

立法會
Legislative Council

LC Paper No. CB(2)961/14-15
(These minutes have been seen
by the Administration)

Ref : CB2/PL/HA

Panel on Home Affairs

Minutes of meeting
held on Friday, 9 January 2015, at 8:30 am
in Conference Room 3 of the Legislative Council Complex

- Members present** : Hon Starry LEE Wai-king, JP (Chairman)
Hon YIU Si-wing (Deputy Chairman)
Hon Cyd HO Sau-lan, JP
Dr Hon LAM Tai-fai, SBS, JP
Hon CHEUNG Kwok-che
Hon IP Kwok-him, GBS, JP
Hon Claudia MO
Hon NG Leung-sing, SBS, JP
Hon Steven HO Chun-yin
Hon Frankie YICK Chi-ming
Hon WU Chi-wai, MH
Hon MA Fung-kwok, SBS, JP
Hon CHAN Chi-chuen
Dr Hon Kenneth CHAN Ka-lok
Hon LEUNG Che-cheung, BBS, MH, JP
Dr Hon Helena WONG Pik-wan
Hon IP Kin-yuen
Hon TANG Ka-piu, JP
Dr Hon CHIANG Lai-wan, JP
Hon Christopher CHUNG Shu-kun, BBS, MH, JP
Hon Tony TSE Wai-chuen, BBS
- Members attending** : Hon Michael TIEN Puk-sun, BBS, JP
Hon POON Siu-ping, BBS, MH

**Public Officers : Item IV
attending**

Mr TSANG Tak-sing, GBS, JP
Secretary for Home Affairs

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

Mr Brian LEUNG Hung-tak
Chairman, Hong Kong Football Association

Mr Aaron CHENG Chung-hang
Head of Corporate Governance
Hong Kong Football Association

Mr LI Tak-nang
Member, Football Task Force

Professor LUI Tai-lok
Member, Football Task Force

Item V

Mr TSANG Tak-sing, GBS, JP
Secretary for Home Affairs

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

Miss Charmaine WONG Hoi-wan
Assistant Director of Home Affairs (6)

Mr LAM Wing-hong
Assistant Director (Operations) 2
Food and Environmental Hygiene Department

Mr Jacob CHEUNG Tak-keung
Assistant Commissioner (Operations)
Hong Kong Police Force

Mr Ken YEUNG Man-pun
Superintendent (Operations Bureau)
Hong Kong Police Force

Ms Olga LAM Wai-ha, JP
Assistant Director (Estate Management)
Lands Department

Mr Thomas LEUNG Tung-choi
Assistant Director (Existing Buildings) 2
Buildings Department

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

Staff in attendance : Ms Vanessa CHENG
Assistant Legal Adviser 5

Miss Josephine SO
Senior Council Secretary (2) 6

Miss Emma CHEUNG
Legislative Assistant (2) 2

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I. Confirmation of minutes
(LC Paper No. CB(2)541/14-15)

The minutes of the meeting held on 17 November 2014 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. Date of next meeting and items for discussion
(LC Paper Nos. CB(2)543/14-15(01) and (02))

Policy briefing cum meeting on 6 February 2015

3. The Chairman informed members that the Panel would receive a briefing by the Secretary for Home Affairs ("SHA") on the Chief Executive ("CE")'s 2015 Policy Address in respect of the policy initiatives on home affairs at the meeting to be held on Friday, 6 February 2015, at 8:30 am.

4. Members agreed to discuss the following two items proposed by the Administration in addition to receiving the policy briefing by SHA at the February meeting of the Panel -

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- (a) Review of the honorarium arrangement for District Council members; and
- (b) Progress of the Kai Tak Multi-purpose Sports Complex Project.

5. In view of the number of items to be discussed, the Chairman suggested and members agreed that the policy briefing cum regular meeting on 6 February 2015 be extended by one hour to end at 11:30 am.

Panel's list of outstanding items for discussion

6. Referring to item 3 in the list of outstanding items for discussion on "Government's policy on youth development", Ms Cyd HO requested that the item be discussed as early as possible, preferably soon after the CE's delivery of the 2015 Policy Address, in view of the Government's indication that it would put more emphases on youth development-related issues for the year ahead. The Chairman suggested and members agreed that the Panel would consider the need for early discussion of the subject after the CE's delivery of the 2015 Policy Address.

