

立法會

Legislative Council

LC Paper No. CB(2)1054/13-14

(These minutes have been seen
by the Administration)

Ref : CB2/PL/HA

Panel on Home Affairs

Minutes of meeting held on Friday, 10 January 2014, at 8:30 am in Conference Room 2 of the Legislative Council Complex

Members present : Hon MA Fung-kwok, SBS, JP (Chairman)
Dr Hon Kenneth CHAN Ka-lok (Deputy Chairman)
Hon Starry LEE Wai-king, JP
Dr Hon LAM Tai-fai, SBS, JP
Hon CHEUNG Kwok-che
Hon IP Kwok-him, GBS, JP
Hon Claudia MO
Hon Steven HO Chun-yin
Hon Frankie YICK Chi-ming
Hon WU Chi-wai, MH
Hon YIU Si-wing
Hon CHAN Chi-chuen
Hon Alice MAK Mei-kuen, JP
Dr Hon Helena WONG Pik-wan
Hon IP Kin-yuen
Dr Hon CHIANG Lai-wan, JP
Hon Tony TSE Wai-chuen

Members attending : Hon Paul TSE Wai-chun, JP
Hon KWOK Wai-keung

Members absent : Hon Cyd HO Sau-lan
Hon LEUNG Che-cheung, BBS, MH, JP
Hon Christopher CHUNG Shu-kun, BBS, MH, JP

Public Officers : Item III
attending

The Administration

Mr Raymond YOUNG, JP
Permanent Secretary for Home Affairs

Mr Jonathan McKINLEY, JP
Deputy Secretary for Home Affairs (2)

Miss Petty LAI
Principal Assistant Secretary for Home Affairs
(Recreation and Sport)

Item IV

The Administration

Mr Raymond YOUNG, JP
Permanent Secretary for Home Affairs

Mr Patrick LI Pak-chuen, JP
Deputy Director of Home Affairs (1)

Mr Alan LO Ying-ki, JP
District Officer (Kwai Tsing)
Home Affairs Department

Kwai Tsing District Council

Mr CHOW Yick-hay, BBS, JP
Member of Kwai Tsing District Council

Mr Dennis LEUNG Tsz-wing
Member of Kwai Tsing District Council

Item V

The Administration

Mr Raymond YOUNG, JP
Permanent Secretary for Home Affairs

Mr Jack CHAN, JP
Deputy Director of Home Affairs (2)

Mr Winston LEUNG
Chief Officer (Licensing Authority)
Home Affairs Department

Mr Tonny CHUNG
Senior Divisional Officer (Licensing Authority)
Home Affairs Department

Clerk in attendance : Ms Alice LEUNG
Chief Council Secretary (2) 2

Staff in attendance : Mr Bonny LOO
Assistant Legal Adviser 3

Miss Josephine SO
Senior Council Secretary (2) 6

Miss Emma CHEUNG
Legislative Assistant (2) 2

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I. Information papers issued since the last meeting
(LC Paper Nos. CB(2)605/13-14(01), CB(2)617/13-14(01) and (02))

Members noted that the following papers had been issued since the last meeting -

- (a) Administration's information paper on its proposal to amend the Schedule to the Po Leung Kuk Ordinance (Cap. 1040); and
- (b) Letters dated 6 January 2014 respectively from Dr Hon Helena WONG and Dr Hon Kenneth CHAN on recent incidents of suspected "match fixing" in matches of the Hong Kong soccer league.

2. Regarding the Administration's information paper referred to in paragraph 1(a) above, the Chairman said that there was no request from Members for discussion of the legislative proposal at a Panel meeting. The Administration planned to table the subsidiary legislation in the Legislative Council ("LegCo") for negative vetting in around February 2014. Members noted and did not raise any query on the information paper.

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3. Regarding the matter of suspected "match fixing" raised in the two letters respectively from Dr Helena WONG and the Deputy Chairman as referred to in paragraph 1(b) above, the Deputy Chairman said that he was concerned about the development of football in Hong Kong and considered it necessary for the Administration to update members on Hong Kong Football Association's implementation of "Project Phoenix" (a programme funded by the Home Affairs Bureau ("HAB") to help bring about a renaissance of Hong Kong football) as well as the Administration's next course of action having regard to the effectiveness of the project. He hoped that the Panel would schedule the discussion of these issues and when the item was discussed, public views would be invited to facilitate the Panel's deliberation on the matter. Noting the concerns of the Deputy Chairman, Mr IP Kwok-him considered that the Panel should discuss the development of local football from the policy perspectives. He suggested and members agreed that the subject matter be included in the Panel's list of outstanding items for discussion ("the outstanding items list").

