

立法會
Legislative Council

LC Paper No. CB(2)1934/99-00
(These minutes have been seen
by the Administration)

Ref : CB2/BC/23/98

**Bills Committee on
Provision of Municipal Services (Reorganization) Bill**

**Minutes of Meeting
held on Wednesday, 8 September 1999 at 4:30 pm
in Conference Room A of the Legislative Council Building**

Members Present : Hon Andrew WONG Wang-fat, JP (Chairman)
Hon HO Sai-chu, SBS, JP
Hon Cyd HO Sau-lan
Hon LEE Wing-tat
Hon Fred LI Wah-ming, JP
Hon Ronald ARCULLI, JP
Hon Ambrose CHEUNG Wing-sum, JP
Hon CHAN Wing-chan
Hon CHAN Kam-lam
Hon Jasper TSANG Yok-sing, JP
Hon Howard YOUNG, JP
Hon YEUNG Yiu-chung
Dr Hon TANG Siu-tong, JP

Members Absent : Hon Kenneth TING Woo-shou, JP
Hon James TO Kun-sun
Hon CHOY So-yuk
Hon FUNG Chi-kin

Public Officers Attending : Mrs Maureen CHAN
Deputy Secretary for Constitutional Affairs

Mr John LEUNG
Principal Assistant Secretary for Constitutional Affairs
Mr Johnny WOO

Action

Assistant Director of Urban Services (Leisure Management)

Mr Tony MA

Assistant Director of Regional Services (Culture & Entertainment)

Mr K T LAI

Assistant Director of Regional Services
(Environmental Health Policy)

Mrs N DISSANAYAKE

Senior Assistant Law Draftsman (Department of Justice)

Miss Selina LAU

Government Counsel (Department of Justice)

Clerk in Attendance : Mrs Constance LI
Chief Assistant Secretary (2) 2

Staff in Attendance : Mr LEE Yu-sung
Senior Assistant Legal Adviser

Miss Connie FUNG
Assistant Legal Adviser 3

Miss Flora TAI
Senior Assistant Secretary (2) 2

I. Confirmation of minutes
[LC Paper No. CB(2)2701/98-99]

The minutes of meeting held on 11 June 1999 were confirmed.

II. Matters arising
[Paper Nos. CB(2)2747/98-99(02)-(03) and (06)-(07)]

2. At the invitation of the Chairman, Deputy Secretary for Constitutional Affairs (DS(CA)) briefed members on the Administration's responses to concerns raised at the meetings on 23 July, 27 July and 30 July 1999. The gist of the discussion is summarized below.

Action

Permission to post bills, posters and billboards

[Paper No. CB(2)2747/98-99(02)]

Airport managed by the Airport Authority and land controlled by the Mass Transit Railway Corporation (MTRC)

3. Members noted that section 38 of the Airport Authority By-laws empowered the Airport Authority to remove and dispose of any advertisement found in the concerned areas of the airport which was erected without the permission of the Airport Authority. They also noted that section 32 of the Mass Transit Railway By-laws specified that no person should put up any bills or posters on any part of the railway premises unless authorized by the MTRC. Mr CHAN Wing-chan asked whether the Airport Authority and MTRC had statutory power to recover the costs for removing and disposing of this advertisement from, or to impose penalty, on the person responsible for erecting such advertisement. DS(CA) replied that relevant By-laws had provided for the offence and penalty provisions.

Land controlled by the Land Development Corporation (LDC)

4. In response to Mr LEE Wing-tat, SALA advised that section 5(2)(e) of the Land Development Corporation Ordinance (Cap. 15) had empowered the Land Development Corporation (LDC) to "manage any buildings, premises or structures which it has leased, purchased, acquired or otherwise holds, and any common parts thereof including any land ancillary thereto, having regard to the interests, welfare and comfort of the tenants, owners or occupiers thereof". Such a provision would have empowered the LDC to grant permission for the display of bills and posters.

Unleased land

5. Members noted that under the current arrangement, the Lands Department issued licences for the use and occupation of the unleased land under section 5 of the Lands (Miscellaneous) Ordinance (Cap. 28) while the Provisional Municipal Councils (PMCs) granted permission for display of bills, banners and billboards thereon under section 104A and section 104E(1) of the Public Health and Municipal Services Ordinance (Cap. 132). Removal of unauthorized bills, posters and billboards were usually carried out by staff of the Urban Services Department (USD) and Regional Services Department (RSD). DS(CA) added that display of banners and billboards on unleased land for commercial purposes would not be permitted.