7. Ms Cyd HO suggested that members of the Panel on Education and members of the Panel on Housing be invited to join the meeting when the item was discussed by the Panel, so as to bring the discussion to fruition.

IV. Development of football in Hong Kong
(LC Paper Nos. CB(2)543/14-15(03) and (04))

8. At the invitation of the Chairman, SHA updated the Panel on the development of football in Hong Kong, as detailed in the Administration's paper.

Implementation and review of "Project Phoenix"

9. Dr CHIANG Lai-wan was concerned how well the Hong Kong Football Association ("HKFA") had met the performance indicators and targets set out in the development plan, known as "Project Phoenix", recommended by its "change agent". SHA responded that the change agent appointed by HKFA had set out in its report entitled "Project Phoenix" a list of tasks for HKFA to implement in areas such as governance, management structure, development and business planning. On the whole, HKFA had made reasonable progress in implementing the "Project Phoenix" plan.

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Admin 10. Dr CHIANG Lai-wan requested the Administration to provide detailed information on the long-term and short-term goals as well as targets set under "Project Phoenix" and the extent to which these goals and targets had been met.

11. In response to Dr CHIANG Lai-wan's further enquiry about the Government's support to HKFA, Chairman of HKFA advised that the resources allocated by the Government to HKFA to implement "Project Phoenix" had been used for engaging professional coaches, conducting more training sessions and improving the training of match officials etc. Apart from public funding, local football leagues also received financial support from the private sector and the community supported local football development.

12. Dr CHIANG Lai-wan opined that the limiting factors that still inhibited the quality of football in Hong Kong included, inter alia, the lack of career prospects for players. She expressed concern about the livelihood of and job opportunities to football players after they had retired from the profession.

13. Chairman of HKFA responded that with an increase in the number of participants in HKFA's grassroots and youth football programmes, outstanding football players could very often develop a successful career by joining HKFA's coach development programme to become a professional coach and to turn football training into a life-long career. According to his understanding, many football players were earning a better salary, and many football coaches in Hong Kong were earning a reasonably high salary.

Admin 14. Dr Kenneth CHAN requested that the full report of HKFA's review on the implementation of "Project Phoenix", together with the full document of the Football Task Force ("FTF")'s review of the progress of "Project Phoenix" be provided to the Panel. Deputy Secretary for Home Affairs (2) ("DSHA(2)") undertook to provide the requested information after the meeting.

HKFA's Five-year Strategic Plan for the further development of football in Hong Kong

15. Citing the success of football development in Japan and South Korea in the recent decades as examples, Mr MA Fung-kwok said that the objective of promoting and developing football in Hong Kong could not be achieved in a short span of time. He considered that whilst HKFA should continue to be provided with appropriate support and resources for implementing the Five-year Strategic Plan, it would need "buy-in" from all stakeholders in

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Hong Kong to enable local football to flourish. In his view, the Administration should explore other sources of funding, e.g. soliciting commercial sponsorship from the business sector, to support the operation of football teams. He also suggested inviting the Hong Kong Jockey Club to consider allocating some of its revenue from betting on assisting the development of local football.

16. SHA responded that the Administration agreed that the development of football would require time, and it was important for HKFA to continue with its efforts towards the further development of local football. He added that the provision of support to HKFA's Five-year Strategic Plan demonstrated the Administration's commitment to supporting the sport's future development.

17. Dr Kenneth CHAN noted that the Sports Commission, after considering the recommendations of FTF, agreed that the Government should continue to provide time-limited funding to HKFA for its implementation of initiatives in the Five-year Strategic Plan. He sought details about the terms and conditions in the funding agreement with HKFA for funding the Five-year Strategic Plan. Dr CHAN further said that since the 1990s, a significant decline in football development had been observed at the local level as well as in Asian and world rankings announced by the Federation Internationale de Football Association. There were also incidents of suspected "match fixing" in matches of HKFA leagues, bringing disrepute to the football sport in Hong Kong. He queried whether anybody should be held responsible for these matters.