II. Date of next meeting and items for discussion
(LC Paper Nos. CB(2)606/13-14(01) and (02))

Special meeting in January 2014

4. The Chairman reminded members that a special meeting would be held on Friday, 24 January 2014, from 10:45 am to 12:15 pm for the Panel to receive a briefing by the Secretary for Home Affairs on the Chief Executive's 2014 Policy Address relating to the portfolios of home affairs.

Regular meeting in February 2014

5. Members noted that the Administration requested to advance the discussion of the item "Amendments to the Chinese Permanent Cemeteries Ordinance and Chinese Permanent Cemeteries Rules" to the next regular meeting scheduled for 17 February 2014, and that the item "Government's youth development policy" (i.e. item 2 of the outstanding items list (LC Paper No. CB(2)606/13-14(01))), originally proposed for discussion in February 2014, be deferred to the meeting in March 2014.

6. Members agreed to discuss the following two items at the next regular meeting scheduled for Monday, 17 February 2014, at 8:30 am -

- (a) Licensing control of Internet cafés; and
- (b) Amendments to the Chinese Permanent Cemeteries Ordinance and Chinese Permanent Cemeteries Rules.

III. The Planning of the Multi-purpose Sports Complex and related staffing proposal

(LC Paper Nos. CB(2)606/13-14(03) and (04))

7. With the aid of powerpoint presentation, Permanent Secretary for Home Affairs ("PSHA") and Deputy Secretary for Home Affairs (2) ("DSHA(2)") briefed Members on the Administration's progress in the planning of the Kai Tak Multi-purpose Sports Complex ("MPSC") and its proposal to establish a dedicated unit in HAB to take forward the implementation of the project, details of which were set out in the Administration's paper.

(Post-meeting note: The softcopy of the powerpoint presentation material was issued to members vide LC Paper No. CB(2)655/13-14(01) on 10 January 2014.)

8. As the item involved a funding proposal, the Chairman reminded Members that in accordance with Rule 83A of the Rules of Procedure, they should disclose the nature of any direct or indirect pecuniary interests before they spoke.

Project scope

9. The Chairman and Mr IP Kwok-him noted that the MPSC project included a 50 000-seat main stadium, a 5 000-seat public sports ground, a 4 000-seat indoor sports centre, an office space of 10 000 square metres and a commercial space of 31 500 square metres. While welcoming and supporting the early development of MPSC, they expressed concern as to whether the project scope as presently proposed was the optimal design of the 28.2 hectare site at the North Apron of the Kai Tak Development from the perspective of land use. The Chairman suggested that to maximize the land use potential of the site and achieve greater community gains, consideration should be given to developing therein other venues, such as those for ice sports and water-based sports, and increasing the space for office and commercial use.

10. Dr CHIANG Lai-wan said that the utilization rate of the Hong Kong Stadium could serve as useful reference for considering whether the MPSC project should be implemented in accordance with the current project plan. She asked whether the Administration had consulted the sports sector on the proposed scope of MPSC.

11. In response, PSHA advised that the project scope was based on the design for venues for staging international sports events where the provision of a 50 000-seat main stadium should be complemented by the construction of a secondary stadium for athletics training/warm up. As regards the indoor

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sports centre, it was intended to address the expected shortfall of three sports centres in East Kowloon by 2021. The Administration had consulted the Kowloon City District Council as well as the sports sector on the proposed scope of MPSC, and they all supported the project and strongly requested for its early implementation. The Administration would consider Members' suggestion of increasing office floor area in MPSC for commercial use and offices for sports-related organizations.

12. Mr WU Chi-wai, Mr CHEUNG Kwok-che and Mr Tony TSE were concerned whether and how the Administration would ensure that the proposed facilities for MPSC would complement/interface with existing sports facilities in Hong Kong and that the MPSC project would be financially viable. Mr WU expressed worries that the project might turn out to be a "white elephant" if the Government failed to maximize the use of facilities provided therein.

13. PSHA responded that the proposed MPSC at Kai Tak was Hong Kong's largest ever sports project. It would be a major sports park for Hong Kong people, with a mixture of high-quality sports facilities that would help address the following challenges -

- (a) shortage of public sports facilities;
- (b) reliance on existing ageing venues, such as the Hong Kong Stadium, the Hong Kong Coliseum and the Queen Elizabeth Stadium, to host major sports events; and
- (c) the lack of modern, multi-purpose venues for hosting major international sports events.

As the project was designed to help alleviate Hong Kong's shortage of public sports facilities and also provide new venues suitable for hosting major local and international sports events, it would be open to the public throughout the day, seven days a week. To ensure the public's access to and enjoyment of the MPSC facilities, the fees structure and charges would be kept at an affordable level.

14. Dr LAM Tai-fai expressed support for the early development of MPSC. In his view, it was impracticable for the Administration to come up with a project design which could cover facilities for practising/hosting all forms of sports activities/events. While it was a matter of choice as to the type of sports facilities to be provided at MPSC, it was incumbent upon the Administration to ensure that the proposed facilities would address the needs and aspirations of both the sports sector and the community at large. He urged the Administration to optimize the use of the new venues and the proposed sports facilities at MPSC.

