

立法會
Legislative Council

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LC Paper No. CB(2)430/09-10
(These minutes have been seen
by the Administration)

Panel on Food Safety and Environmental Hygiene

Minutes of meeting
held on Tuesday, 10 November 2009, at 2:30 pm
in Conference Room A of the Legislative Council Building

- Members present** : Hon Fred LI Wah-ming, SBS, 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, SBS, JP
Hon Alan LEONG Kah-kit, SC
Hon KAM Nai-wai, MH
Hon WONG Yuk-man
- Member attending** : Hon CHAN Hak-kan
- Member absent** : Dr Hon LEUNG Ka-lau
- Public Officers attending** : Items III and IV only

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

Item III only

Mrs Angelina CHEUNG FUNG Wing-ping
Principal Assistant Secretary for Food and Health (Food) 1

Dr Constance CHAN Hon-ye, JP
Controller, Centre for Food Safety
Food and Environmental Hygiene Department

Mr Patrick HAU Hon-fai
Chief Project Manager 301
Architectural Services Department

Item IV only

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

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

Ms Rhonda LO Yuet-ye, JP
Assistant Director of Food and Environmental Hygiene
(Operations) 2

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

Staff in attendance : Miss Joanne FONG
Senior Council Secretary (2)6

Ms Sandy HAU
Legislative Assistant (2)5

Action

I. Information paper(s) issued since the last meeting
(LC Paper Nos. CB(2)218/09-10(01) and CB(2)219/09-10(01))

Members did not raise any queries on the following papers issued since the last meeting -

- (a) Letter dated 2 November 2009 from Yuen Long District Council to the Administration regarding stepping up enforcement actions against dog fouling (LC Paper No. CB(2)218/09-10(01)); and
- (b) Letter dated 3 November 2009 from Hong Kong Federation of Handicapped Youth to the Administration regarding issuing

Action

itinerant and fixed-pitch hawker licences to the disabled (LC Paper No. CB(2)219/09-10(01)).

II. Items for discussion at the next meeting

(LC Paper Nos. CB(2)197/09-10(01) and (02))

2. Members agreed to discuss the following issues proposed by the Administration at the next regular meeting scheduled for 8 December 2009 at 2:30 pm -

(a) Alignment of public market tenancy agreements; and

(b) Promotion of local produce.

3. The Chairman proposed to discuss the effectiveness of the fixed penalty system for public cleanliness offences, such as spitting and littering, at a future meeting. The Chairman said that as the level of the fixed penalty for public cleanliness offences had been increased from \$600 to \$1,500 since 2003, it was timely for the Administration to review whether the penalties for these offences should be raised, such as imposing community service orders on repeat offenders, to increase deterrent effect. Under Secretary for Food and Health (USFH) advised that under the Public Cleansing and Prevention of Nuisance Regulation (Cap. 132BK) and the Summary Offences Ordinance (Cap. 228), the offender was liable to imprisonment upon subsequent convictions. USFH suggested and members agreed that the Administration should first provide an information paper setting out the number of fixed penalty notices issued to public cleanliness offenders and the types of penalties handed down to repeat offenders in the past three years.

4. The Chairman sought members' view on discussing the claims that some Mainland vegetables supplied to Hong Kong came from non-registered vegetable farms under the disguise of a proper label from a registered vegetable collection and processing plant at the next regular meeting or at a special meeting. Mr WONG Yung-kan, Mr Tommy CHEUNG, Mr Vincent FANG and Mr TAM Yiu-chung were of the view that as the Panel had already discussed similar claims on two occasions on 9 January 2009 and 3 April 2009, they could not see holding another meeting would help to solve the alleged problems unless there were new things discovered from the claims. Mr KAM Nai-wai, Mr LEE Wing-tat, Mr Alan LEONG and Mr WONG Yuk-man however considered otherwise.

5. USFH advised that to ensure that vegetables exported to Hong Kong came from proper sources, the State General Administration of Quality Supervision, Inspection and Quarantine announced on 10 September 2009 an enhanced 《供港澳蔬菜檢驗檢疫管理辦法》 (Administrative Measures on

Action

the Quarantine of the Vegetables Supplied to Hong Kong and Macao) for compliance by registered farms and registered collection stations in the Mainland, which had come into operation on 1 November 2009. Referring to a recent incident reported by a District Council (DC) member on the import into Hong Kong vegetables from non-registered farms bearing illegally obtained labels of vegetable sources and smuggling of cigarettes and chilled meat into Hong Kong by mixing them with these vegetables, USFH said that the Administration had been liaising with the DC member to obtain further details so that appropriate follow-up actions could be taken up with the Mainland authorities concerned.

