

立法會
Legislative Council

Ref : CB2/PL/FE

LC Paper No. CB(2)655/08-09
(These minutes have been seen
by the Administration)

Panel on Food Safety and Environmental Hygiene

Minutes of meeting
held on Tuesday, 9 December 2008, at 2:30 pm
in Conference Room A of the Legislative Council Building

- Members present** : Hon Fred LI Wah-ming, JP (Chairman)
Hon WONG Yung-kan, SBS, JP (Deputy Chairman)
Hon Andrew CHENG Kar-foo
Hon TAM Yiu-chung, GBS, JP
Hon Tommy CHEUNG Yu-yan, SBS, JP
Hon Vincent FANG Kang, SBS, JP
Hon WONG Kwok-hing, MH
Dr Hon Joseph LEE Kok-long, JP
Hon Alan LEONG Kah-kit, SC
Hon KAM Nai-wai, MH
Hon Cyd HO Sau-lan
Dr Hon LEUNG Ka-lau
Hon WONG Yuk-man
- Members attending** : Hon LEE Cheuk-yan
Hon LEUNG Yiu-chung
- Public Officers attending** : Item IV only

Ms Olivia NIP
Deputy Secretary for Food and Health

Items IV, V and VI

Mr Francis HO
Principal Assistant Secretary for Food and Health (Food)2

Items IV and V

Ms Alice LAU Yim
Deputy Director of Food and Environmental Hygiene
(Environmental Hygiene)

Items V and VI

Prof Gabriel M LEUNG, JP
Under Secretary for Food and Health

Ms CHU Lan-ying
Assistant Director (Operations)³
Food and Environmental Hygiene Department

Item VI only

Ms Julina CHAN Woon-ye, JP
Deputy Director of Food and Environmental Hygiene
(Administration & Development)

**Attendance :
by invitation**

Item VI only

Hong Kong Food & Environment Hygiene Department
Staff Rights Union

Ms LI Mei-siu
Chairperson

Environmental Hygiene, Leisure and Cultural Services Staff
Association

Mr CHAN Pok-yin
Executive Committee Member

Environmental Hygiene, Leisure and Cultural Services Staff
Association - Mock I Staff Branch

Mr WONG Wah-hing
Secretary

**Clerk in : Miss Mary SO
attendance : Chief Council Secretary (2) 5**

Staff in attendance : Ms Alice LEUNG
Senior Council Secretary (2) 6

Ms Sandy HAU
Legislative Assistant (2) 5

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I Confirmation of minutes

(LC Paper Nos. CB(2)402/08-09 and CB(2)403/08-09))

The minutes of the special meeting held on 22 October 2008 and the regular meeting held on 11 November 2008 were confirmed.

II. Information papers issued since the last meeting

2. Members noted the following papers issued since the last meeting and did not raise any queries -

- (a) "Extension of the voluntary surrender scheme for itinerant hawker licences" provided by the Administration (LC Paper No. CB(2)375/08-09(01)); and
- (b) "Sulphur dioxide in beef" provided by the Administration (LC Paper No. CB(2)406/08-09(01)).

III. Items for discussion at the next meeting

(LC Paper Nos. CB(2)379/08-09(01) and (02))

3. At the request of the Chairman, members agreed to re-schedule the next regular meeting from 13 to 20 January 2009 to discuss the following items -

- (a) sulphur dioxide in beef;
- (b) amendments to the Food Business Regulation to prohibit abstraction of seawater for keeping live seafood; and
- (c) licensing of tobacco hawkers.

4 Members further agreed to hold a special meeting to discuss the issue of hawker licence fee and public market stall rental waiver and to invite deputations to listen to their views on the matter.

(Post-meeting note: The special meeting was held on 18 December 2008 at 10:45 am.)

