

立法會
Legislative Council

LC Paper No. CB(2)491/10-11

(These minutes have been
seen by the Administration)

Ref : CB2/PL/FE

Panel on Food Safety and Environmental Hygiene

Minutes of meeting

**held on Tuesday, 9 November 2010, at 2:30 pm
in Conference Room A of the Legislative Council Building**

Members present : Hon Tommy CHEUNG Yu-yan, SBS, JP (Chairman)
Hon Fred LI Wah-ming, SBS, JP
Hon Andrew CHENG Kar-foo
Hon TAM Yiu-chung, GBS, JP
Hon Vincent FANG Kang, SBS, JP
Hon WONG Kwok-hing, MH
Dr Hon Joseph LEE Kok-long, SBS, JP
Hon KAM Nai-wai, MH
Dr Hon LEUNG Ka-lau
Hon WONG Sing-chi
Hon Alan LEONG Kah-kit, SC
Hon WONG Yuk-man

Member absent : Hon WONG Yung-kan, SBS, JP (Deputy Chairman)

Public Officers attending : Items IV to VI
Prof Gabriel M LEUNG, JP
Under Secretary for Food and Health

Item IV

Mr FUNG Ho-yin, Owin
Principal Assistant Secretary for Food and Health (Food) 3

Dr Thomas SIT
Assistant Director of Agriculture, Fisheries and
Conservation (Inspection & Quarantine)

Dr CHUK Sheung-ying, Shirley
Senior Veterinary Officer (Animal Health)

Items V and VI

Miss WONG Shuk-han, Diane
Principal Assistant Secretary for Food and Health
(Food)2

Item V

Mr LAM Kam-kong
Senior Superintendent (Cleansing & Pest Control), Food
and Environmental Hygiene Department

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

Item VI

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

**Clerk in
attendance** : Miss Betty MA
Chief Council Secretary (2)4

**Staff in
attendance** : Ms Maisie LAM
Senior Council Secretary (2)6

Miss Karen LAI
Council Secretary (2)4

Miss Maggie CHIU
Legislative Assistant (2)4

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I. Confirmation of minutes
(LC Paper No. CB(2)173/10-11)

The minutes of the meeting held on 14 October 2010 were confirmed.

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

2. Members noted that no information paper had been issued since the last meeting.

III. Items for discussion at the next meeting
(LC Paper Nos. CB(2)187/10-11(01) and (02))

3. Members agreed to discuss the following items proposed by the Administration at the next meeting to be held on 14 December 2010 –

(a) Market rental adjustment; and

(b) Cooked food market/centre review.

4. Referring to the list of follow-up actions to be taken by the Administration (LC Paper No. CB(2)187/10-11(02)), Mr WONG Yuk-man noted with concern that the Administration had yet to provide its follow-up actions taken in respect of items 1 to 12 of the list which were discussed by the Panel a few years ago.

5. Under Secretary for Food and Health ("USFH") advised that during the meeting between the Administration and the Panel Chairman and Deputy Chairman to discuss the work plan of the Panel for the 2010-2011 session, the Administration had drawn up a list of proposed items for discussion by the Panel. Members had been kept abreast of the progress made by the Administration in various issues of concern. The Chairman said that the

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Clerk would circulate the list of proposed items for discussion provided by the Administration for members' information.

IV. Review on the restrictions on public access to the Mai Po Nature Reserve, the Hong Kong Wetland Park and other walk-in Aviaries upon detection of Highly Pathogenic Avian Influenza viruses in wild birds collected from these areas or their Vicinity

(LC Paper Nos. CB(2)187/10-11(03) to (04) and CB(2)267/10-11(01))

6. USFH briefed members on the proposed new guidelines on the restrictions on public access to the Mai Po Nature Reserve ("MPNR"), the outdoor section of the Hong Kong Wetland Park ("HKWP") and other walk-in aviaries managed/owned by the Government if any live or dead bird sample collected from these areas or their vicinity had been tested positive for Highly Pathogenic Avian Influenza ("HPAI") viruses, as detailed in the Administration's paper.