6. Mr LEE Wing-tat sought clarification on which department would have the ultimate say in granting permission to post bills, posters and billboards on

Action

unleased land. Senior Assistant Legal Adviser (SALA) advised that the Provisional Urban Council (PUC) and Provisional Regional Council (ProRC) were respectively responsible for granting permission for display of bills and posters in urban areas and in the New Territories. According to section 104E(4) of the Public Health and Municipal Services Ordinance, bills and posters did not include any structure, apparatus or hoarding used for the display of a bill or poster, for which approval from the Lands Department would be required. Where necessary, other government departments would be consulted. DS(CA) noted that the present arrangement might be cumbersome to applicants, and this could be reviewed by the new Food and Environmental Hygiene Department (FEHD). Mr LEE Wing-tat considered that the present procedures should be streamlined to provide one-stop service for applicants before passage of the Bill.

7. Mr CHAN Wing-chan referred to the existing practice that USD/RSD would recover clearance expenses from the candidates concerned if the election advertisements had not been removed by candidates themselves before a prescribed deadline. He asked which department would be responsible for removing these election advertisements under the new structure, and whether the notice could be sent to the candidates at the earliest opportunity for inclusion into the candidates' returns on election expenses.

8. DS(CA) said that under the new structure, the proposed FEHD would be responsible for the removal of unauthorized bills, posters and billboards on Government land. She believed that USD/RSD and the new department would be reminded of the need to serve early payment notice for the coming elections. The Chairman and Mr LEE Wing-tat also informed members that in the course of scrutinizing the Legislative Council (Amendment) Bill 1999, the Administration had undertaken to allow more time for candidates of the Legislative Council election to remove their election advertisements and to notify the candidates concerned of the clearance expenses, if any, before the deadline for returns and declarations on election expenses.

9. The Chairman also inquired about the authority to grant permission for the display of bills and posters on the land managed or controlled by the Housing Authority and on the land within a country park. SALA advised that section 104A of the Public Health and Municipal Services Ordinance stated that no bill or poster should be displayed or affixed on any Government land without the written permission of the authority and section 104E(1)(a)-(g) set out the various authorities. The Housing Authority was the authority in respect of any land managed or controlled by the Housing Authority whereas the Director of Agriculture and Fisheries was the authority in respect of any land within a country park. In this regard, DS(CA) pointed out that the Director of Lands would also have the authority under the Lands (Miscellaneous) Ordinance to grant permission for the display of bills and posters on these land as they were Government land. The Chairman commented that the current arrangement for

Action

different authorities to grant permission for the display of bills and posters particularly in respect of unleased land was confusing. DS(CA) assured members that the Administration would review the mechanism after the new structure was put in place.

Loan of museum collection items for display

[Paper No. CB(2)2747/98-99(02)]

10. On the arrangement for the display of museum collection items at places other than the museums, Assistant Director of Regional Services (Culture & Entertainment) (AD/RS(C&E)) said that the Urban Council/PUC had a policy to lend selected original works for display at the former Government House and other official residence since 1977. He added that these museum collection items were regularly inspected by museum conservation experts, and that there was no record of loss or damage while on loan. Mr LEE Wing-tat suggested that more venues should be identified for display of museum collection items for the appreciation of the general public. AD/RS(C&E) informed members that PUC had endorsed a new policy in 1997 to encourage display of museum collection items at prominent public places and Council venues, subject to certain conditions, e.g. security and humidity, being met. He added that it was also the normal practice for museums to rotate their display items for conservation and research purposes.

11. Mr Fred LI asked whether the PUC policy would continue after reorganization. DS(CA) replied that there was no reason why the policy would not continue provided that there were suitable venues for display. In response to Dr TANG Siu-tong, DS(CA) said that following the abolition of the PMCs, the Museums Division of the new Department of Leisure and Cultural Services would be responsible for the loan of museum collection items. On the procurement of such items, DS(CA) said that panels of experts presently advised PUC and ProRC in the procurement of museum collection items. It was expected that the new Department would adopt the same practice. AD/RS(C&E) supplemented that curators also possessed professional knowledge in works of art and antiquities.