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IV. Conversion of a Directorate Administrative Officer post into an Assistant Director of Municipal Services post in the Food and Environmental Hygiene Department (FEHD)

(LC Paper No. CB(2)379/08-09(03))

5. Deputy Secretary for Food and Health and Deputy Director of Food and Environmental Hygiene (Environmental Hygiene) (DD/FEH(EH)) briefed members on the proposed creation of an Assistant Director of Municipal Services (D2) post offset by deletion of an Administrative Officer Staff Grade C (D2) post in the Environmental Hygiene Branch of the Food and Environmental Hygiene Department (FEHD). The purpose was to ensure the continued provision of adequate directorate input to the planning and supervision of the smooth and efficient operation of environmental hygiene services and effective enforcement of relevant statutory provisions on a regional basis.

6. Members did not raise objection to the Administration submitting the proposal to the Establishment Subcommittee for endorsement on 18 February 2009 and the Finance Committee for approval on 24 April 2009.

V. Enforcement against unauthorised display of bills and posters

(LC Paper No. CB(2)379/08-09(04))

7. DD/FEH(EH) briefed members on enforcement against unauthorised display of bills and posters in public places by FEHD, details of which were set out in the Administration's paper.

8. Mr TAM Yiu-chung asked whether the new enforcement and prosecution approach against unauthorised display of bills and posters, as set out in paragraphs 12 to 14 of the Administration's paper, would cover promotion stands set up on the streets and persons wearing or carrying advertisement boards.

9. DD/FEH(EH) responded as follows -

(a) under section 83 of the Public Health and Municipal Services Ordinance (Cap. 132), it was an offence to hawk in any street without a license. If on-street promotion activities involved sale of goods or merchandise, subject to evidence FEHD would consider prosecution for hawking without a licence;

(b) if on-street promotion activities were found to obstruct scavenging operations, FEHD would issue a verbal warning for the removal of the obstructing article. If the warning went unheeded, FEHD would take follow-up action pursuant to section 22 of Cap. 132;

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- (c) however, on-street promotion activities which did not involve actual sale of goods or merchandise, such as sale of services, were not considered as hawking. If such activities gave rise to complaints and caused serious obstruction, FEHD and the Police would, having regard to individual circumstances, consider appropriate enforcement action by drawing on general powers under section 4A of the Summary Offences Ordinance (Cap. 228); and
- (d) in general, any form of unauthorised display of bills and posters on any Government land using apparatus such as easy-mount frames, placards, carts, boxes, etc. would be removed, together with the bills and posts, under section 133 of Cap.132 as evidence of contravention of section 104A of Cap.132 under the new enforcement and prosecution approach. However, on-street promotion activities using persons to wear or carry advertisement boards would not constitute an offence under section 104A.

10. Mr WONG Yuk-man pointed out that on-street promotion activities provided lower-skilled people with employment opportunities. To implement the new enforcement and prosecution approach in relation to the unauthorised display of bills and posters in public places at this time of economic downturn would adversely affect the livelihood of these people. Mr Tommy CHEUNG also said that the Administration should withhold implementing the new enforcement and prosecution approach against unauthorised display of bills and posters to the whole territory with effect from 2 February 2009, until after the economy had recovered from the present downtown. Mr CHEUNG considered that on-street promotion activities should be tolerated, so long as these activities did not obstruct or endanger any person or vehicle in a public place and did not occupy certain locations persistently. Ms Cyd HO concurred, and requested the Administration to provide an assessment of the implementation of the new enforcement and prosecution approach in relation to unauthorised display of bills and posters in public places on the business environment in writing after the meeting.

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11. Whilst recognising the need to address the problems caused by rampant unauthorised display of bills and posters in public places, Mr WONG Kwok-hing agreed that due regard should be given to protecting people's livelihood. Mr WONG suggested that the Administration should assign some public areas for promoters to apply to use at a fee. Reference could be drawn from the podium of the Tsing Yi Airport Express station whereby certain area was set aside for such purposes.