7. USFH advised that based on the surveillance results and latest scientific development, it was considered that the existing restriction on public access to MPNR and HKWP and other walk-in aviaries could be slightly relaxed without compromising the policy objective of protecting public health by safeguarding the public from the risk of avian influenza ("AI") infection. USFH further advised that the Scientific Committee on Emerging and Zoonotic Diseases and the Advisory Council on Food and Environmental Hygiene were consulted and raised no objection to the proposed new guidelines. The World Wide Fund had been consulted and welcomed the proposal. It was envisaged that the proposed relaxation would also likely be welcomed by the organisations concerned with nature conservation or bird watching. The new guidelines would be implemented in November 2010 to tie in with the beginning of the next high season of migratory birds coming to Hong Kong.

8. USFH added that the proposed new guidelines had taken into account the latest scientific development, experience of other countries and the guidelines of the World Organisation for Animal Health. The Administration would continue to maintain vigilance in AI surveillance, prevention and control. It would also continue to keep abreast of the latest international trends and scientific development, and consider, from time to time, the need to revise the established guidelines for managing access control to MPNR, HKWP and other walk-in-aviaries.

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9. With the aid of powerpoint presentation, Assistant Director of Agriculture, Fisheries and Conservation (Inspection & Quarantine) highlighted the latest scientific development on HPAI surveillance and the review of the surveillance programme, details of which were set out in the presentation materials tabled at the meeting.

10. The Chairman asked about the assessment on the risk of human infection by HPAI viruses through contact with wild birds in Hong Kong.

11. UFSH responded since the end of 2002, wild birds, captive wild birds in recreational parks and pet birds in retail bird markets were covered under the Administration's AI surveillance programme. In addition, the Agriculture, Fisheries and Conservation Department had provided a sick and dead wild bird collection service to the public since October 2005. Results from wild bird surveillance showed that out of the 57 009 dead wild birds collected in the territory and tested for HPAI from 2006 to September 2010, only 50 were tested positive. Among which, only five HPAI positive birds were found in the vicinity of MPNR, HKWP or walk-in aviaries over the same period. USFH said that in the span of three years from 2007 to 2009, only 205 cases of human infection by AI had been reported worldwide, as compared with 259 cases from 2004 to 2006. Of the human infection cases, only two cases as reported in Azerbaijan were known to be associated with contact with wild birds. Although the risk of avian-to-human transmission of HPAI viruses had been on a substantial downward trend, the fatality rate remained at 60% if being infected with the viruses.

12. Noting that the risk of AI had been significantly reduced in recent years, the Chairman asked whether the Administration would consider relaxing its current control on the sale and rearing of live poultry which was imposed to prevent AI outbreaks in Hong Kong.

13. USFH explained that different from wild birds, poultry were not natural carriers of HPAI virus. In the light of this, the Government had been implementing a more stringent surveillance programme for both local and imported poultry to contain the AI risk, which was in line with the international guidelines. The Administration considered that the existing control measures in places, such as the implementation of a statutory prohibition of overnight keeping of live poultry at the retail level, needed to be maintained and effectively reinforced, with a view to containing the risk of poultry infection with AI viruses at import, farm, wholesale, retail and transportation levels to the minimal level.

V. Conversion of aqua privies into flushing toilets – Phase 7 (the Final Phase)

[LC Paper Nos. CB(2)187/10-11(05) to (06) and CB(2)267/10-11(02)]

14. The Chairman drew members' attention to Rule 83A of the Rules of Procedure on the declaration of personal pecuniary interest.

