

立法會
Legislative Council

Ref : CB2/PL/FE

LC Paper No. CB(2)618/09-10
(These minutes have been seen
by the Administration)

Panel on Food Safety and Environmental Hygiene

Minutes of meeting
held on Tuesday, 8 December 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
Dr Hon LEUNG Ka-lau
Hon WONG Yuk-man
- Members attending** : Hon CHAN Kam-lam, SBS, JP
Hon LEUNG Yiu-chung
Hon CHAN Hak-kan
- Public Officers attending** : Items IV to VI
Prof Gabriel M LEUNG, JP
Under Secretary for Food and Health
- Items V and VI
Mr Francis HO
Principal Assistant Secretary for Food and Health (Food) 2

Item IV

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

Dr LEE Siu-yuen
Assistant Director (Food Surveillance & Control)
Centre for Food Safety
Food and Environmental Hygiene Department

Mr Ben LEUNG Lun-cheung, C.M.S.M.
Head of Land Boundary Command
Customs and Excise Department

Item V

Mr CHEUK Wing-hing, JP
Director of Food and Environmental Hygiene

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

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

Item VI

Dr SO Ping-man
Assistant Director (Fisheries)
Agriculture, Fisheries and Conservation Department

Ms Wendy KO Wan-chi
Assistant Director (Agriculture) (Acting)
Agriculture, Fisheries and Conservation Department

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

Staff in attendance : Mr Watson CHAN
Head (Research and Library Services)

Miss Joanne FONG
Senior Council Secretary (2)6

Ms Sandy HAU
Legislative Assistant (2)5

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I. Confirmation of minutes

(LC Paper No. CB(2)430/09-10)

The minutes of meeting held on 10 November 2009 were confirmed.

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

(LC Paper No. CB(2)420/09-10(01))

2. Members did not raise any queries on a submission from 全港公共街市販商大聯盟 regarding public market stall rentals and charges issued since the last meeting.

III. Items for discussion at the next meeting

(LC Paper Nos. CB(2)431/09-10(01) and (02))

3. Members agreed to discuss the issue of "Report of food safety monitoring in 2009" proposed by the Administration at the next regular meeting scheduled for 12 January 2010.

4. The Chairman said that Duty Roster Members met with representatives of 港九新界販商社團聯合會 in the morning of 8 December 2009 who were of the view that the Administration should accord priority to registered assistants of licensed fixed pitch hawkers in the allocation of the some 400 vacant fixed hawker pitches. The Chairman pointed out that such a request was also the view of members of the Panel, as mentioned in paragraph 57 of the minutes of the meeting of the Panel on 14 April 2009.

5. Under Secretary for Food and Health (USFH) responded that the Administration would revert its stance on the suggestion to members in the next regular meeting. The Chairman suggested and members agreed to discuss the issue of "Allocation of vacant fixed hawker pitches" in the January 2010 meeting. Members further agreed to invite deputations to give views on the matter and to advance the start time of the meeting from 2:30 pm to 2 pm where necessary.

6. Mr WONG Kwok-hing, Mr Vincent FANG and Mr WONG Yung-kan urged the Administration to suspend its plan to invite applications for the some 400 vacant fixed hawker pitches. USFH agreed.

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7. Mr KAM Nai-wai proposed to discuss the issue of "Regulation of private columbarium facilities". The Chairman advised that this issue was proposed by the Administration for discussion in April 2010.

8. Referring to a submission from全港公共街市販商大聯盟tabled at the meeting, the Chairman sought members' view on holding a special meeting to discuss the alignment of public market tenancy agreements. As the Administration planned to obtain views from representatives of market tenants and traders on the revised tenancy agreement template, members agreed to hold a special meeting to listen to the views of deputations after the Administration was in a position to report on the results of the consultation.

IV. Matters arising

(LC Paper No. CB(2)431/09-10(03))

Vegetables imported from the Mainland

9. USFH briefed members on the new set of "Administrative Measures on Inspection, Quarantine and Supervision for Vegetables Supplied to Hong Kong and Macao" (供港澳蔬菜檢驗檢疫監督管理辦法) (the new Measures) implemented in the Mainland and the corresponding regulatory actions taken by the Administration on vegetables imported from the Mainland, details of which were set out in the Administration's paper. USFH further said that the Customs and Excise Department (C&ED) had been trying to get in touch with Hon WONG Sing-chi and North District Council member Mr LAW Sai-yan, after receiving from them on 27 October 2009 a compact disc alleged to record that some Mainland vegetables from non-registered farms were found to be imported to Hong Kong through the Nanshan Centre for Processing and Distribution of Agricultural Products to Hong Kong and that smuggled goods or food items were also involved, for more concrete information to facilitate the investigation as the quality of the compact disc was not satisfactory. Separately, a meeting with Hon WONG Sing-chi, Mr LAW Sai-yan and members of the vegetable trade on 18 December 2009 had been scheduled. Besides, a copy of the compact disc and the relevant information had been provided to the Mainland authorities for follow-up investigation.