18. Dr LAM Tai-fai said that he had been involved in providing football training courses to the youth for many years and did not receive any support from HKFA. He pointed out that HKFA and local football clubs entering the Hong Kong Premier League (professional) were entities operated on a commercial basis. While he had no strong view on the Administration's continued provision of time-limited funding to HKFA for its implementation of the Five-year Strategic Plan, he cautioned that the Administration should be mindful of the impact of tilting its policy towards a particular sport, as far as fairness and balanced development of other sports were concerned. Dr LAM further reminded the Administration of the needs to ensure the prudent and effective use of public resources so allocated and explain to the public the performance indicators and targets relating to the initiatives in the plan. In his view, the Administration should closely monitor HKFA's progress in improving its levels of governance and management, financial discipline and business planning.

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19. Professor LUI Tai-lok said that as a member of FTF, he noted that "Project Phoenix" had helped HKFA to make progress in taking forward the development of football, in particular in the following areas -

- (a) HKFA had extended the reach of the youth development programme by significantly increasing the number of players in structured training and competitive programmes;
- (b) HKFA had introduced more structured training for its representative squads; and
- (c) HKFA had introduced structured training and competitive programmes for women's football.

Professor LUI hoped that Members would take into account a host of indicators to evaluate the performance of HKFA and the effectiveness of "Project Phoenix" in achieving its objectives.

20. Responding to the Deputy Chairman's enquiry on whether and how HKFA had cooperated with the Independent Commission Against Corruption ("ICAC") in the prevention of corruption and match fixing within the local football sector, Chairman of HKFA said that HKFA had been working closely with ICAC. Apart from conducting workshops on relevant topics for football players and teams, ICAC had provided advice to HKFA during its preparation and publication of "Code of Conduct" and "Rules of Conduct for Players and Team/Match Officials" for the governing and guiding of the conducts and behaviours of those involved in the game of football. These apart, HKFA had rendered full assistance to ICAC whenever complaints alleging corruption or match fixing arose and throughout the course of ICAC's investigation. Chairman of HKFA stressed that there was no place for criminal activity in football and HKFA would adopt a zero-tolerance approach to anyone convicted of a crime related to football activity. He added that HKFA had also appointed specialist company to provide match-fixing prevention and detection services.

21. In response to the suggestion of the Deputy Chairman that HKFA should take the initiative to seek opportunities for local football teams to play in league matches in the Mainland, Chairman of HKFA advised that HKFA had maintained constant communication with its counterparts in the Mainland and was making arrangements for local football teams to take part in matches of higher standards, such as the matches of the Chinese Super League and the Chinese Football Association Jia League.

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22. Mr TANG Ka-piu considered that the development of high quality local players and success in attracting more spectators to football matches were pivotal to football development. He enquired whether quantifiable targets were set for measuring the degree of success in these two respects. Noting HKFA's target to increase the average attendance at Hong Kong Premier League matches from 900 (in 2013-2014) to 2,500 (in 2019-2020), he asked how the said target which, in his view, was rather ambitious could be achieved. Mr NG Leung-sing also raised concern about the sufficiency of professional football players, coaches and referees.

23. In response, DSHA(2) advised that while no separate specific indicator was set for the number of male elite players becoming full-time professional football players, the overall aim was to encourage more people (including men and boys, women and girls) to play football. Chairman of HKFA also explained that HKFA had stepped up its training programmes for coaches and referees with a view to providing more support to young players, many of whom were aspiring players with a keen interest in football.

24. Dr Helena WONG suggested that in view of the problem of under-attendance for local football matches, concessionary tickets could be made available to senior citizens or full-time students, as it would help get people back into the stadia to watch local football matches. DSHA(2) responded that some Hong Kong Premier League clubs had introduced seasonal tickets for the general public, and the current \$20 admission fee for students was comparatively low among various types of entertainment. Some clubs also allowed free entry to matches for students.