15. USFH briefed members on the proposal to include 145 aqua privies ("APs") in Phase 7 (the final phase) of the conversion programme. USFH said that the Food and Environmental Hygiene Department ("FEHD") had since 2005 started to implement a programme to convert APs in the New Territories and outlying islands into flushing toilets by phases, with the target of completing the conversion of all APs by 2012-2013. So far, six phases of the conversion programme involving 317 APs had been funded, and Phase 6 would be completed by mid 2011 as scheduled. The conversion programme helped improve the outlook and environmental hygiene of the area and provide more convenience to residents and tourists. USFH said that the Administration proposed to cover the remaining 145 APs in Phase 7 of the conversion programme. The relevant District Councils ("DCs") and the local community had been consulted on and supported the proposed Phase 7 of conversion programme.

16. USFH further said that the Administration planned to seek funding approval of the Public Works Sub-committee ("PWSC") and the Finance Committee ("FC") for Phase 7 of the conversion programme in December 2010 and January 2011 respectively, with the works scheduled for completion by the fourth quarter of 2013. The Administration expected that the conversion works of Phase 7 would create 253 jobs.

17. With the aid of powerpoint presentation, Senior Superintendent (Cleansing & Pest Control), FEHD ("SS(CI&PC")) highlighted the scope of works of the conversion programme, including installing toilets with flushing system, improvement of hand-washing facilities, lighting and ventilation, etc. He then briefed members on the improvement areas and the difficulties encountered at the planning and construction stages of the conversion programme. SS(CI&PC) advised that the capital cost for the conversion programme under Phase 7 was estimated at around \$380 million (in Money-of-the-Day prices). The estimated cost ranged from \$1 million to \$2 million for Type 1 Toilets and Type 3 Toilets and that for Type 2 Toilets ranged from \$2 million to \$3 million.

18. Mr KAM Nai-wai asked the following questions regarding the AP conversion programme -

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- (a) characteristics of the three types of conversion works and criteria for adopting the conversion method;
- (b) the ratio of male to female cubicles in the converted toilets; and
- (c) reasons why 53 APs had not been included in Phase 7 of the programme and the plan to resolve the difficulties encountered in taking forward these projects.

19. Referring to Annex B of the Administration's paper, USFH elaborated on the three types of works for converting APs into flushing toilets. Notably, Type 1 works related to conversion of septic tanks into holding tanks for temporary storage of waste supported by frequent desludging. Type 2 works related to the installation of bio-treatment system with toilet waste treated under a biological process, under which no foul smell would be generated. Under Type 3 works, the converted toilets would be connected to nearby public sewers, which was the most preferable conversion method. USFH added that subject to technical and site constraints, the conversion method recommended for each AP would be reviewed and adjusted according to on-the-ground situation. For instance, more space would be required for the installation of bio-treatment system if Type 2 works were to be adopted. He stressed that the conversion method recommended for each AP was made after conducting feasibility studies and consulting the relevant DCs.

20. Regarding the 53 APs excluded in the conversion programme, USFH said that 36 APs were not included due to factors involving private land issues and being affected by other private developments and other projects. The proposal to convert another 10 APs was opposed by the local community. Seven other APs were not included in the conversion programme due to project and site constraints. USFH further said that it was expected that more time would be required for these cases before the issues could be resolved with the relevant departments and land owners. In the circumstances, the Administration would follow up these cases individually in parallel with the processing of projects under the conversion programme.

21. Mr KAM Nai-wai asked whether consideration would be given to implementing Phase 8 conversion programme such that the remaining 53 APs could be included in the programme. The Chairman raised a similar question.

22. USFH said that Phase 7 was the final phase of the conversion programme. The Administration had no intention to take forward these 53 remaining APs under the conversion programme having regard to the unique

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problems and constraints of individual APs such as land status, opposition from the local community. As explained earlier, the Administration would follow up these projects on a case-by-case basis. As the conversion cost for individual APs would be below \$10 million, the capital cost could be met under the allocation for minor works programme, i.e. without the need to seek the approval of FC.

23. On the ratio of male to female cubicles, SS(CI&PC) said that the ratio was normally one to two. However, depending on the needs of individual converted toilets, the number of female cubicles would be adjusted as appropriate.

