

立法會
Legislative Council

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(These minutes have been seen
by the Administration)

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

**Minutes of Meeting
held on Friday, 15 October 1999 at 8:30 am
in Conference Room A of the Legislative Council Building**

Members Present : Hon Andrew WONG Wang-fat, JP (Chairman)
Hon Kenneth TING Woo-shou, JP
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
Hon CHOY So-yuk
Dr Hon TANG Siu-tong, JP

Members Absent : Hon James TO Kun-sun
Hon FUNG Chi-kin

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

Mr John LEUNG
Principal Assistant Secretary for Constitutional Affairs

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Mr Peter CHEUNG
Deputy Secretary for Home Affairs

Mrs Lesley WONG
Principal Assistant Secretary for the Treasury

Mr Johnny WOO
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)

Mr Sunny CHAN
Senior 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. Matters arising

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Outstanding Administration's responses to members' concerns raised at previous meetings

[Paper Nos. CB(2)67/99-00(01), CB(2)96/99-00(02) and CB(2)109/99-00(01) to (03)]

Members noted that the Administration had provided the following papers -

- (a) The Administration's responses to concerns raised at the meetings on 29 September and 5 October 1999 [Paper No. CB(2)109/99-00(01)];
- (b) a paper on "Fees and charges for leisure and cultural services : a proposed fee-setting mechanism" [Paper No. CB(2)109/99-00(02)]; and
- (c) a paper on "Significant consequential and miscellaneous amendments to ordinances and subsidiary legislation in Schedule 7" [Paper No. CB(2)109/99-00(03)].

At the request of Mr LI Wah-ming, the Chairman suggested that the Bills Committee could discuss at the next meeting the Administration's response to members' concerns raised at the meetings in September 1999 [Paper No. CB(2)96/99-00(02)] and 5 October 1999 [Paper No. CB(2)109/99-00(01)], if members had queries on these papers.

2. Deputy Secretary for Constitutional Affairs (DS(CA)) advised that the Administration had provided response to all outstanding concerns except those raised at the meeting on 8 October 1999. For members' easy reference, the Administration had also provided a table setting out the Administration's responses to proposed amendments to subsidiary legislation of Cap. 132 [Paper No. CB(2)67/99-00(01)]. Responding to the Chairman, DS(CA) confirmed that the Administration would provide the draft Committee stage amendments (CSAs) in the following week for members' consideration.

Legislative timetable

3. Mr LEE Wing-tat reiterated his strong dissatisfaction that the Bills Committee was given little time to scrutinise the Bill. He was particularly dissatisfied with the arrangement that members were asked to submit their draft CSAs while the Bills Committee had yet to complete deliberation of all policy issues and clause-by-clause examination.

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4. The Chairman said that three members belonging to the Democratic Party had written to him expressing dissatisfaction that members were asked to forward their draft CSAs for consideration by the Bills Committee before the end of October 1999. The Chairman explained that the request was only to appeal to members to forward their draft CSAs as early as possible to enable discussion by the Bills Committee if members so wished. He said that it was unlikely that the Bills Committee would be able to agree on the fundamental policy issue as to whether the Provisional Municipal Councils (PMCs) should be dissolved. However, members might wish to discuss suggestions to improve or amend certain provisions relating to the subsidiary legislation under Cap. 132 and other schedules to the Bill. Mr CHAN Kam-lam agreed with the Chairman that given the tight legislative timetable and the fact that a decision had to be taken on the Bill before 31 December 1999, there was a practical need to specify a date for members to forward their draft CSAs for the Bills Committee to consider.

5. Mr Ambrose CHEUNG said that whilst the terms of office of the PMC members would expire on 31 December 1999, the Secretary for Constitutional Affairs had promised on various occasions at the Legislative Council (LegCo) that the Administration would not seek to dissolve PMCs by administrative means. He asked whether the Administration would still keep its promise that the proposed dissolution of the PMCs would go through the proper legislative process. Mr CHEUNG said that he did not see any reason that the Bill must be passed before 31 December 1999. He pointed out that the Administration should have a contingency plan should LegCo refuse to pass the Bill. He also requested members to discuss the remaining items on his proposed list of policy issues relating to the Bill [Paper No. CB(2)2124/98-99(01)].

6. DS(CA) emphasized that the Secretary for Constitutional Affairs had honoured his promise by introducing the Bill into LegCo. As the terms of office of PMC members would expire on 1 January 2000, the delivery of municipal services would be disrupted if a new framework was not put in place by that date. The Administration was not aware of any provision in the Provisional Urban Council Ordinance (Cap. 101) or the Provisional Regional Council Ordinance (Cap. 385) which provided for the continuation or transfer of the PMC powers to a public body. DS(CA) reiterated that the Administration had no contingency plan and hoped to secure members' support for passage of the Bill before 31 December 1999.

7. The Chairman said that the Bills Committee must give due regard to the fact that the terms of office of PMC members would expire on 31 December 1999 and there must be a new framework for the delivery of municipal services from 1 January 2000. Unless the Bills Committee had taken a decision to reject the Bill, members would have to scrutinise the Bill within the timetable as far as practicable.