25. Mr MA Fung-kwok said that Futsal, a five-a-side game, served as a good introduction and complementary activity to the regular 11-a-side football. As Futsal could be played on small hard courts in schools and sports grounds etc, lending itself well to the nature of sports facilities in Hong Kong, there was room to expand students' participation in Futsal in primary/secondary schools. Mr MA hoped that the Administration could work closely with the Education Bureau to create an enabling environment for the promotion of football/Futsal in schools (say, for example, providing dual-use courts for basketball and Futsal games). Echoing the view of Mr MA, Mr IP Kin-yuen suggested that the Administration should increase the financial support to schools and provide more coordinated support (including homework guidance) to elite/talented student players to assist them in pursuing their studies while taking part in football training.

26. Chairman of HKFA responded that HKFA agreed that Futsal should receive more attention and resources both as a sport and as a contributor to the 11-a-side game. A range of Futsal initiatives had therefore been mapped

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out focusing on schools. Among others, HKFA would promote Futsal across the education sector in various levels of schools and organize local Futsal competitions among schools and at the community level. DSHA(2) added that the number of participants in structured futsal programmes of HKFA was one of the targets and indicators for the Five-year Strategic Plan.

27. Mr NG Leung-sing said that while he agreed that the engagement of professional coaches and the conducting of structured training targeted at developing young players could help improve the standard of football in Hong Kong, good sportsmanship was equally important. He expressed concern whether the "Hong Kong Football Curriculum" to be introduced by HKFA would cover all aspects of football development, including promoting the spirit of sportsmanship.

28. Mr LI Tak-nang, a member of FTF, responded that the standard of football needed to be improved so that more people were encouraged to support local teams. He stressed that many of the initiatives described in the strategic plan (including the establishment of the Hong Kong Premier League, the introduction of structured training and competitive programmes as well as the provision of quality facilities) should do just, but it would take some time for systems to change and for better players to emerge. Mr LI further said that it was his understanding that many young players in Hong Kong thrived on the sport of football with zeal, skills and ideals.

29. Dr Helena WONG sought information on measures adopted by the Administration or HKFA for promoting girl's and women's football. Chairman of HKFA advised that -

- (a) since the implementation of "Project Phoenix", the Women's Football Association had been incorporated into HKFA and many new girl's and women's training programmes and activities, which mirrored those of the boy's and men's, had been developed;
- (b) HKFA had devoted a substantial portion of expenditure to women's and girls' football; and
- (c) HKFA would consider employing a head coach for Women's Representative Team and Academy, and HKFA Women's Football Section would work closely with the Coach Education Section and Referees Department to increase the number and quality of female coaches and officials.

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30. Responding to Dr LAM Tai-fai's and Dr Kenneth CHAN's enquiries about "Hong Kong style of play", Chairman of HKFA and Mr LI Tak-nang advised that it was HKFA's aim to develop a consistent style of play that yielded better standards at all levels and to introduce this style of play throughout Hong Kong football. At present, HKFA was still exploring the most efficient and effective style of play that suited the stature and physique of Hong Kong football players.

District Football Funding Scheme

31. Mr Christopher CHUNG and Mr LEUNG Che-cheung said that football was under-funded at all levels. Given the large amount of money required for organizing football teams, they suggested that the Government should consider increasing the subvention to local football teams in the professional and amateur leagues in Hong Kong.

32. SHA responded that the Administration had increased the support to district-based football teams. The maximum levels of funding under the District Football Funding Scheme for each district team in the current season were as follows -

Hong Kong Premier League (professional)	-	\$1.5 million
First Division (amateur)	-	\$500,000
Second Division (amateur)	-	\$350,000
Third Division (amateur)	-	\$300,000

Improvement of facilities

33. Citing the quality problem of the turf pitch at the Hong Kong Stadium ("the Stadium") as an example, Mr Christopher CHUNG said that the lack of suitable facilities for training and competition had affected the playing standard of football in Hong Kong. He urged the Administration to increase the availability and quality of pitches for training and competition.

34. Mr LEUNG Che-cheung said that it had come to his attention that privately-run "commercial" soccer schools (or football academies) providing football training programmes for young people had recorded a remarkable growth in recent years, and many of these soccer schools were making use of revitalized industrial buildings to conduct their programmes, despite the fact that it was not allowed under the relevant legislation. As many soccer schools were facing with inadequate supply of good quality training grounds and facilities, Mr LEUNG enquired about the measures to be adopted by the Administration to address the problem.