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24. Mr KAM Nai-wai requested and the Administration agreed to provide the Panel with an annual progress report on the conversion plan for those 53 APs not included in the conversion programme and the consultation outcome with the relevant DCs, if any.

25. In closing, the Chairman said that members were supportive of the Administration's proposal to seek funding approval of PWSC and FC for Phase 7 of the AP conversion programme.

VI. Expiry of Voluntary Surrender Scheme for Itinerant Hawker Licences as scheduled

(LC Paper Nos. CB(2)187/10-11(07) to (08) and CB(2)217/10-11(01) to (02))

26. USFH briefed members on the expiry of the voluntary surrender scheme for itinerant hawker licences ("IHL") as detailed in the Administration's paper.

27. Mr Vincent FANG complimented the Administration for extending thrice the validity period of the voluntary surrender scheme for IHL ("the scheme") in the interest of the IHL holders. He noted that there remained 466 IHL holders and many of them were elderly people. They had requested for an extension of the validity of the scheme so that they could carry on business as they were still able to do so. As operating in fixed pitch or public market stall would require a substantial investment and the competition was keen, they considered the option not suitable for them given their age. Since hawking activities of the elderly IHL holders would not cause problems to environmental hygiene and vehicular circulation, Mr FANG appealed to the Administration to give special consideration by extending the validity of the licences for the elderly IHL holders until they retired and granting them the ex-gratia payment ("EGP") when they surrendered their licences.

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28. USFH said that the purpose of the scheme was to address the environmental hygiene problems posed by street hawking through the reduction in the number of itinerant hawkers. Three options were available to the IHL holders who voluntarily surrendered their licences. They might select a vacant fixed pitch and become a licensed fixed-pitch hawker or select a vacant public market stall and enjoy certain concessionary rental arrangements. Alternatively, they might choose to receive an EGP of \$30,000. Over the years, many IHL holders had surrendered their licences and chosen one of the above options. USFH said that the validity of the scheme had been extended thrice. The first extension took place in December 2007 in view of the possible implication of the review on hawker licensing policy on the future operation of IHL holders. The scheme was extended to 31 December 2008 and by a further one year to 31 December 2009. The scheme was extended for the third time in December 2009 and was scheduled for expiry on 31 December 2010.

29. USFH explained that the objective of the scheme was to tackle environmental hygiene problems caused by street hawking. It was not intended for providing retirement protection to the elderly IHL holders. FC's approval of the funding proposal for the scheme was based on the same objective and making special arrangements for the elderly IHL holders would depart from the policy intention of the scheme as well as the purpose of funding approval. It would therefore be difficult for the Administration to accede to the request.

30. USFH opined that IHL holders were given sufficient time to consider whether to surrender their licences and the Administration had informed the Panel that the validity period of the scheme would expire on 31 December 2010 as scheduled.

31. Mr Vincent FANG clarified that he had not suggested the Administration giving retirement pension to the elderly IHL holders but waiving the time limit of surrendering IHLs and the granting of EGP.

32. USFH reiterated the purpose of the scheme and said that surrendering IHL was one of the ways to reduce the number of itinerant hawkers. Among the 466 remaining IHL holders, 39 of them were at the age of 60 or below, 189 of them were aged between 61 and 70 and 238 of them were 71 years old or above.

33. Mr WONG Kwok-hing said that the Federation of Hong Kong Kowloon and NT Hawker Associations ("the Federation") and other hawker

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associations staged a demonstration prior to the meeting. As clearly stated in the submission (LC Paper No. CB(2)217/10-11(02)), the Federation had requested the Administration to extend the provision of EGP indefinitely so that the IHL holders could still exercise their choice of EGP when they terminated their business. Mr WONG considered the request of the Federation reasonable. He said that the aged IHL holders had helped maintain the collective memories and contributed to the community for many decades. They had been working hard to support themselves instead of relying on Comprehensive Social Security Assistance ("CSSA") which, in effect, had alleviated the Government's financial burden. He shared Mr Vincent FANG's views that IHLs for the elderly hawkers should be phased out by way of natural attrition. He supported Mr Vincent FANG's suggestion and urged the Administration to consider it actively.