10. Mr LEUNG Yiu-chung said that the problem of some Mainland vegetables supplied to Hong Kong coming from improper sources under the guise of a proper label continued to occur, despite the implementation of the new Measures set out in paragraph 4(a)-(h) of the Administration's paper. Mr LEUNG opined that the new Measures were merely enhancements of the previous ones. Mr LEUNG further asked whether the Administration had dispatched staff to understand the implementation of the new Measures in the Mainland.

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11. USFH responded that the new Measures strengthened the supervision and control at source in respect of vegetable farms and production and processing establishments that supplied vegetables to Hong Kong, improved the product tracing system, introduced an electronic supervision system, increased penalties for non-compliance and further realised the food safety management concept of “from source to table”. USFH further said that apart from having regular dialogue with the Mainland authorities on control of vegetables for supply to Hong Kong, Centre for Food Safety (CFS) regularly dispatched staff to inspect registered farms and production and processing establishments in the Mainland.

12. Head of Land Boundary Command, C&ED supplemented that in the past two months, C&ED and its counterparts in Shenzhen had stepped up inspection of vegetable vehicles bound for Hong Kong. In Hong Kong, about 30-35 (12%) of the 260-280 vegetable vehicles entering Hong Kong via Man Kam To (MKT) daily would be inspected by C&ED, amongst which about seven to eight (or 22%) would go through X-ray scanning examination, with the remaining 26-30 (or 70%) subject to examination by unpacking the consignments. Of these 26-30 vehicles, the consignments of three to four vehicles would be all unpacked for examination. Head of Land Boundary Command, C&ED further said that in the past two years, C&ED had discovered only two minor cases of vegetable vehicles transporting un-manifested goods. The situation of using vegetable vehicles to smuggle other food was not serious.

13. Mr LEUNG Yiu-chung remarked that the work carried out by C&ED only targeted at combating smuggling activities, and could not effectively detect Mainland vegetables from improper sources under the guise of a proper label importing into Hong Kong. USFH responded that the Administration would take follow-up actions if members or members of the vegetable trade had information on unscrupulous people importing Mainland vegetables from improper sources into Hong Kong.

14. Mr WONG Yung-kan asked about the measures to ensure that the seals of all vegetable vehicles bound for Hong Kong were not tampered with in the course of transportation.

15. Assistant Director of Food and Environmental Hygiene (Food Surveillance & Control) responded that when vegetable vehicles arrived at the MKT Border Control Point in Hong Kong, officers of the CFS would check the relevant documents and seal intactness of around 30 per cent of the vegetable vehicles. If irregularities were detected, vegetable consignments from the vehicles concerned would be detained for testing and would be released only when satisfactory results were obtained. CFS would also inform the Mainland authorities of such findings for follow-up investigation.

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16. In conclusion, the Chairman requested the Administration to report the outcome of its meeting to be held on 18 December 2009 with Hon WONG Sing-chi, Mr LAW Sai-yan and members of the vegetable trade at the next regular meeting of the Panel.

V. Alignment of public market tenancy agreements
(LC Paper Nos. CB(2)431/09-10(04) and (05))

17. USFH and Deputy Director of Food and Environmental Hygiene (Environmental Hygiene) (DD/FEH(EH)) briefed members on the outcome of the consultation conducted by the Food and Environmental Hygiene Department (FEHD) on alignment of public market tenancy agreements and related matters, details of which were set out in the Administration's paper (LC Paper No. CB(2)431/09-10(04)).

18. Mr WONG Kwok-hing commended the Administration for making the new tenancy agreement template simple and easy to understand, removing from the new template the harsh terms on requiring compensation by tenants, and for not stipulating in the new template that tenants were responsible for payment of rates in respect of their stalls. Mr WONG further asked the Administration whether consideration could be given to -

- (a) allowing more than one person to sign the new public market tenancy agreement, in view of the fact that some stalls had/would have more than one business partner who actually operated/would operate the stalls;
- (b) charging tenants the stall rentals they were presently paying after renewal; and
- (c) changing rental payment by tenants from quarterly to monthly.

