Subcommittee.

Admin

57. The Chairman requested the Administration to provide a paper on the licensing arrangements for tenants in shopping arcades in public housing estates sold to The Link Management for the consideration of the Subcommittee at its next meeting.

IV Any other business

Way forward

58. Mr Andrew CHENG said that the Subcommittee should concentrate on the streamlining of food business licensing and should not side-track to discuss other licensing procedures which members were not familiar with. Mr CHENG suggested that the Subcommittee should hold its next meeting when the Administration was able to provide concrete proposals on how to streamline food business licensing.

59. The Chairman said that pending the Administration's formulation of the concrete proposals, the Subcommittee could study related licensing matters such as outside seating accommodation of restaurants and the licensing requirements for private kitchen.

Date of next meeting

60. The Chairman suggested and members agreed that the next meeting of the Subcommittee should be held in October 2005.

61. There being no other business, the meeting ended at 4:42 pm.