12. Under Secretary for Food and Health (USFH) responded that FEHD would balance all relevant factors in taking enforcement action against unauthorised display of bills and posters in public places. He pointed out that a

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relatively tolerant approach had been adopted towards unauthorised non-commercial bills and posters, which were typically displayed to promote activities organised or services provided by non-profit making organisations or community leaders. Although there were routine operations to remove such displays and recover costs from the relevant parties, prosecution was not taken out. USFH further said that under the existing policy, the Lands Department (Lands D) assigned roadside spots in various districts under the Management Scheme for the Display of Roadside Non-commercial Publicity Materials for display of non-commercial bills and posters. To his understanding Lands D had no plan to extend the Scheme to cover display of commercial bills and posters.

13. Mr LEUNG Yiu-chung queried whether FEHD would indeed balance all relevant factors in taking enforcement action against unauthorised display of bills and posters in public places, as under the new approach enforcement action would be taken against all easy-mount frames and similar paraphernalia used for unauthorised display of bills and posters in public places.

14. DD/FEH(EH) advised that the new approach had been implemented on a trial basis in Wan Chai District since early October 2008 and in Yau Tsim Mong District since end October 2008, focusing on commercial bills and posters. Under the trial scheme, FEHD seized some 1 200 easy-mount frames and similar paraphernalia used for unauthorised displays of bills and posters in public places as evidence of the offence, and only one prosecution was taken out.

15. Mr LEUNG Yiu-chung said that to his understanding, the Police had set up a task group to deal with the new enforcement and prosecution approach against unauthorised display of bills and posters in public places. Mr LEUNG requested the Administration to provide information in writing in this regard.

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16. Mr WONG Yuk-man expressed concern about the Administration using the new enforcement and prosecution approach against unauthorised display of bills and posters to ban certain political groups/individuals from promoting their ideas or views. Ms Cyd HO also expressed the view that the new approach could be used by the Administration to suppress freedom of speech and expression. Ms HO asked about the need for implementing the new approach, as the Police was empowered to take action as appropriate in the event that promotion and advertising activities posed imminent danger or caused obstruction to members of the public.

17. USFH responded that the reasons for implementing the new enforcement and prosecution approach in relation to unauthorised display of bills and posters in public places were already given in the Administration's paper.

18. Ms Cyd HO remained unconvinced of the Administration's explanation. Ms HO requested the Administration to provide the legal opinions on the human right implications of the new enforcement and prosecution approach in relation

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to unauthorised display of bills and posters in public places in writing after the meeting.

Conclusion

19. Ms Cyd HO moved a motion, as amended by Mr Alan LEONG, as follows -

"本委員會動議，在未經立法會詳細討論確認之前，當局不應收緊《公眾衛生及市政條例》第 104A 條及 104D 條執法和檢控方針。"

(Translation)

"That this Panel moves that the Administration should not tighten its enforcement and prosecution approach in respect of sections 104A and 104D of the Public Health and Municipal Services Ordinance before such are thoroughly discussed and confirmed by the Legislative Council."

The Deputy Chairman put Ms HO's motion, as amended by Mr LEONG, to vote. Four members voted in favour of the amended motion, and one member abstained. The Deputy Chairman declared that Ms HO's motion, as amended by Mr LEONG, was carried.

20. In closing, the Deputy Chairman said that the Administration should take into account the views/concerns expressed by members before taking forward the new enforcement and prosecution approach in relation to unauthorised display of bills and posters in public places.

VI. Operation of the Pest Control Section under FEHD

(LC Paper Nos. CB(2)340/08-09(01), CB(2)379/08-09(05) and CB(2)412/08-09(01))

21. The Deputy Chairman invited deputations to give views on the operation of the Pest Control Section under FEHD.

Views of deputations

Hong Kong Food and Environmental Hygiene Department Staff Rights Union

22. Ms LI Mei-siu presented the views of the Hong Kong Food and Environmental Hygiene Department Staff Rights Union (the Union) as detailed in the submission (LC Paper No. CB(2)412/08-09(01)). In particular, Ms LI urged FEHD to cease outsourcing its pest control services to safeguard public health as unlike civil servants, contractors' workers were not allowed to enter private premises to carry out pest control work, and to improve the manpower

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and management structure of its Pest Control Section. Ms LI pointed out that although the Administration mentioned in its paper to the Panel (LC Paper No. CB(2) 379/08-09(05)) that the 670 in-house pest control staff (including over 400 Workmen II) would remain in service, the fact was that the total number of in-house pest control teams would be reduced from the existing 166 to 66 involving 178 Workmen II.