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35. Sharing a similar concern over the supply of football pitches in Hong Kong, Mr WU Chi-wai asked whether the Government had any plans to increase the provision of natural turf, artificial turf and hard court pitches. Dr Helena WONG echoed with Mr WU that the Administration should cut the red tapes and streamline the arrangements/procedures regarding the booking and allocation of football pitches under the management of the Leisure and Cultural Services Department ("LCSD"). Mr IP Kin-yuen considered it necessary to provide dedicated training pitches for Hong Kong men's and women's representative squad training at all age levels.

36. SHA and DSHA(2) responded with the following points -

- (a) the availability of good quality pitches was essential to football development. LCSD was increasing the provision of pitches with "third generation" artificial turf which could be used far more frequently and at lower maintenance cost than grass pitches without the need to allow for lengthy rest periods;
- (b) at present, LCSD managed a large number of hard-surfaced mini soccer pitches in various districts for free use by the public. The use of mini soccer pitches did not require advance booking. To cope with the demand, the Administration would continue to build new mini soccer pitches. In the building programme for the next two years, a total of six 5 or 7-a-side hard-surfaced mini soccer pitches would be built in areas such as Kwun Tong, Central and Western, Yuen Long and Sham Shui Po districts; and
- (c) thorough improvement works to enhance the long-term quality and durability of the pitch of the Stadium had been planned. The reconstruction would start within 2015.

V. Outcome of the public consultation on enhanced measures against shop front extensions

(LC Paper Nos. CB(2)543/14-15(05) and (06))

37. At the invitation of the Chairman, SHA briefed Members on the views that the Administration collected from the public consultation exercise on the "Enhanced Measures against Shop Front Extensions ("SFEs")" and the proposed way forward in the light of the views received, as detailed in the Administration's paper.

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Enforcement action against SFEs

38. Mr POON Siu-ping said that some frontline staff of the Food and Environmental Hygiene Department ("FEHD") had expressed worries that they would be tasked to enforce the proposed fixed penalty system. There was concern whether additional resources or manpower as well as training would be provided for FEHD frontline staff to cope with the work.

39. Assistant Director (Operations) 2/FEHD ("AD(Ops)2/FEHD") responded that FEHD had consulted the frontline staff and would further discuss with them the work details. He assured Members that FEHD would carefully consider the views of its staff on the implementation and enforcement details of the fixed penalty system. Should circumstances so warrant, FEHD would deploy additional resources to its enforcement teams and provide more training as well as guidelines for staff to equip them to take enforcement actions.

40. While expressing general support to the introduction of a fixed penalty system, Dr CHIANG Lai-wan said that the penalty level, proposed to be set at \$1,500, might still have little deterrent effect and be considered as insignificant when compared to the high rentals that shop operators would have to pay for use of any additional space. She suggested that the penalty level should be increased progressively for repeated SFE offences to achieve a higher deterrent effect.

41. Dr Helena WONG said that the Democratic Party also supported the proposed introduction of the fixed penalty system and considered it appropriate to set the level of fixed penalty for first offence at \$1,500. In her view, the Government should consider taking more vigorous actions or imposing heavier penalties against repeated SFE offences. She suggested that fixed penalty tickets should be issued repeatedly to offenders who failed to rectify the SFE problem within a reasonable period of time. Consideration should also be given to progressively increasing the penalty level for repeated offences.

42. In response, Deputy Director of Home Affairs (1) ("DDHA(1)") emphasized that the proposed fixed penalty system was intended to be an additional measure for tackling SFEs and it would not replace the existing enforcement tools including taking prosecution by way of issuing summonses under section 4A of the Summary Offences Ordinance (Cap 228). DDHA(1) further advised that relevant departments had adjusted their enforcement strategies and strengthened the enforcement measures to tackle SFEs. For example, instead of giving prior warning every time enforcement action was to be taken, FEHD now took prosecution action against habitual SFE

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offenders in SFE "black spots" under repeated complaints immediately. As some SFE cases involved occupation of public places for "illegal hawking", FEHD had stepped up efforts in exercising the power under section 83B of the Public Health and Municipal Services Ordinance (Cap. 132) ("PHMSO") where the facts of the case supported such actions. Where appropriate, FEHD would also exercise the power of seizure of hawker equipment and commodities provided under section 86 or 86B of PHMSO. As regards Members' suggestion of imposing a heavier penalty for repeated offences, it would be considered as part of the enforcement strategies by relevant departments.