Management of cemeteries and responsibility for exhumations

[Paper No. CB(2)2747/98-99(02)]

12. Members noted that the Administration was asked to consider whether it would be more appropriate to transfer the control and management of public cemeteries and the responsibility for exhumations to the Home Affairs Department (HAD) and the Department of Health respectively. DS(CA) informed members that the Administration considered it more appropriate for health inspectorate staff in the FEHD to continue to oversee the management of both public and private cemeteries, and exhumations.

Action

13. Mr LEE Wing-tat queried why the administration of the Chinese permanent cemeteries was now placed under the HAD. The Chairman pointed out that the HAD was also responsible for the designation of burial land for indigenous villagers in the New Territories. In response, Principal Assistant Secretary for Constitutional Affairs (PAS(CA)) explained that the HAD was responsible for the administration of the trust funds for the Chinese permanent cemeteries. The environmental hygiene matters were still the responsibility of USD and RSD at present, which would be transferred to the new FEHD in future. He added that HAD was responsible for the designation of burial land for indigenous villagers because Chinese traditions and customs were involved. Assistant Director of Regional Services (Environmental Health Policy) (AD/RS(EHP)) added that the manner of burial, size of grave spaces and relevant building works were subject to the regulation of the Private Cemeteries (Urban Council) By-laws and the Private Cemeteries (Regional Council) By-laws.

14. Mr LEE Wing-tat considered that the administration of the trust funds for private cemeteries should also be transferred from HAD to FEHD. The Chairman was of the view that the HAD instead of FEHD should become the future single authority for the control and management of all cemeteries. In this regard, DS(CA) stressed that the management of public and private cemeteries and control of exhumations were regulated under the Public Health and Municipal Services Ordinance mainly on public health and environmental hygiene grounds. At present, there were designated staff in USD/RSD for the day-to-day management of cemeteries and the same arrangement would continue under the new FEHD.

Licensing of food business

[Paper Nos. CB(2)2747/98-99(02) and CB(2)2747/98-99(06)]

15. Mr Ambrose CHEUNG asked about the consultation and implementation of the recommendations in the consultancy report on restaurant licensing (the consultancy report). DS(CA) informed members that the consultancy report was commissioned by the Business & Services Promotion Unit (BSPU) in partnership with the PUC and USD. The PUC had just discussed the consultancy report and found the recommendations feasible in principle. More detailed discussion would be held by PUC. The ProRC also had a preliminary discussion on the consultancy report and would need to consider it in detail.

16. Mr Ambrose CHEUNG said he had the impression that the PUC had reservations on the consultancy recommendations on restaurant licensing. With regard to the consultant's main proposal of entrusting recognized professionals with the responsibility to verify and to certify that the safety of premises for the issuance of a restaurant licence, Mr CHEUNG expressed concern about the liabilities of these recognized professionals, for example, if there were problems

Action

with the application afterwards. AD/RS(EHP) replied that under the Provisional Licensing Scheme introduced in December 1995, a provisional licence would be issued once the premises were certified by qualified professionals to have met the essential requirements, so that the restaurant could open for business pending full compliance with all licensing conditions. The recognized professionals might be liable for any loss arising from the failure of the restaurant operator to obtain a full licence. The Buildings Department would follow up on any discrepancy found in the licensing process. At Mr CHEUNG's request, DS(CA) undertook to ascertain from the BPSU as to whether the recognized professionals had been consulted on the proposed licensing system.

Admin

17. In response to Mr CHAN Wing-chan, AD/RS(EHP) said that the current processing time for a restaurant provisional license ranged from eight weeks to 10 months, depending on the conditions of the restaurant and the applicant's progress in making improvements. AD/RS(EHP) further explained that the consultant's recommendation would not result in a shorter period for the licensing process. However, the consultant had recommended a fast track process for the issue of a licence within the same day of application if the applicant had already obtained all necessary certificates of compliance from relevant recognized professionals when making the application. In response to Mr CHAN Wing-chan, AD/RS(EHP) said that a provisional licence was valid for six months and could be extended for six months if the works were in progress.