Procurement and financing options for MPSC

15. Noting that it was the Administration's conclusion that construction of MPSC should be funded through the Public Works Programme ("PWP") and the private sector be involved in the long-term operation of the complex, the Deputy Chairman sought detailed information on this procurement model, in particular the Government's role and degree of involvement in the future management of MPSC. He was concerned whether the Government would assume a positive and firm role in steering the project through the design, construction and operation phases to ensure that it could meet the policy objectives and wider public expectations under the PWP option.

16. Knowing that the Design-Build-Operate ("DBO") approach was identified as the preferred procurement option for MPSC, Mr IP Kwok-him cautioned the Administration against repeating past mistakes in taking forward other infrastructure projects, particularly the uncontrollable increase in the construction costs of the project. He also said that he had reservation about the financial viability of the DBO approach. Sharing his concern, the Chairman, Mr Frankie YICK and Mr Tony TSE asked whether the Administration had drawn up any business plan for the operation of the MPSC facilities with analyses on future returns therefrom.

17. In response, PSHA made the following points -

- (a) the DBO approach would help ensure the most effective delivery of MPSC from the design stage through to the long-term operation. This approach would offer the greatest certainty in terms of achieving the Government's project objectives whilst also harnessing private sector innovation and synergies to realize commercial benefits from the project. Since the Government had limited experience in managing and operating sports facilities of such a scale, the presence of private finance would result in the conduct of a stringent and rigorous due diligence process, to determine the viability and profitability of MPSC. Furthermore, synergies could be derived from the operator's inputs on design and construction;
- (b) in order to gain a clearer picture of stakeholders' views on the planning and development of MPSC, the Administration had invited non-binding expressions of interest ("EOI") in the project. A total of 42 submissions had been received from various relevant sectors. While respondents all welcomed the proposal to develop an MPSC at Kai Tak, some of the responses to the EOI exercise had indicated interest in participating in this project. Some other respondents however suggested that there might be private sector interest in a modest level of investment

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and they generally felt that the project would require the Government to provide most or all of the capital cost for the project to be viable; and

- (c) the Government had commissioned a consultant to conduct studies on potential procurement and financing options for MPSC in order to assess the possible advantages of inviting private sector investment to reduce the overall capital cost of the project and to provide more innovative and creative management of the complex. The consultancy studies had identified various forms of procurement and funding options and assessed their suitability for the proposed MPSC under different scenarios. It was found that full commercial funding of MPSC would not be viable and that any private sector participation options would be financially viable only if the Government were to shoulder all the capital costs and guarantee the private sector a return on equity.

18. In reply to Mr Frankie YICK's enquiry, DSHA(2) said that the percentage of return on equity would depend on the degree of risk that the private sector was going to take. If the private sector was asked to absorb the full construction risk for the facilities through private sector financing, the return on equity was normally expected to be around 13% to 15%; whereas if the construction risk resided with the Government which was also responsible for cost overruns that might occur, the rate could be adjusted downward to around 9% to 10%. In view of Members' grave concern about the financial viability of the project, DSHA(2) said that the Administration would share with Members the executive summary of the consultancy study on the procurement and financing options for MPSC in due course. The document could provide Members with more information/data about the financial and operational projections made under the best and worst case scenarios.

19. Ms Starry LEE made a declaration stating that she had no idea as to whether the Certified Public Accountant firm for which she worked was the consultant engaged to identify and assess the various forms of procurement and financing options for the MPSC development project. While she personally considered that the DBO approach would allow a greater degree of flexibility during the development and operation phases of the project, she requested the Administration to provide more detailed information about the different financing options which had been considered by the Government, including their relative merits, and the overseas experience that had been drawn on (if any) by the consultant in arriving at its initial recommendations.

20. PSHA responded that the consultant had studied various procurement and financing options including Full Commercial Financing, Joint Venture Financing, Partial Private Finance, PWP (Management Contract), PWP

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(Revenue Contract) and Design-Build-Finance-Operate ("DBFO"). DBFO and Partial Private Funding-Private Sector Equity models were initially identified as the preferred procurement options for MPSC, and these two procurement options might take the following sources of finance -

- (a) pure private funding;
- (b) a combination of private and government funding; and
- (c) pure government funding.

After assessment of each of these funding options based on the cost impact, estimated viability gap and the deliverability in the current financial market situation, the consultant concluded that "a combination of government and private funding" was the most deliverable option in today's market, given that there had been some interest in the market to provide private funding subject to the Government undertaking to provide some forms of support (e.g. subsidy) to the project.