43. Noting that a number of departments were empowered under various Ordinances to take prosecution action to tackle different situations involving SFEs, Mr CHAN Chi-chuen expressed concern on whether it would lead to "multiple prosecutions for the same offence". He considered it of utmost importance that the Administration should formulate a clear enforcement policy against SFEs to ensure consistency and fairness. He further suggested that consideration be given to adopting a tiered penalty system to impose heavier penalties on SFE offences committed by large consortia/ establishments.

44. DDHA(1) responded that the Administration fully acknowledged Members' view on the need to ensure consistency and fairness in enforcement. It would work out the criteria for determining the enforcement priority against SFEs for consideration by relevant departments which would accordingly review and enhance, where appropriate, their enforcement strategies and guidelines. On the issue of prosecution, the Administration would seek the view of the Department of Justice on ways to tackle repeated offences.

45. Mr LEUNG Che-cheung held the view that for locations designated as "black spots", enforcement departments should continue to cooperate more closely and mount small-scale joint operations among themselves more frequently. For more complicated cases, they should seek the support of District Officers to co-ordinate larger scale inter-departmental operations under the District Management Committee ("DMC") mechanism. To cope with the increase in workload arising from the implementation of the proposed fixed penalty system and other necessary supporting work, e.g. stepping up public education and publicity, the Administration should deploy additional resources and manpower to departments concerned.

46. DDHA(1) responded that the enforcement departments would review and make appropriate adjustments to their enforcement strategies, which included, among others, revising and issuing enforcement guidelines,

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deploying additional resources to the enforcement teams and providing training to frontline staff to facilitate their performance of enforcement and prosecution duties.

47. In reply to the Deputy Chairman's enquiry about obstruction of public places or roadside car parking spaces by goods or other items placed at the shop front, DDHA(1) said that as the proposed fixed penalty system was intended to be an additional measure to tackle SFEs and would not replace the other existing enforcement tools such as issuance of summons, the Administration would continue to improve the existing multi-disciplinary enforcement regime, and enforcement departments including FEHD, the Lands Department ("LandsD"), the Hong Kong Police Force ("HKPF") and the Buildings Department ("BD") would continue to take enforcement action on their own against SFE cases under their purview. This apart, enforcement departments would enhance coordination amongst themselves in their enforcement plans and conduct joint operations against SFEs more frequently. District Officers would continue to coordinate large-scale inter-departmental joint operations amongst FEHD, HKPF, LandsD and BD. In 2014, the numbers of small-scale joint operations and District Officers-coordinated large-scale inter-departmental operations were respectively around 1 200 and 400.

48. Dr LAM Tai-fai said that the problem of SFEs was not easy to resolve. Given the impacts of the proposed measures on the livelihood of some businesses and their employees, particularly those in the catering and retailing trades, he hoped that the Administration would not adopt a simple across-the-board approach to tackle the problems associated with SFEs. In his view, a proper balance should be struck between introducing a higher level of deterrence and minimizing the impact on businesses. He suggested whether different fixed penalty levels could be set for SFEs depending on the seriousness of the obstruction problem and associated risks. Citing the Mongkok Flower Market and food premises in some districts as examples, he suggested the Administration to strengthen the communication with all the 18 District Councils ("DCs") in taking forward the legislative proposals on the proposed fixed penalty system and/or designating "tolerated areas" and the degree of "tolerance" towards SFE. DDHA(1) responded that the Administration agreed that it was important to strike a balance between strengthening enforcement and giving due regard to the livelihood of businesses and employees. The enforcement departments would formulate clear guidelines setting out in what circumstances the proposed fixed penalty system or other enforcement tools should be adopted to achieve the desired deterrent effect.