18. Mr CHAN Wing-chan expressed support for shortening the processing time for restaurant licence applications as this was the major concern of the trade. Mr LEE Wing-tat considered that the proposal to shorten the duration of licensing process should be implemented as soon as possible if it was acceptable to the recognized professionals. The Chairman shared the same view but pointed out that review of restaurant licensing system was not directly related to the Bill. DS(CA) noted members' concern about speeding up the process for granting a restaurant licence. She said that the consultancy recommendations were now under active consideration.

Control of food and drugs

[Paper No. CB(2)2747/98-99(03)]

19. Mr CHAN Wing-chan noted that Chinese herb tea premises were required to obtain permits from the PMCs under the Food Business By-laws. He asked whether these premises could also sell light refreshments. AD/RS(EHP) replied that the premises would need to obtain additional permit for selling light refreshments. Moreover, if preparation and processing of food on the premises was involved, a food factory licence would be required. In response to Mr LEE Wing-tat, AD/RS(EHP) admitted that a loophole existed as to whether reheating of food by microwave was regarded as food processing. Mr CHAN further

Action

asked whether the applicant would need to disclose the full formulae for a Chinese herb tea permit. DS(CA) replied that the manufacturer would have to provide the necessary information for licence processing. The Administration's primary concern was whether the Chinese herb tea contained any ingredient which might be hazardous to health. At present, the staff of the Department of Health conducted sampling test of Chinese herb as and when necessary.

20. In response to Mr CHAN Wing-chan's enquiry about the regulatory framework for health food, DS(CA) said that there was no international consensus regarding the definition and standard for the control of health food. Health foods not classified as "proprietary Chinese medicine" under the Chinese Medicine Ordinance would continue to be subject to the same controls for other food items under the Public Health and Municipal Services Ordinance. The Administration had yet to finalize a policy for the regulation of health foods.

21. Mr LI Wah-ming expressed dissatisfaction that the Administration had all along adopted a passive approach to supervise health food products. He informed members that the Administration did not ban two types of health food pills until there were complaints that these pills contained western medical ingredients. Mr LEE Wing-tat shared Mr LI's view. He expressed disappointment that the Administration still could not distinguish health food from Chinese medicine now that the Chinese Medicine Ordinance had been enacted. DS(CA) responded that detailed regulations would be made following the passage of the Chinese Medicine Ordinance, having regard to the impact on public health and on the industry. She stressed that the Administration would closely monitor international developments in this area and make necessary changes to the regulatory framework whenever appropriate.

22. Miss HO Sau-lan remarked that the Administration should adopt a wider perspective when considering the new regulatory framework for health food. She said that various alternative therapies were currently outside the main streams of medical science and that unnecessary regulation would hinder their development. DS(CA) assured members that the subject would be further discussed at the Legislative Council Panel on Health Services after the Administration had given careful consideration on the regulatory framework.

Standards of public and licensed private swimming pools

[Paper No. CB(2)2747/98-99(07)]

23. Members noted the comparison of standards of public and licensed private swimming pools as set out in the Administration's paper. The Chairman considered that a uniform minimum standard should be set for public and licensed private swimming pools while public swimming pools could be required to comply with a higher standard of water quality. Mr LEE Wing-tat said that the number of users of private swimming pools in some large residential

Action

estates was comparable to that of public swimming pools. He therefore opined that these licensed private swimming pools should be required to comply with the same standards for public swimming pools. DS(CA) responded that monthly water sampling for bacterial examination, and surprise inspection of licensed private swimming pools were conducted by health inspectors.

24. Mr HO Sai-chu remarked that some existing requirements for public swimming pools such as hourly measurement of residual chlorine content should not apply to licensed private swimming pools. AD/RS(EHP) said that the measurement of free residual chlorine content could be conducted when health inspectors conducted monthly water sampling at licensed private swimming pools.

25. The Chairman suggested and members agreed that the Bills Committee would discuss at the next meeting the following papers provided by the Administration -

- (a) proposed division of responsibilities concerning food safety and environmental hygiene matters [Paper No. CB(2)2747/98-99(04)]; and
- (b) public markets and market rental policy [Paper No. CB(2)2747/98-99(05)].

III. Date of next meeting

26. The Chairman reminded members that the next meeting would be held on Friday, 10 September 1999 at 8:30am.

27. The meeting ended at 6:25pm.

Legislative Council Secretariat
9 May 2000