19. USFH and Director of Food and Environmental Hygiene (DFEH) responded as follows -

- (a) the existing legislation, enacted in 1987, required that only one person could sign a public market tenancy agreement. However, there was a provision in the agreement, as well as in the new template, allowing a tenant to appoint a legal personal representative who could take over his tenant status upon his death;
- (b) to resolve historical problems arising from scenarios such as several family members giving up on-street hawking in exchange for one market stall, the Administration proposed to allow, on a one-off basis, the following two types of persons to apply for

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taking over the status of a tenant on producing relevant proof and with the consent of the sitting tenant -

- (i) any person who had been a registered assistant of the stall concerned for at least three years; or
 - (ii) any person who had invested in the business of the stall concerned for at least three years;
- (c) it was the Administration's policy to charge tenants open market rental (OMR), the assessment of which was under discussion with the Ratings and Valuation Department (RVD);
- (d) although the new tenancy agreement template did not make any reference to the payment of rates, clause 1(a) of the new template stipulated, amongst others, that "Other expenses incurred from the operation of Stall shall not be included in the Rent and shall be paid by the Tenant separately". The Administration had been in discussion with RVD on the specific arrangements for assessing the rates of individual market stalls. The Administration would consider the specific arrangements for the recovery of rates when the details of rates assessment were finalised; and
- (e) the new tenancy agreement template provided for rental payment on a monthly basis instead of quarterly. The amount of deposit would be changed from one month rental to two months. On the whole, the proposed new arrangement should help relieve financial burden on tenants because rental had to be paid in advance.

20. Mr CHAN Kam-lam urged the Administration to listen carefully to the views of market tenants on the new tenancy agreement template. Opportunity should also be taken to gauge the views of tenants and members of the public on ways to improve the management of public markets. Mr CHAN further suggested the following -

- (a) the Administration should not require that only persons who had been a registered assistant of a tenant or had invested in the business of a public market stall for at least three years could be eligible to apply for taking over the status of a tenant. Instead, any person who could produce proof that he was a registered assistant or business partner of the tenant concerned at the time of application should be eligible provided that the application was supported by the sitting tenant;

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- (b) if an application under paragraph 20(a) above was approved, the applicant should be charged the same rental as currently paid by the sitting tenant;
- (c) the threshold of support for the Administration to retro-fit air-conditioning systems in public markets should be lowered from not less than 85% to 70% of the tenants in a public market; and
- (d) tenants should only pay air-conditioning charges pro rata to their stall areas.

Mr Tommy CHEUNG expressed view similar to that mentioned in paragraph 20(b) above.

21. Mr LEUNG Yiu-chung said that the Administration should first improve the operating environment of public markets, and not to set a deadline for signing the new tenancy agreements with tenants before 30 June 2010. Mr LEUNG further said that the Administration should make known to tenants how OMR was assessed, and not to progressively align market stall rentals with OMR through the signing of the new tenancy agreements. Mr WONG Yung-kan was also of the view that tenants' acceptance of the assessment of OMR should be secured before progressively aligning market stall rentals with OMR through the signing of the new tenancy agreements.

22. USFH responded as follows -

- (a) the Administration was committed to improving the operating environment of public markets, details of which had been reported to members at the meeting on 10 November 2009;
- (b) the Administration did not see the justification for further deferring the signing of new tenancy agreements with tenants, as the new template had already incorporated the views of representatives of market tenants and traders through 11 consultation meetings held in September and October 2009;
- (c) RVD would complete assessment of OMR of individual stalls in February/March 2010. FEHD would stand ready to provide information on the OMR of specific stalls to their corresponding tenants upon request; and
- (d) it was made clear at the meeting on 10 November 2009 that no specific timetable had been set to align market rentals. Should no consensus on market rental adjustment mechanism be reached before 30 June 2010, the rental of the new tenancy upon tenancy

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renewal after 30 June 2010 would have to be based on the prevailing rental.

23. Mr Alan LEONG asked -

- (a) what was the Administration's stance with regard to the suggestion made by certain individuals that the Government should offer ex-gratia payment to tenants who declined to sign the new tenancy agreement so that they could cease business, or issue new hawker licences to them, mentioned in paragraph 5 of the Administration's paper; and
- (b) whether consideration could be given to extending the deadline for implementing the one-off transfer scheme mentioned in paragraph 19(b) above and in paragraph 13 of the Administration's paper to beyond 30 June 2010, as some applicants might need more time to produce the relevant proof.