6. The Chairman suggested that the Panel pay a half-day visit to Shenzhen to visit the Nanshan Centre for Processing and Distribution of Agricultural Products to Hong Kong (南山供港農產品加工配送中心) and to hold a discussion session with the Shenzhen Entry-Exit Inspection and Quarantine Bureau on the control of vegetables exported for Hong Kong. Members agreed. The Chairman requested the Administration to line up the aforesaid visit. The Chairman further requested the Administration to provide a paper on the latest 《供港澳蔬菜檢驗檢疫管理辦法》 and the actions taken in response to the incident referred to in paragraph 5 above, which would be discussed under "Matters Arising" at the next regular meeting. Members agreed.

III. Extension of Man Kam To Food Inspection Facilities
(LC Paper No. CB(2)197/09-10(03))

7. USFH briefed members on the proposed project to extend Man Kam To Food Control Office (MKTFCO), details of which were set out in the Administration's paper.

8. Mr WONG Yung-kan said that the Democratic Alliance for the Betterment and Progress of Hong Kong supported the extension project. Mr WONG further asked -

- (a) what measures would be taken to minimise the noise and light nuisance which the project might cause to villagers living in the vicinity; and
- (b) whether the project would have provision of parking spaces for private vehicles.

9. Chief Project Manager 301, Architectural Services Department responded as follows -

Action

- (a) the Government would adopt appropriate design measures to minimise the noise level and select suitable lighting and adjust the lighting angle to minimise light nuisance to nearby villages as far as possible; and
- (b) the project would include parking spaces for private vehicles, albeit they were not intended for use by members of the public.

10. Mr WONG Kwok-hing expressed support for the extension project. Mr WONG further asked after the completion of the extension project, -

- (a) whether the MKTFCO would be able to cope with the growing workload brought about by the increase in volume of food supplied from the Mainland and the enhanced control of imported food of certain high risk categories after the implementation of the new Food Safety Bill;
- (b) whether, and if so, what manpower arrangement would be made; and
- (c) whether the existing problem of food or vegetable vehicles not stopping for inspection at the MKTFCO could be eradicated.

11. USFH responded as follows -

- (a) with the provision of 23 parking spaces capable of fitting large vehicles (with capacity up to 44 tonnes) for inspection and detention at the MKTFCO after the completion of the extension project, it was expected that the number of food vehicles inspected could be increased from about 50 000 to 100 000 per year. Moreover, different types of foods from the Mainland had different peak periods in entering Hong Kong through the Man Kam To (MKT) Border Control Point. For instance, vehicles carrying vegetables mostly crossed the border in the evening from 7 pm to 10 pm, whereas vehicles carrying meat and poultry mostly crossed the border from 11 am to 1 pm;
- (b) appropriate manpower arrangement would be made to tie in with the completion of the extension project; and
- (c) the existing problem of food and vegetable vehicles not stopping for inspection at the MKTFCO would be eradicated after the completion of the extension project, as in future all these vehicles had to pass through the MKTFCO before leaving the MKT Border Control Point.

Action

12. Mr Tommy CHEUNG sought clarification from the Administration on whether separate funding would be sought from the Establishment Subcommittee at a later stage to employ more people to work at the MKTFCO after completion of the extension project.

13. USFH responded that at present, due to the lack of parking spaces for inspection and detention of large vehicles at the MKTFCO, the Centre for Food Safety (CFS) under the Food and Environmental Hygiene Department (FEHD) had to deploy staff to station at the cargo terminal of the Customs and Excise Department (C&ED) at MKT to carry out food inspection work, apart from stationing staff at the MKTFCO. Controller, CFS also pointed out that with the completion of the extension project, there would be no need for FEHD to do so but FEHD would continue to mount joint operations with C&ED.

14. In response to Mr Tommy CHEUNG's enquiry, USFH said that FEHD would examine how to meet the manpower requirements of the extended MKTFCO through internal deployment of staff. If the number of inbound food vehicles arriving at MKT Border Control Point increased, there might be the need to seek funding under the established mechanism but it was unlikely for the creation of a senior directorate post to man the extended MKTFCO.