21. Expressing concerns and worries about the financial viability of MPSC, Mr YIU Si-wing considered it important for the Government to continuously review the preferred funding option during the pre-procurement phase, with a view to establishing and agreeing on evaluation criteria and the associated weightings for the individual evaluation criteria for selecting the private sector participants (e.g. individual companies or consortia) in the construction and operation of the project.

22. In response, PSHA advised that the dedicated unit to be established in HAB would be responsible for the detailed planning and development of the MPSC project, including the implementation of a procurement plan. Among others, the dedicated unit would draft the appropriate specifications to ensure that the Government's vision and social objectives were met by the private sector consortium selected for managing the complex. The tender document would specify the expertise of the consortium required (e.g. construction, funders, operators, event promoters, etc.), the contract term as well as the financing details with regard to the estimated expenditure and target return for equity.

Monitoring of construction works/costs

23. The Deputy Chairman, Dr LAM Tai-fai and Mr Paul TSE noted that the Administration estimated in its paper submitted to the Panel that the construction costs of the MPSC project would be about \$23 billion (in September 2013 prices). They expressed concern about the huge cost overruns of some major public works projects as recently reported to the Public Works Subcommittee ("PWSC") and hoped that the Administration

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would provide an accurate estimate of the construction costs of the MPSC project by the time it sought funding from the Finance Committee ("FC") to kick start the construction of the project (i.e. in mid-2016). The Deputy Chairman further urged the Administration to take into consideration other development projects in the pipeline and carefully assess their impact on construction costs of MPSC as well as the overall manpower supply in the construction industry.

24. Mr WU Chi-wai, Dr CHIANG Lai-wan and Mr Frankie YICK expressed concern about the present situation where many major public works projects were implemented at the same time. Such bunching of projects had led to an upsurge in construction costs and manpower shortage in the construction industry. In their view, the Administration should review the implementation timetable for the MPSC project to see if it should be taken on board for completion in 2019-2020 as scheduled.

25. Ms Starry LEE considered it important for the Administration to exercise better cost control in taking forward infrastructure projects. She hoped that the Administration would work out cost control measures for the MPSC project. PSHA assured Members that the Administration would do so.

Government's sports policy

26. Mr WU Chi-wai and Dr Helena WONG were gravely concerned about whether and how the development of MPSC would meet the overall policy objectives for sports development, which encompassed (a) promoting sport in the community, (b) supporting elite sport and (c) making Hong Kong a centre for major international sports events. In Dr WONG's view, the Government should clearly state its sports policy and the criteria/considerations that had been taken into account in determining what facilities should be provided in MPSC before pressing ahead with this mega project.

27. PSHA responded that according to the project plan, MPSC would include high-quality sports facilities that would alleviate Hong Kong's shortage of venues suitable for hosting major international sports events, as well as sports venues and open space for the community. On the front of cultivating elite athletes, the Hong Kong Sports Institute ("HKSI") at Fo Tan played a pivotal role in providing elite athletes with a high-quality training environment and services, grooming and supporting elite athletes to achieve good results in international sporting events. To consolidate its position as a base for elite sports training and development, HKSI had undergone a \$1.8-billion redevelopment with a view to improving the training environment/facilities for elite athletes.

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Need for creation of the proposed supernumerary post

28. The Deputy Chairman noted that the responsibilities of the proposed supernumerary Administrative Officer Staff Grade C ("AOSGC") post, designated as Principal Assistant Secretary (Recreation and Sport) 2 ("PAS(RS)2"), would include the comprehensive review of the policy on Private Recreational Leases ("PRLs"). He asked about the reason for tasking the prospective PAS(RS)2 to take on such a duty which was unrelated to the planning and implementation of the MPSC project.

29. Mr WU Chi-wai said that he did not support the staffing proposal as the workload did not appear to justify the creation of an AOSGC post which would at the initial stage be responsible mainly for the review of the PRL policy, a task of no urgency after the completion of the recent PRL renewal exercise at the end of 2013. He, Dr CHIANG Lai-wan and Mr Paul TSE asked whether the expected workload arising from the new MPSC initiative could be absorbed by internal redeployment.

30. In response, PSHA explained that -

- (a) the Administration had examined whether the existing seven AOSGCs in HAB responsible for different policy areas could absorb the proposed duties of the PAS(RS)2 post. Since these officers were currently working on a wide range of policy issues, it was operationally not feasible for them to take up the tasks of the proposed AOSGC post without adversely affecting the performance of their duties. This apart, a dedicated AOSGC was needed to provide focused policy steer and work in collaboration with different parties in the timely planning and implementation of the MPSC project as well as the comprehensive review of the PRL policy. The three public officers attending the discussion of this item were the only directorate officers in HAB looking after the whole spectrum of matters relating to sports policy;
- (b) the Administration anticipated that the prospective PAS(RS)2 would have spare capacity to take up additional assignments during the first six to twelve months after the establishment of the dedicated team in HAB and before the team was working in full gear for the implementation of the MPSC project. While it was the plan of the Administration to conduct and complete the comprehensive review of the PRL policy within 2014, the proposed duties and responsibilities of the PAS(RS)2 post could help utilize the manpower resources effectively; and