24. USFH responded as follows -

- (a) the Administration considered it far-fetched and unreasonable to associate the signing of new tenancy agreements with cessation of business. Every tenancy agreement had a term, and tenancy clauses should keep pace with the time; and
- (b) 30 June 2010 was merely the cut-off date for eligible persons to submit applications for the one-off transfer scheme. The processing of applications could continue after that date if necessary.

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25. At the request of Mr Alan LEONG, USFH undertook to provide a paper setting out the source of each and every clause in the new tenancy agreement template.

26. Mr WONG Yung-kan expressed concern about whether 30 days would be adequate for a sitting tenant to lodge an appeal with the Municipal Services Appeal Board (MSAB) against the decision of FEHD to terminate his tenancy in light of an application to take over the tenancy concerned under the one-off transfer scheme.

27. With reference to the procedures as set out in the Administration's paper, USFH responded that the sitting tenant should have enough time to make representations to FEHD should he disagree with terminating the tenancy to make way for a tenancy transfer. If he felt aggrieved by the termination decision, there would also be sufficient time for him to lodge an appeal with MSAB.

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28. Mr WONG Yuk-man said that the Administration should not selectively use the views of the Audit Commission and the Public Accounts Committee of the Legislative Council (LegCo) to align public market rentals with OMR, but should first address the positioning, functions and usage of public markets.

29. USFH responded that the Administration had briefed the Panel on its stance on the positioning, functions and usage of public markets on 10 November 2009, details of which were set out in the Administration's paper (LC Paper No. CB(2)197/09-10(04)).

30. Whilst expressing support for the one-off transfer scheme, the Chairman said that the scheme should expand to cover other people who also took part in operating the stall. The Chairman further said that if the Administration would allow registered assistants of the market stall to apply for the status of a tenant on a one-off basis, the same should be allowed for registered assistants of fixed hawker pitches. The Chairman also urged the Administration to review the assessment of public market stall rental, and drop the usage of the term "OMR" for public market stall rental which was misleading and confusing to tenants.

VI. Promotion of local produce

(LC Paper No. CB(2)431/09-10(06))

31. Assistant Director of Agriculture, Fisheries and Conservation (Fisheries) briefed members on the Administration's work in enhancing and promoting local agricultural and fishery products, with the aid of a power point, details of which were set out in the Administration's paper.

32. Mr Tommy CHEUNG, Mr WONG Yung-kan and Mr WONG Kwok-hing were of the view that the existing work carried out by the Administration in enhancing and promoting local agricultural and fishery products was far from adequate. For instance, a development plan should be formulated to foster the sustainable development of the local agriculture and fishery industries, more should be done in enhancing and promoting local organic vegetables to meet growing demand and a bigger site should be identified for holding the FarmFest to better advocate sustainable farming and promote local quality produce. Mr CHEUNG also expressed dissatisfaction that no mention was made in the Administration's paper on enhancing and promoting local livestock products.

33. USFH responded that the Administration had all along been working diligently on formulating suitable policies and strategies to promote the sustainable development of local agriculture and fishery industries, including the provision of infrastructural support, technical assistance and advice, credit facilities and vocational training for local farmers and fishermen, as well as assistance for the industries to establish quality brand names. USFH clarified that the fact that little was mentioned in the Administration's paper about the

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local livestock production sector did not mean that there were no policies and strategies in this regard, as the focus of the paper was on promotion of local vegetables and fishery products.

VII. Proposal to undertake an overseas duty visit to study regulatory framework on food safety
(LC Paper No. CB(2)431/09-10(07))

34. Head (Research and Library Services) briefed members on the regulatory framework on food safety in Australia, Singapore, South Korea and Taiwan, details of which were set out in the Appendix to LC Paper No. CB(2)431/09-10(07).

35. Members agreed to undertake an overseas duty visit to study regulatory framework on food safety after the Administration had introduced the Food Safety Bill into the Council in March/April 2010, i.e. during the summer break in July/August 2010. Members further agreed to decide on the places to visit, after the Research and Library Services Division of LegCo Secretariat had completed a detailed study on the food safety regulatory framework in Australia, Singapore, South Korea and Taiwan. In response to Mr Tommy CHEUNG's enquiry, USFH advised that the Administration had researched into overseas legislation and regulatory regime on food safety of many places, including those of Australia, the European Community, Singapore and the United Kingdom, in formulating the Food Safety Bill.

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