15. Mr Vincent FANG asked -

- (a) why the number of inbound food vehicles to be inspected at the MKTFCO could only be increased from about 50 000 to 100 000 per year, when the number of parking spaces for inspection and detention at the MKTFCO, after the completion of the extension project, would be greatly increased from the existing five to 23; and
- (b) whether the longer time required for the MKTFCO to carry out food inspection work would undermine the number of food vehicles inspected at the MKTFCO after the completion of the extension project, having regard to the increasing number of large food vehicles arriving at MKT Border Control Point.

16. USFH clarified that although the existing MKTFCO had only five parking spaces capable of fitting only small vehicles (with capacity under five tonnes), CFS was presently using the parking and loading/unloading facilities of C&ED to carry out food inspection on large food vehicles. USFH further said that it was inevitable that longer time would be required for inspecting large vehicles. It should however be pointed out that the existing vehicle X-ray scanner belonging to C&ED at MKT was capable of fitting large vehicles with capacity over 44 tonnes for detecting food and other things not declared on the import manifests.

Action

17. The Chairman asked after the completion of the extension project, -
- (a) whether the existing working arrangements between CFS and C&ED would change; and
 - (b) whether CFS would have more capability to verify whether vegetables from the Mainland came from proper sources.
18. Controller, CFS responded that whilst CFS would continue to conduct joint operation work with C&ED to detect smuggling activities, all routine food inspection work would henceforth be carried out by CFS at the MKTFCO after the completion of the extension project.
19. Regarding the Chairman's second question, USFH said that new provisions to enhance traceability of vegetables exported for Hong Kong were introduced to the latest 《供港澳蔬菜檢驗檢疫管理辦法》 implemented in the Mainland on 1 November 2009. Further, with the provision of additional inspection facilities after the completion of the extension project, it was expected that the number of food vehicles inspected could be increased from 50 000 to 100 000 per year.
20. Noting there was at present only one X-ray scanner at the MKT Border Control Point, Mr WONG Kwok-hing asked the Administration whether consideration could be given to increasing one more such scanner at MKT to better safeguard food safety. USFH responded that the Administration did not see the need to do so, as X-ray scanner could not detect whether certain foods were fit for consumption or came from improper sources. Mr WONG Kwok-hing remarked that he would withdraw his support for the extension project if the Administration refused to add one more X-ray scanner at the MKT Border Control Point.
21. In closing, the Chairman said that members were generally supportive of the Administration making a submission to the Public Works Subcommittee to upgrade the proposed project to Category A of the Public Works Programme in December 2009.

IV. Consultation on the positioning, functions and usage of public markets and related matters

(LC Paper Nos. CB(2)197/09-10(04) and (05))

22. USFH briefed members on the outcome of the consultation carried out by the Administration in September and October 2009 with the Market Management Consultative Committees (MMCCs), market trader organisations and trade associations on the positioning, functions and usage of public markets, as well as the proposals relating to the public market rental adjustment

Action

mechanism and arrangements to recover air-conditioning charges and rates, details of which were set out in the Administration's paper (LC Paper No. CB(2)197/09-10(04)).

Discussion

23. Mr Vincent FANG questioned the validity and appropriateness of the Administration using open market rental (OMR), provided by the Rating and Valuation Department (RVD), in assessing public market rental, having regard to the fact that the facilities of public markets were outdated and their environment and management far from satisfactory. Mr KAM Nai-wai raised similar queries. Mr FANG further said that although he agreed that market stall tenants should bear their own air-conditioning charges, the Administration should fully bear the costs for the installation and maintenance of the air-conditioning systems in public markets because of the huge amount of money involved.

24. USFH explained that OMR was not based on the rentals of private markets/fresh provision shops located in the vicinity of public markets. Rather, OMR was based on various factors, such as the most recent bid price for a similar stall let out under open auction in the same public market, the location of the public market, the different rating factors attributed to the unique features of the stall concerned (such as its proximity to escalators), and customer flow in the public market. USFH further said that the Administration would continue to bear full costs for the installation and major maintenance and replacement of the air-conditioning systems in public markets, whereas stall tenants were only responsible for the recurrent costs, including electricity charges and the costs of daily general maintenance.

25. Mr WONG Kwok-hing proposed to convene a special meeting to listen to the views of market stall tenants on the positioning, functions and usage of public markets, as well as the proposals relating to the public market rental adjustment mechanism and arrangements to recover air-conditioning charges and rates. Mr TAM Yiu-chung, Mr Tommy CHEUNG, Mr Vincent FANG, Mr Alan LEONG and Mr CHAN Kam-lam did not object to the proposal, but considered it better if the special meeting was held after the Administration had come up with more concrete proposals on the way forward.