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49. Mr Frankie YICK said that Mr Tommy CHEUNG and Mr Vincent FANG, the two non-Panel Members belonging to the Liberal Party, did not support the proposed introduction of the fixed penalty system given its impacts on the catering and retailing trades. Sharing Dr LAM Tai-fai's view over the need to strike a balance between enhancing enforcement and protecting the livelihood of businesses, he suggested that consideration should be given to providing assistance to shops/food premises whose SFEs could constitute a distinct characteristic and contribute to the vibrancy of the district with a view to creating a more enabling environment for small-sized retail stores and food premises to carry out their business. He also hoped that, if the proposed fixed penalty system was to be implemented, enforcement departments would adopt a "caution before enforcement" or "warning before prosecution" approach in handling SFEs.

50. In response, DDHA(1) advised that to streamline the application procedures and improve coordination among relevant departments in an effort to promote outside seating accommodation ("OSA") operation, FEHD was providing "one-stop" service for OSA applications from restaurants/food premises. For other SFE cases, the Administration proposed to take into account individual circumstances and exercise discretion, if and where appropriate.

51. Mr Michael TIEN considered it important for the Administration to formulate a clear policy and objective standards for taking enforcement action against SFEs, so as to ensure fairness in enforcement. He suggested that enforcement departments should allow shop extensions encroaching onto the pavement up to a specific level, e.g. a few feet away from the shops; and that on special occasions or major festive days, they should adopt a more lenient approach towards SFEs.

52. In response, DDHA(1) reiterated that in taking forward the proposed measures as set out in the Administration's paper, the enforcement departments would review and make appropriate adjustments to their enforcement strategies which included, among others, revising and issuing enforcement guidelines to their frontline staff to facilitate their performance of enforcement and prosecution duties.

53. The Chairman expressed general support to the introduction of the fixed penalty system as an additional enforcement tool to achieve a greater deterrent effect against SFEs. She opined that it was no easy task to strike a balance between enhancing enforcement and protecting the livelihood of businesses. Regarding the designation of "black spots" and "tolerated areas" under the existing mechanism, she enquired whether different enforcement tactics were employed against SFEs in the "black spots" and "tolerated areas".

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54. DDHA(1) responded that enforcement departments would step up enforcement at specific "black spots", and take prosecution actions to other SFE cases based on individual circumstances. Since there were multiple legal tools to prosecute SFE cases, enforcement staff would invoke the relevant ordinances based on situation on the ground.

55. In response to the Chairman's and Deputy Chairman's enquiries about obstruction of carriageways, AD(Ops)2/FEHD explained that if SFEs, such as sale or expose for sale of merchandise outside shops, were in fact occupation of public places for hawking, such offences would be handled in the same way as per illegal hawking. Should the obstruction affect vehicular traffic, FEHD would refer the case to the relevant departments.

Criteria for determining the enforcement priority against SFEs

56. Mr CHAN Chi-chuen was supportive of the Government's proposal that subject to certain requirements, such as district characteristics and conditions, SFEs within the agreed level of extension might either be assigned lower enforcement priorities or tolerated. He, however, considered it important for the Administration to make clear to the public which SFEs might be/had been assigned lower priorities of enforcement or even tolerated, and the rationale behind the Administration's decision of providing a tolerance level for some SFEs. His view was echoed by Dr Kenneth CHAN.

57. DDHA(1) responded that after discussion with relevant parties (including DCs, DMCs, local resident organizations and representatives of relevant trade associations) and with the agreement of relevant enforcement departments, there were at present eight locations in five districts where SFEs within certain levels were tolerated subject to certain conditions set out by the enforcement departments concerned. Information on these eight cases (including location of tolerated areas, level of extension tolerated as well as departments and other parties involved in the discussion) had already been provided to the Panel (LC Paper No. CB(2)2262/13-14(01)). DDHA(1) added that in determining the enforcement priorities, SFEs that posed imminent danger to pedestrians and traffic should generally be assigned a higher priority; while others might be assigned lower priorities or tolerated, subject to the conditions that the SFEs concerned did not cause any imminent danger to pedestrians and traffic and that the shop operators could exercise self-discipline by adhering to the level of extension agreed with the relevant enforcement departments. To facilitate members of the public to understand the situation, the Government would consider uploading the information onto its website.

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58. There being no other business, the meeting ended at 10:35 am.

Council Business Division 2
Legislative Council Secretariat
4 March 2015