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- (c) the issues of utilization and access to facilities on PRL sites had come under close scrutiny by LegCo subsequent to the Audit Commission's publication of an investigation report on the issue in November 2013. LegCo and the Audit Commission both called for a comprehensive review at the earliest opportunity. For this reason, HAB would lead a comprehensive review in which the Development Bureau and the Lands, Planning and Rating and Valuation Departments would also take part. Issues to be considered would include the long-term policy objectives for sport; other potential uses for the concerned lots; financial considerations; the interests of the lessees, their members and staff; and the wider public interest.

Proposed motions

31. Dr Helena WONG indicated an intention to move a motion, urging the Administration to shelve the MPSC project for one year and to proceed immediately with a comprehensive review of its sports policy before seeking the approval of PWSC, the Establishment Subcommittee (as appropriate) and FC to commence the pre-construction works and related staffing proposal.

32. Dr LAM Tai-fai, Mr IP Kwok-him and Mr Paul TSE all considered it inappropriate for the Panel to deal with the motion proposed by Dr Helena WONG at this meeting. Expressing concern about the implications of the motion on the sports sector, Dr LAM held a strong view that sufficient time should be allowed for Members to deliberate on the motion before voting on it. Mr TSE also expressed a similar view. Mr IP pointed out that the Panel had not yet thoroughly discussed the Administration's proposals. Therefore, he would move a procedural motion to adjourn the discussion on Dr WONG's motion if she insisted that the Panel should take a vote on the matter at this meeting.

33. In view of the scale and importance of the proposed project under discussion, the Chairman suggested that the Panel should continue to discuss the planning of MPSC and related staffing proposal at the regular meeting in February 2014. Members agreed. Dr Helena WONG and Mr IP Kwok-him also agreed to withdraw their proposals to move respectively a substantive motion and a procedural motion to adjourn the discussion.

Summing up

34. Summing up the discussion, the Chairman called on the Administration to provide a paper addressing various issues of concern raised by Members at this meeting (including, among others, the Government's sports policy) and providing information on the financing and procurement options which had been considered by the Government for the project as requested by some

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Members, so as to facilitate Members' further discussion on the matter at the next regular meeting on 17 February 2014.

(Post-meeting note: To allow sufficient time for discussion of all items on the agenda, the Panel Chairman had directed that the February meeting be extended by one hour to end at 11:30 am. The notice of and agenda for the meeting on 17 February 2014 were issued to members vide LC Paper No. CB(2)720/13-14 on 17 January 2014.)

35. Dr Helena WONG said that the item "Sports Policy" was on the outstanding items list (i.e. item 19) and expressed the wish that the Panel would arrange to discuss the item at a meeting as soon as possible.

IV. Signature project of Kwai Tsing District Council
(LC Paper Nos. CB(2)606/13-14(05) and (06))

36. At the invitation of the Chairman, PSHA, Mr Dennis LEUNG and Mr CHOW Yick-hay of Kwai Tsing District Council ("K&TDC") took turns to brief Members on the proposed signature project of Kwai Tsing District (including its scope of service, mode of operation and the relevant funding arrangements), details of which were set out in the Administration's paper. Mr CHOW also took the opportunity to declare interest as the Chairman of Kwai Tsing Safe Community and Healthy City Association ("KTSCHCA"), one of the two Signature Project Scheme ("SPS") partners identified by K&TDC for the delivery of services under the proposed signature project.

Service scope and level

37. Miss Alice MAK said that she was a K&TDC member and had been involved in the process of initiating the proposed signature project of Kwai Tsing District. She advised that during the incubation of the project proposal, K&TDC had come across a number of technical problems. She expressed thankfulness to the Home Affairs Department ("HAD") for the assistance provided to K&TDC members, in particular in identifying and selecting non-profit-making organizations ("NPOs") as SPS partners for the delivery of services. Miss MAK stressed that K&TDC and Kwai Tsing District Office ("K&TDO") would closely monitor the implementation of this signature project, including its delivery and quality. Among others, a dedicated working group comprising K&TDC members, K&TDO representatives and independent professionals would be formed to steer the monitoring of the project. She appealed to Members to support the proposal, hoping that the project could be implemented as early as possible.

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38. Mr CHEUNG Kwok-che considered K&TDC's SPS project worth pursuing and supported its early implementation. Noting that K&TDC proposed to cap the subsidy for dental care for each eligible person at \$10,000 and to provide an additional subsidy of up to \$5,000 to eligible residents for undergoing cataract surgery in private hospitals/clinics, he enquired about the considerations behind these decisions.