26. Mr Alan LEONG asked the following questions -

- (a) whether the positioning and functions of public markets would be factored in by the Administration in determining the rental adjustment mechanism and recovery of air-conditioning charges and rates;

Action

- (b) whether the Administration would have regard to the proposals set out in paragraph 11(d) of the Administration's paper in addressing the disparity in rentals for similar stalls in public markets;
- (c) what was the timetable for implementing the new rental adjustment mechanism and recovery of air-conditioning charges and rates; and
- (d) who would be enlisted in participating in the retreat referred to in paragraph 19 of the Administration's paper.

27. USFH and Deputy Director of Food and Environmental Hygiene (Adm & Dev) responded as follows -

- (a) the Administration well recognised that public markets served important social functions in that they were the means to (i) historically re-site on-street hawkers who would otherwise be trading on-street, (ii) provide one of the major sources of fresh provisions as far as the grassroots were concerned, and (iii) provide employment opportunities for the grassroots. All these were reflected in the Government's subsidisation of public market operation to a tune of over \$100 to \$200 million a year;
- (b) the Administration would have regard to the historical factors and different background of public market tenants in addressing the disparity in rentals for similar stalls in public markets;
- (c) whilst assessing the rates of individual market stalls was estimated to take more than a year to complete, no specific timetable had been set to align market stall rentals and recover air-conditioning charges from tenants. Should no consensus on market rental adjustment mechanism be reached before 30 June 2010, the rental of the new tenancy upon tenancy renewal after 30 June 2010 would have to be based on the prevailing rental; and
- (d) three retreats, to be organised in December 2009 in Hong Kong, Kowloon and the New Territories region respectively, would be for DC members, Area Committee members and MMCC and tenant representatives. Apart from gauging their views on the future market design and plan, FEHD would share with the participants views collected in the opinion surveys conducted earlier on 79 wet markets under its management involving over 30 000 patrons and non-patrons of public markets as well as

Action

tenants and jointly explore with them the feasible plans for enhancing the overall operation of public markets.

28. Mr Ronny TONG said that stall tenants were not reluctant to pay higher rentals if more people patronised their stalls. In the light of this, Mr TONG urged the Administration to first improve the supporting infrastructure of public markets, such as the surrounding transportation network and direction of pedestrian flow, before adjusting market rentals upwards. Mr LEUNG Yiu-chung, Mr WONG Yung-kan and the Chairman expressed similar views.

29. USFH responded that after consulting the trade on the proposals set out in the Administration's paper entitled "Public Market Stall Rentals and Charges" submitted to the Panel on 14 July 2009 (LC Paper No. CB(2) 2155/08-09(05)) in the past two months, the Administration remained open-minded as to the idea of achieving the target that public market rentals generally reached 80% of OMR after the sixth year as this was after all the Administration's preliminary proposal. USFH further said that the Administration hoped to make use of the retreats, to be organised in December 2009, to find out ways to attract more people to patronise public markets and this in turn should help to identify the levels of rentals which were reasonable and acceptable to tenants.

30. Mr TAM Yiu-chung welcomed the Administration's plan to further consult market tenants before introducing a new rental adjustment mechanism. Mr TAM however hoped that apart from making reference to the latest bid price for a similar stall in the same public market in assessing the OMR, amongst others, consideration should be given to the prevailing economic situation, the number of vacant stalls in the market and the affordability of the grassroots.

31. USFH responded that the Administration had all along taken into account the factors mentioned by Mr TAM in paragraph 30 above in assessing the stall rentals of public markets. USFH further said that although the latest bid price for a similar stall in the same public market was one of the factors in assessing the OMR, the open auction price of a market stall would be adjusted downwards if there was no bidder and the stall was vacant for six months or more.

32. In response to Mr TAM Yiu-chung's enquiry as to whether tenants were only required to pay air-conditioning charges of their stalls, USFH said that at present tenants in air-conditioned markets also paid air-conditioning charges attributable to public areas, such as passages and lobbies, pro rata to their stall areas. Thus far, no tenants in air-conditioned markets had raised objection to such arrangements.