34. Mr WONG Kwok-hing further said that notwithstanding an 18-month notice had been given to itinerant hawkers on the expiry of the scheme, the stakeholders should be given the opportunity to express their views to the Panel. He suggested that hawker associations be invited to a Panel meeting before a decision on the scheme was made.

35. USFH responded that IHL holders could continue to run their business if they chose not to surrender their licences by 31 December 2010. Since the implementation of the scheme in 2003, a total of 461 IHL holders had surrendered their licences and had chosen one of the three options under the scheme. It would be unfair to these 461 IHL holders if preferential treatments were given to the elderly IHL holders. USFH said that it would not be feasible to extend the validity of the scheme perpetually as it would deflect from the original intent of the scheme and the purpose of the approved funding.

36. Mr WONG Kwok-hing disagreed with USFH's point of view. He commented that the value of an EGP of \$30,000 had depreciated over the years because of the rise in the cost of living and hence no longer attractive. The continual operation of the elderly IHL holders would reduce the expenditure on CSSA and the deferral of their eligibility for EGP would not induce additional expenditure as far as the Government was concerned. Mr WONG further said that the elderly IHL holders would retire in a few years and in order for them to enjoy their twilight years, he called on the Administration to accommodate their requests on compassionate ground.

37. USFH expressed his empathy with the elderly IHL holders. He said that it was necessary to uphold the objective of the policy concerned and the purpose of the approved funding. As regards EGP, USFH was of the view

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that it would be better off for the IHL holders to receive the sum earlier in view of inflation.

38. Mr WONG Yuk-man said that elderly service was one of the key initiatives in the Policy Address 2010-2011 but the elderly service in Hong Kong was meager when compared with other affluent cities. He said that the Administration should not be bound by policies but be responsive to situations with flexibility. He remarked that the per capita gross national product in Hong Kong was about US\$30,000 and yet the Administration was unwilling to spend on EGP which would only account for about \$10 million even if EGP was granted to all IHL holders. Granting EGP to the elderly IHL holders upon their retirement would demonstrate that the Government was caring for the elderly. On behalf of the elderly IHL holders, Mr WONG pleaded the Administration to exercise discretion in the matter. USFH said that he would convey members' views to the Secretary for Food and Health ("SFH") for consideration.

39. Mr WONG further said that the existing hawker policies were not benevolent and failed to reflect the local economy situation. He opined that hawker activities could create more job opportunities and the Administration should do more in this aspect. The Administration could make use of open space in public housing estates and allow hawking activities in a small scale. Mr WONG said that the night market operation in Taipei was well managed and was a good reference for the Administration.

40. Mr KAM Nai-wai said that as pointed out by USFH, the environmental hygiene problems caused by street hawking had largely been contained. He enquired about the problems envisaged if the scheme were to continue. Mr KAM further said that some IHL holders had voluntarily surrendered their licences in the past and hence the scheme was successful in reducing the number of itinerant hawkers. As such, there were merits for the scheme to sustain. He pointed out that there were precedents of special arrangements being made after the lapse of policies and there was no resentment against such arrangements. Mr KAM commented that USFH was over-worried and his arguments were on shaky ground. He supported that the scheme should continue after 31 December 2010.

41. USFH responded that it was uncertain as to whether the IHL holders who had surrendered their licences would complain or apply for judicial review if the scheme was extended indefinitely. It was Government's responsibility to honour its commitment for implementing a time-limited scheme as set out in the relevant funding proposal submitted to FC for approval. In case of lawsuits, the Government would be held accountable for

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varying the approved policy. While acknowledging that members might have different views on the objective of a policy after it had accomplished its mission, he sought clarification on whether members would wish to set a time limit to the scheme.