39. District Officer (Kwai Tsing) ("DO(K&T")) explained that under the proposed SPS project, the elderly in Kwai Tsing District who had been granted financial support under Hospital Authority ("HA")'s Cataract Surgeries Programme ("CSP") would be eligible for an additional subsidy of up to \$5,000 to help cover part of the remaining cost to be borne by the elderly. K&TDC's initiative aimed to encourage CSP-participating patients to go to private clinics to undergo early cataract surgery. Recipients of Comprehensive Social Security Assistance would be excluded as they were already eligible to undergo the surgery free of charge. The additional subsidy would be the actual cost of the surgery minus the \$5,000 financial support paid under CSP (i.e. the actual cost borne by patient) or \$5,000, whichever was the lesser. Regarding the proposed cap of \$10,000 on the subsidy for dental care, K&TDC aimed to strike a balance between the number of elderly to be benefitted from the proposed services and the level of subsidy granted to individual service users. According to the advice of Yan Chai Hospital ("Yan Chai"), the \$10,000 subsidy should be adequate to address the dental need of most elderly.

Continuity and sustainability of the project

40. Mr IP Kwok-him said that as the Member representing the District Council Functional Constituency, he was supportive of K&TDC's SPS project. While welcoming K&TDC's implementation of its signature project, he expressed concern about the sufficiency of the one-off funding for implementing the proposed project and its sustainability after the target service period ranging between three and five years. In his view, should the SPS project in Kwai Tsing prove to be successful and effective in enhancing community health support for the elderly, consideration should be given to extending this service mode to other districts as an initiative of HA. Mr WU Chi-wai also expressed a similar view.

41. Mr YIU Si-wing, Mr WU Chi-wai and Mr Frankie YICK all welcomed the project as the community healthcare services proposed by K&TDC could help alleviate problems associated with an ageing population. Noting that K&TDC proposed not to introduce means tests, they expressed concern about possible abuse as well as the financial viability of the project.

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42. DO(K&T) responded that -

- (a) residents of Kwai Tsing District were the target group of the healthcare services provided under the SPS project. To guard against abuses, self-declaration and provision of documentary proof by the service users would be required. For instance, users of the dental care services would be required to provide proof of residence in Kwai Tsing and make a declaration that they were not enjoying support/subsidy from other sources for the same services;
- (b) KTSCHCA and Yan Chai would provide assessment, medication and further referral as appropriate. Their healthcare services would be provided to those in need. To enable more elderly to benefit from the proposed services and prevent abuses, patients would need to share part of the cost of the services;
- (c) K&TDC had drawn reference on its NPO partners' existing operation experience and made a detailed assessment of the costs involved before proposing that the \$100 million signature project would operate for three to five years after commencement of each type of services. The required service scope or level, such as the minimum number of people served per year, would be set out in a service agreement to be signed between the respective NPOs and K&TDO;
- (d) despite that SPS funding was a one-off provision, K&TDC together with its NPO partners would endeavour to ensure the financial viability and sustainability of the project. The two NPOs had already made plans to continue as far as practicable the services on a self-financing basis or with support from alternative sources. For example, the dental services provided by Yan Chai would continue after the expiry of the SPS funding and be extended to all residents of Kwai Tsing District regardless of age on a full cost recovery basis; and
- (e) K&TDC and K&TDO had all along been working closely with relevant government departments, such as the Department of Health and the Social Welfare Department, to ensure the viability of the project. K&TDC and K&TDO would continue with the planning of the implementation details to ensure its smooth operation and success.

43. In response to Mr Frankie YICK's further enquiry, DO(K&T) advised that the service with the longest lead time was the dental care service to be provided by Yan Chai as it would need at least 12 to 15 months before the

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two vehicles could be modified to be operational mobile dental clinics. In view of Members' suggestion, consideration would be given to channelling part of the resources allocated to the publicity programmes to the core healthcare services as presented in the Administration's paper.

Summing up

44. In concluding the discussion, the Chairman said that many Members had expressed their support for the SPS project proposed by K&TDC and no Members raised objection to the Administration submitting the proposal to PWSC and FC.

V. The licensing and enforcement matters under the Hotel and Guesthouse Accommodation Ordinance

(LC Paper Nos. CB(2)606/13-14(07) and (08) and CB(2)601/13-14(01) to 05))

45. At the invitation of the Chairman, PSHA briefed Members on matters relating to the processing of guesthouse licence applications, the regulation and enforcement efforts of the Office of the Licensing Authority ("OLA") under HAD in accordance with the Hotel and Guesthouse Accommodation Ordinance (Cap. 349) ("HAGAO").

(Members agreed to extend the meeting by 15 minutes.)