Environmental Hygiene, Leisure and Cultural Services Staff Association

23. Mr CHAN Pok-yin introduced the submission from the Environmental Hygiene, Leisure and Cultural Services Staff Association (LC Paper No. CB(2)448/08-09(02)) which urged the Administration to convert the non-civil service contract (NCSC) staff in the Pest Control Section under FEHD into civil servants as the former had mostly been employed by FEHD for over 10 years.

Environmental Hygiene, Leisure and Cultural Services Staff Association - Mock I Staff Branch

24. Mr WONG Wah-hing presented the views of the Environmental Hygiene, Leisure and Cultural Services Staff Association - Mock I Staff Branch, as detailed in the submission tabled at the meeting (LC Paper No. CB(2)448/08-09(03)). Specifically, Mr WONG urged FEHD to address the serious shortage of frontline staff in its Pest Control Section which had resulted in the growing number of occupational injuries. Mr WONG also expressed concern about FEHD's plan not to recruit Workmen II and to replace them with contractors' workers.

The Administration's response

25. DD/FEH(Administration & Development) (DD/FEH(AD)) said that -

- (a) FEHD had, from time to time, conducted reviews of the internal structure of various sections/units as and when necessary to ensure that its services were effective. A review on its Pest Control Section had just been conducted. Under this review, the deployment of 670 in-house staff (including over 400 Workmen II) and 1 400 contractors' workers would remain unchanged. In addition, FEHD intended to increase the number of Foreman grade staff to enhance frontline inspection duties and to engage health inspectors in performing district liaison and publicity work to better mobilise the public in preventing pests and vectors'-borne diseases;
- (b) to strengthen the services of the Pest Control Section in various districts, FEHD had as a matter of fact, since 2003, set up pest control roving teams through outsourcing to augment the work of

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in-house staff working in the district pest control teams. The contractors' roving teams and in-house teams worked together to provide comprehensive pest and mosquito control services in the territory. This mode of operation had been working well thus far;

- (c) FEHD was actively reviewing the deployment of and need for Workmen II in the delivery of services. Requirement, if any, would first be met through in-service recruitment, and where necessary, approval from the Civil Service Bureau (CSB) for open recruitment would be sought in accordance with existing procedures to meet services needs; and
- (d) FEHD attached great importance to the occupational health and safety of its employees, including civil servants and NCSC staff. As an illustration, a large scale tool-box demonstration was organised by the Department last year to raise frontline staff's awareness of occupational health and safety and educate them about ways to prevent occupational injuries.

Discussion

26. Mr WONG Kwok-hing urged the Government to cease outsourcing its services, particularly after the announcement made by the Chief Executive (CE) on 8 December 2008 to create some 7 700 civil service posts next year, amongst others, to lead Hong Kong out of the economic downturn.

27. Mr WONG Yuk-man also said that the League of Social Democrats opposed Government outsourcing its services to outside contractors.

28. USFH responded that it was Government's established policy that the private sector should participate in the delivery of public services as far as practicable. To take full advantage of the skills, innovation and flexibility of the private sector to provide more and better services to the public, bureaux and departments would keep under regular review the mode of delivery of services. Only when it was established that the service could not be contracted out to a private service provider or must be undertaken by civil servants would civil servants be engaged to meet such needs.

29. Assistant Director (Operations) 3 (AD(Ops)3) supplemented that FEHD had never outsourced its pest control services in the past in the sense that no in-house workers had been displaced as a result, and the Department had no plan to do so in the future under the current review. The pest control roving teams serviced by contractors were set up to augment the services of in-house pest control teams, following the occurrence of dengue fever in Hong Kong in 2002.