42. Mr KAM Nai-wai said that members' proposal had not altered the objective of the scheme which was to reduce the number of the IHL holders, it would therefore be unnecessary for the Administration to seek the approval of FC again for the extension of the scheme.

43. The Chairman requested the Administration to explain the funding allocation approved by FC for each of the three options under the scheme and whether it was necessary to obtain the approval of FC if the scheme were to be extended.

44. In response, USFH said that three options were available under the scheme and funding was allocated to each of the options. He did not have the information concerning the fund allocated to EGP at hand and hence was not sure whether sufficient funding was available to meet the expenses if all the remaining IHL holders opted for EGP.

45. Mr TAM Yiu-chung said that due consideration should be given to the elderly IHL holders' requests because the termination of the scheme would have a bearing on their livelihood. He opined that the continuation of the scheme could provide an incentive for the IHL holders to surrender their licences. He added that since the Government was promoting caring for the people in need and had set up a Community Care Fund, the Administration could meet the additional funding required for EGP, if so required, from the Fund. The Chairman and Mr TAM Yiu-chung remarked that in case the decision of extending the scheme was queried by the Audit Commission in its value for money study, Members would be ready to provide a justification.

46. The Chairman was of the view that it might be inappropriate for a surrender scheme to last for an indefinite time. Nevertheless, the Administration might wish to review whether the scheme had accomplished its objective of phasing out all IHLs, having regard to the fact that it had extended the time limit of the scheme thrice. In view of members' opinions expressed at the meeting, the chance of getting the Panel's support to end the scheme on 31 December 2010 as scheduled was slim. He called on USFH to take heed of members' views and discuss the matter with SFH.

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47. The Chairman invited members to refer to the motion intended to be moved by Mr WONG Kwok-hing tabled at the meeting. The wording of the motion was as follows -

"That this Panel urges the Government to retain the Voluntary Surrender Scheme for Itinerant Hawker Licences so that the hawkers can continue to rely on themselves to make a living." (Translation)

48. At the suggestion of Mr KAM Nai-wai, Mr WONG Kwok-hing amended his proposed motion for clarity sake. The wording of the amended motion was as follows -

"That this Panel urges the Government to retain the Voluntary Surrender Scheme for Itinerant Hawker Licences." (Translation)

49. The Chairman said that the motion was seconded by Mr Vincent FANG and Mr TAM Yiu-chung. He put the motion to vote. All members present voted in favour of the motion. The Chairman declared that the motion was carried.

50. As regards the proposal of inviting deputations from the hawker trade to attend a Panel meeting and give views on the scheme, the Chairman said that the Panel could either arrange a special meeting or discuss the matter in the next regular meeting scheduled for 14 December 2010. He suggested that deputations be invited to the Panel meeting on 14 December 2010. As there would be three items including the item on the scheme for discussion in the next meeting, the Chairman suggested and members agreed to start the meeting at 2:00 pm.

51. Pointing out that the former municipal councils had implemented voluntary surrender schemes for hawker licences, Mr KAM Nai-wai requested the Administration to provide information relating to the extension of the scheme and the EGP arrangements, if any, to facilitate members' discussion at the next meeting.

(Post-meeting note: Subsequent to the meeting, the Administration issued an information note on 29 November 2010 to the Panel announcing the partial extension of the scheme until 31 December 2012. As such, the discussion item was deleted from the agenda for the meeting on 14 December 2010.)

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VII. Any other business

Visit to private columbarium facilities

52. The Chairman said that subject to members' view, a visit to private columbarium facilities at San Wai Tsuen in Yuen Long, Shui Mong Tin in Tai Po and Hung Hom would be arranged on 22 November 2010 from 9:00 am to around 12:30 pm. Members agreed.

53. There being no other business, the meeting ended at 4:25 pm.

Council Business Division 2
Legislative Council Secretariat
9 December 2010