Licensing requirements

46. Miss Alice MAK, Mr CHAN Chi-chuen, Mr IP Kwok-him, Mr WU Chi-wai and Mr Paul TSE said that they were not convinced of the explanation provided by the Administration that it would not consider, interpret or enforce provisions in the Deed of Mutual Covenant ("DMC") in vetting and approving an application for guesthouse licence. They urged the Administration to review the existing guesthouse licensing regime for the sake of public interest and if necessary, amend the law to tighten the licensing regime, with a view to protecting the interests of residents living in buildings where guesthouses operated. Mr IP strongly requested the Administration to add "compliance with the terms and provisions in DMC and the land lease of the building concerned" as a condition for vetting and approving applications for guesthouse licences. Mr KWOK Wai-keung echoed with Mr IP, adding that all applications should be supported by documentary proof and declaration.

47. In response, PSHA made the following points -

- (a) operation of guesthouses in Hong Kong was regulated by

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HAGAO. The primary purpose of HAGAO was to, through the implementation of a licensing regime, ensure that premises used as hotels and guesthouses met the building structure and fire safety standards specified in the Buildings Ordinance (Cap. 123) ("BO") and the Fire Services Ordinance (Cap. 95) ("FSO") for the safety of the lodgers, the residents and the public;

- (b) in processing and approving applications for guesthouse licence, OLA should act under the power conferred by HAGAO, which did not extend to cover the interpretation of DMC;
- (c) a DMC was a private covenant among the owners, the property manager and the developer of a building. Only these parties were empowered to act under the power conferred by DMC to enforce the provisions therein in relation to the control, management and administration of the building. They might take appropriate actions and measures against any owner who did not comply with the DMC;
- (d) in fact, many DMCs did not explicitly prohibit the operation of guesthouses and provisions varied among DMCs. The Government, which was not a party to the DMC, had no power or obligation to interpret or enforce the DMC provisions; and
- (e) to let residents, the owners' corporation ("OC") and the property management company of the building concerned know as early as possible that a guesthouse licence application involving a premises in their building was submitted, OLA would introduce a new measure under which it would, upon receipt of an application for a guesthouse licence (including a renewal application), took the initiative to inform the OC, residents' organization or property management company of the building concerned and upload such information onto its website. The OC and the owners would therefore have sufficient time to examine the relevant provisions in DMC and consider exercising their power conferred by DMC to take appropriate action.

48. PSHA added that the Administration reviewed from time to time the implementation of HAGAO and explored feasible options for improvement. The primary consideration was to facilitate OLA in pursuing enforcement actions more effectively to combat and eradicate unlicensed guesthouses. In the light of the law enforcement experience gathered in the past few years, the Administration had already kick-started a review of HAGAO.

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49. Dr Helena WONG and Mr KWOK Wai-keung held a similar view that there was a loophole with the existing licensing regime when the DMC provisions were not taken into account in the vetting and approval of applications for guesthouse licences, which had resulted in the proliferation of guesthouses in residential buildings causing safety hazards and nuisances to the residents. In Dr WONG's view, the crux of the problem lay in the lack of consultation with the residents concerned. She called on the Administration to review HAGAO, with a view to introducing in the guesthouse licensing regime a mechanism whereby the views of the residents in the buildings concerned on the licence applications would be gauged, and such views would be taken into account in the granting of licences.

50. Mr WU Chi-wai considered that in reviewing HAGAO, the Administration should consider allowing the establishment of guesthouses only in commercial buildings and also take the opportunity to review whether guesthouses could be operated in revitalized industrial buildings.

51. Dr CHIANG Lai-wan anticipated that the continued increase in the number of tourists would bring about a corresponding increase in the number of guesthouses. Expressing concern about the establishment of guesthouses in residential buildings/districts and their nuisance problems on other residents in the neighbourhood, she shared the view that a mechanism should be put in place to ensure that the views of the residents on guesthouse licence applications would be heeded.

52. PSHA responded that under HAGAO, the Hotel and Guesthouse Accommodation Authority ("the Authority") might refuse to issue a licence in respect of a guesthouse on the ground that the premises failed to comply with the relevant standards set out in BO and FSO. HAGAO did not empower the Authority to refuse an application because of other considerations, including terms of land leases, DMC and residents' views. While the Administration maintained an open attitude towards Members' suggestions of specific measures against guesthouse operation, the possible impact brought about by these suggestions had to be carefully assessed.

53. Responding to Mr WU Chi-wai's concern about the role of HAD and its Liaison Officers in dealing with disputes arising from the interpretation of DMCs, PSHA said that Liaison Officers had all along been assisting property owners and OCs in handling building management matters, including assisting them to seek professional advice on interpretation of the provisions in DMCs.

Law enforcement against unlicensed guesthouse operation

54. Miss Alice MAK said that it was her understanding that patrons normally surfed on the Internet for information of guesthouses. She enquired

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about the enforcement efforts of OLA on public web portals to combat and eradicate unlicensed guesthouses.