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30. Mr WONG Yuk-man and Mr LEE Cheuk-yan sought clarification from the Administration on the information provided by the Union that the Pest Control Section of FEHD would reduce the number of in-house pest control teams from 166 to 66 involving 178 Workmen II.

31. AD(Ops)3 responded that the Administration did not know the source of the figures provided by the Union and therefore would not comment on that. AD(Ops)3 reiterated that the recent review on the internal structure of the Pest Control Section of FEHD would not affect the manpower of both in-house pest control teams of the Pest Control Section of FEHD and that of the contractors. The objective of the review was to make the work of the Pest Control Section more efficient. Under this review, health inspectors would be engaged to carry out publicity and district liaison works and the sphere of responsibility of in-house pest control teams and that of contractors' pest control roving teams would be made more clearly delineated. AD(Ops)3 pointed out that in-house pest control teams would generally be responsible for pest control in town areas which were more prone to the breeding of pests, whereas contractors' pest control roving teams would be responsible for pest control in other public places in general. AD(Ops)3 further pointed out that the fact that contractors' workers were not allowed on their own to enter private premises to carry out pest control work should not compromise public health, as each roving team would be led by Foremen staff who were civil servants and were authorised to enter private premises, where necessary, to carry out pest control work. AD(Ops)3 added that normally, most frontline staff were not required to enter private premises. Such need arose mainly in the course of dealing with certain complaints.

32. In response to Mr LEUNG Yiu-chung's enquiry on the number of Foremen employed by FEHD to perform pest control work, AD(Ops)3 said that there were at present some (slightly over) 100. Mr LEUNG questioned whether such a small number of Foremen staff was adequate to lead 1 400 contractors' workers and enter private premises to conduct investigation. AD(Ops)3 pointed out that contractors' workers performed their duties in accordance with prescribed working procedures and programmes which were mainly in public areas, and in the vast majority of cases, their work did not involve entering private premises.

33. Mr LEE Cheuk-yan asked whether the Administration could give an assurance that it would fill the posts vacated by in-house pest control staff to maintain the number of existing staff at 670. DD/FEH(AD) responded that FEHD had no plan at this stage to change the number of existing in-house pest control staff.

34. Ms Cyd HO hoped that FEHD would not deploy staff from other service units of the Department to fill the posts vacated by the in-house pest control staff to maintain the latter's staff establishment at 670. At the request of Ms HO, USFH undertook to provide the Department's establishment figures in

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writing after the meeting.

35. The Deputy Chairman, Mr WONG Yuk-man and Ms Cyd HO suggested that FEHD should first consider workers of contractors' pest control roving teams and recruit them as civil servants to fill posts vacated by staff of in-house pest control teams. DD/FEH(AD) responded that in accordance with civil service policy, civil service vacancies had to be filled through an open, fair and competitive recruitment process. For recruitment for Workman II posts, where necessary, approval from CSB for open recruitment would be sought in accordance with existing procedures to meet services needs.

36. Mr WONG Kwok-hing and Mr LEUNG Yiu-chung were of the view that FEHD should convert the NCSC posts in the Pest Control Section into civil service posts, as the fact that the NCSC posts had been in place for more than 10 years was a testament they were necessary to meet operational needs. DD/FEH(AD) reiterated that the open recruitment for Workman II posts had to have the prior approval of CSB in accordance with current procedures. The Department was actively reviewing the deployment of and need for Workman II posts and if necessary would put forth such a request with CSB.

37. Mr WONG Kwok-hing asked whether FEHD would consider the concerns of staff unions and increase the number of Workmen II to alleviate the heavy workload of workers of the in-house pest control teams. DD/FEH(AD) responded that the deployment of and need for Workmen II in FEHD was being actively reviewed and the Department would take into account relevant concerns, including views expressed by the staff side.

38. In response to Mr WONG's further enquiry on how many new jobs would be created by FEHD in response to the economic stimulus package announced by CE on 8 December 2008, DD/FEH(AD) advised that FEHD planned to create 355 temporary jobs most of which were for enhancing cleansing services.

39. There being no other business, the meeting ended at 4:30 pm.