Action

33. Mr CHAN Kam-lam expressed dissatisfaction that the Director of Food and Environmental Hygiene (DFEH) did not attend the meeting to answer questions from members, having regard to the importance of the subject matters. Mr CHAN further said that -

- (a) OMR of stalls should accurately reflect the rental value of the public market stalls, and this should be made clear to the tenants to avoid misunderstanding;
- (b) rates should be included in the stall rentals to save expensive administrative cost;
- (c) the Administration should take active steps to enhance the business environment of the existing public markets to improve their competitiveness, such as providing them with air-conditioning before embarking on recovering air-conditioning charges from tenants; and
- (d) FEHD should improve its management of public markets by, say, stepping up enforcement actions against those stall tenants violating the conditions stipulated in the tenancy agreement, such as placing their goods outside their stalls thereby obstructing the passageway.

34. USFH and Assistant Director of Food and Environmental Hygiene (Operations) 2 responded as follows -

- (a) the Administration would, in conjunction with the relevant government departments, including the RVD, re-examine the proposed rental adjustment mechanism, including the proposal of including rates in the stall rentals, with reference to the views gathered from the recent consultation exercise. Upon completion of the review, the Administration would report to the Panel at a suitable juncture;
- (b) under the existing arrangement, the Administration would retrofit air-conditioning systems in public markets at its own cost, if not less than 85% of the stall tenants agreed to the retro-fitting and bear the electricity charges and costs of daily general maintenance afterwards;
- (c) frontline staff of FEHD inspected public markets on a daily basis to ensure tenants' compliance with market tenancy condition/relevant legislation. Verbal warning would be given to first-time breach of a market tenancy condition, and prosecution action might be taken against those tenants who repeatedly failed

Action

to comply with the verbal and/or written warnings for contravention of legislation. For instance, over 1 000 prosecutions had been taken against stall tenants for placing their commodities beyond their stall areas in the past 12 months; and

- (d) DFEH, as well as the Secretary for Food and Health, had previously attended the meeting of the Panel held on 14 July 2009 to brief and answer questions from members regarding the Administration's preliminary thinking on issues involving the positioning, functions and usage of public markets, the proposed rental adjustment mechanism, and the recovery of air-conditioning charges and rates under the "user-pays" principle. The reason why only he himself, the Deputy Director of Food and Environmental Hygiene (Adm & Dev) and the Assistant Director of Food and Environmental Hygiene (Operations) 2 attended this meeting was because they were more directly involved in the consultation on the matters.

35. Mr Tommy CHEUNG made the following points -

- (a) one way to address the concerns of the Director of Audit and the Public Accounts Committee about FEHD not collecting rates from stall tenants was to change the tenancy agreements to explicitly state that the rentals already included rates. This was not unreasonable, as FEHD had been paying rates on behalf of the stall tenants all along and had not recovered the rates from them;
- (b) it was unprofessional of the Administration to include the latest bid price for a similar stall in the same public market in assessing the stall rentals in the same market, as the bid price for a stall selling new commodities would invariably be much higher than that for a stall selling commodities which were being sold in many stalls in the same market; and
- (c) consideration should be given to allowing stall tenants to only pay the electricity charges for the air-conditioning incurred in their own stalls.

Mr WONG Kwok-hing raised similar view mentioned by Mr CHEUNG in paragraph 35(a) above.

36. USFH responded that FEHD would convey Mr CHEUNG's view mentioned in paragraph 35(b) above in its discussion with RVD on the method that should be adopted for assessing rentals of public markets. USFH further said that the Administration would take into account Mr CHEUNG's views

Action

mentioned in paragraph 35(a) and (c) above in the review on market rental adjustment and recovery of air-conditioning charges.

37. Mr KAM Nai-wai and the Chairman were of the view that the Administration should continue to subsidise public markets, having regard to the important social functions of public markets. Mr KAM and the Chairman also echoed the views that FEHD should take active steps to enhance the business environment of the existing public markets to improve their competitiveness by providing them with air-conditioning, before embarking on recovering air-conditioning charges from tenants. The Chairman added that tenants of the shops managed by The Link Management only paid the electricity charges for their own shops.

38. USFH reiterated that the Administration had not changed its stance in subsidising public markets, having regard to their important social functions. USFH further said that it was not appropriate to compare the air-conditioning charges of stall tenants of public markets with tenants of the shops managed by The Link Management, as the latter had to pay rentals based on similar shops in the marketplace and other fees such as management fee.

39. In closing, the Chairman suggested and members agreed that a special meeting might need to be held to follow up on the matters. Members further agreed to invite deputations to give views on the matters.

40. There being no other business, the meeting ended at 4:45 pm.