55. Deputy Director of Home Affairs (2) ("DDHA(2)") responded that the Administration was aware of the recent trend that more and more tourists and lodgers searched for information of and reserved rooms in guesthouses on the Internet. For this reason, an eight-member dedicated Internet enforcement team had been set up in OLA to closely monitor websites, discussion boards, blogs, etc. collecting information and intelligence on the Internet about suspicious unlicensed guesthouses on the one hand and encouraging tourists to patronize licensed hotels or guesthouses on the other.

56. Mr Paul TSE said that as promotion and publicity activities of unlicensed guesthouses through websites had been on the rise, the Administration should monitor such activities in a more rigorous manner.

57. Responding to Mr CHAN Chi-chuen's enquiry about OLA's enforcement actions against unlicensed guesthouses, DDHA(2) advised that OLA had spared no effort in combating and raiding unlicensed guesthouses by adopting a multi-pronged approach, including stepping up efforts in conducting inspections, strengthening law enforcement actions, enhancing deterrent effect and stepping up publicity, etc. In recent years, OLA had increased manpower resources and recruited frontline officers with law enforcement experience to carry out law enforcement related duties under HAGAO. It had also adjusted its enforcement strategies and employed different enforcement tactics flexibly to increase significantly the number of inspections and make every effort to collect evidence of suspected unlicensed guesthouse operation. When suspected unlicensed guesthouse operation was identified or such a report was received, OLA would follow up immediately and conduct an inspection within eight working days.

58. Mr CHEUNG Kwok-che asked about the reasons why some people would take the risk of operating unlicensed guesthouses as, in his view, it was not too difficult to satisfy the Authority and to comply with the standards stipulated in BO and FSO for obtaining a guesthouse licence. He also sought information on measures taken by the Administration targeting at those guesthouse licensees who operated unlicensed guesthouses at other premises (commonly known as "shadow guesthouses").

59. PSHA responded that as there were stringent requirements on building structure and fire safety measures for guesthouse operation, some people might choose not to apply for a licence and to operate unlawfully. PSHA further said that OLA had implemented a specific measure targeting at those guesthouse licensees who operated "shadow guesthouses". If a guesthouse licensee was convicted of operating an unlicensed guesthouse by the court, OLA would consider cancelling all the licences held by the licensee

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concerned or refusing to renew the licences pursuant to HAGAO. So far, OLA had cancelled or refused to renew the licences of 13 guesthouses for this reason.

60. Mr CHEUNG Kwok-che asked whether the provision of child caring cum accommodation service to cross-boundary students whose parents were not Hong Kong residents was subject to the regulatory control under HAGAO. DDHA(2) replied that it was provided in HAGAO that any premises providing sleeping accommodation at a fee should obtain a guesthouse licence unless all accommodation in the premises was exclusively provided on the basis of a minimum period of 28 continuous days for each letting.

61. Pointing out that unlicensed guesthouse operators might play tricks or exploit the loopholes in the law (such as making use of the exemption or operating "shadow guesthouses") for commercial gains, Mr Paul TSE considered it necessary for the Administration to impose heavier penalties against unlicensed guesthouse operation to achieve greater deterrent effect. Referring to Annex II to the Administration's paper which set out the numbers of persons sentenced to imprisonment and their term of imprisonment for unlicensed guesthouse operation as well as the fines for contravening HAGAO in the past five years, Mr TSE considered the penalties imposed by the court too lenient. He suggested that the Administration should, where necessary and appropriate, consider seeking a review of the court's sentence. His view was echoed by Mr YIU Si-wing.

62. In response, PSHA said that the Administration would consider Members' suggestions and explore various options, including enhancing the penalty for offences, in its review of HAGAO. DDHA(2) added that to achieve a greater deterrent effect, OLA would pass the details of convicted cases to the Rating and Valuation Department, the Inland Revenue Department, mortgage banks or monetary institutions, property owners, and the OCs and management offices of the buildings concerned, etc. for follow-up under their respective purview or out of their rights and interests, such as prosecution against tax evasion and recovery of tax. Should any property or insurance agent be convicted, OLA would also pass the conviction records to the Estate Agents Authority or the Office of the Commissioner of Insurance for their follow up actions.

63. Citing a rape case which occurred in 2013 in a licensed guesthouse, Mr YIU Si-wing said that the security of some licensed guesthouses was poor. He suggested that the Administration should consider requiring all guesthouse licensees to adopt appropriate security measures for the protection of personal safety of their patrons.

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64. DDHA(2) responded that although HAGAO did not empower the Authority to refuse an application because of considerations other than building structure and fire safety standards stipulated in BO and FSO (including security measures employed), the Authority would encourage licensees or persons-in-charge of guesthouses to improve their own security measures to deter crimes.

65. There being no other business, the meeting ended at 11:16 am.

Council Business Division 2
Legislative Council Secretariat
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