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8. In connection with the suggestion of extending the terms of office of the PMC members by legislative means, Mr Ambrose CHEUNG said that section 3(2) of the Public Health and Municipal Services Ordinance (Cap. 132) had empowered the Chief Executive in Council to delegate by order any public officer or public body to be the Authority for the purposes of any of the sections of the Ordinance. He therefore considered that a vacuum for the delivery of municipal services would not arise even if the Bill was not passed by 31 December 1999.

9. Responding to the Chairman, Senior Assistant Legal Adviser (SALA) advised that section 3(2) was intended to provide a mechanism so that the Chief Executive in Council could delegate by order any public officer or public body specified in the Third Schedule as the Authority for the purposes of a particular section. He agreed with the Chairman that such order would have to be made by way of subsidiary legislation. Senior Assistant Laws Draftsman confirmed SALA's view.

10. DS(CA) reiterated that the Administration did not have any plan to delegate current PMC functions to other public officers or public bodies in the event that the Bill was not passed by LegCo. She hoped the Bills Committee could complete scrutiny of the Bill by the end of October 1999 so that resumption of the Second Reading debate could take place on 17 or 24 November 1999. After passage of the Bill, the Administration would still have to seek the LegCo Finance Committee's approval of the new organizational structure and staff establishment so that the new bureaux and departments could start operation from 1 January 2000.

11. Mr LEE Wing-tat said that he saw no reason why the Administration could not defer resumption of the Second Reading debate of the Bill to the Council meeting on 8 December 1999 and then request for a special meeting of the Finance Committee and its Establishment Subcommittee to consider the financial and staffing proposals. DS(CA) responded that she would consider the suggestion but expressed concern that both the Administration and the Finance Committee of LegCo would then be subject to a very tight schedule as LegCo would be in recess after the Council meeting on 15 December 1999.

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Fees and charges for leisure and cultural services
[Paper No. CB(2)109/99-00(02)]

12. At the invitation of the Chairman, Deputy Secretary for Home Affairs (DS(HA)) briefed members on the Administration's proposed two-tier approach for setting the fees and charges in respect of leisure and cultural services. The first tier comprised fees and charges for venues and facilities which were widely used by individual members of the public. The list of such fees and charges would be prescribed by regulation and subject to negative vetting by LegCo. All

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other fees and charges for leisure and culture, including hire of facilities for commercial purposes or for use by organizations, would come under the second tier which would be determined by the Director of Leisure and Cultural Services (DLCS) subject to the approval of the Financial Secretary. DS(HA) then invited members' views on the Administration's proposal.

Categorization of leisure and cultural services

13. Mr Howard YOUNG considered the proposal feasible. However, he considered that the use of bowling green, hire of obstacle golf course and golf driving range by individuals should come under the first tier. DS(HA) responded that these facilities were at present not widely used by individual members of the public. In response to Mr LI Wah-ming's further enquiry, DS(HA) said that golfing was only at a developing stage and the number of users was relatively small. The Administration therefore proposed to retain some flexibility for fee-setting in respect of these facilities.

14. Mr LI Wah-ming pointed out that squash had become less popular in recent years and the Provisional Urban Council was now reviewing the provision of squash courts. DS(HA) said that the Administration could consider transferring the hire charges of squash courts to the second tier. In response to Mr LEE Wing-tat, DS(HA) said that fees for use of water sports facilities were included in the second tier in order to provide the flexibility required for improving the provision of water sports programmes for the public. As there were at present only four water sports centres, he believed that such fees and charges would not affect the majority.

15. Noting that admission fee to museums was under the first tier, Mr LI Wah-ming asked why admission charges for special museum exhibitions and programmes were separately listed in the second tier. DS(HA) replied that special exhibitions and programmes were very expensive and it was necessary to vary the level of such admission charges with regard to the costs.

Pricing levels for leisure and cultural services

16. Mr LI Wah-ming asked whether the Administration would undertake not to vary the existing fee levels for two years following re-organization. DS(HA) clarified that the Administration had not pledged to retain the existing price levels for leisure and cultural services. The Administration would undertake a review to reconcile the existing differences between the two PMCs in the determination of fees and charges. As such, some existing price levels would need adjustment in the exercise. DS(HA) pointed out that it was not meaningful to set the fees based on a certain subsidy level because the latter was often the result of an interplay of costs and patronage, instead of a pricing strategy.

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17. Principal Assistant Secretary for Treasury (PAS(Tsy)) stressed that the Administration had no intention to use the re-organization to change the current pricing principles adopted by the PMCs. The Administration would re-align the fee levels within two years after re-organization. In determining fees and charges for municipal services, users' affordability would be a primary consideration. Mr LEE Wing-tat suggested that the Administration should give such undertaking during the resumption of Second Reading debate on the Bill. DS(HA) noted the suggestion.

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18. Mr LEE Wing-tat said that he would not object to the Administration's proposal to reduce subsidy levels through more cost-effective use of resources and improvement to existing services. DS(HA) said that the Administration's proposal was to introduce a flexible mechanism for setting fees and charges to enable the management staff to react promptly to changes in demand. Differential rates would be introduced to induce a better spread of demand, and to enhance patronage/utilization of facilities. DS(HA) said that the fees and charges to be determined by the Department under the second tier would constitute only a small part of the revenue in respect of leisure and cultural services. It was therefore unlikely that the Administration would increase such fees for the sake of raising more revenue.

19. Mr Ambrose CHEUNG remained much concerned that the Administration would increase the fees and charges for leisure and cultural services through the alignment exercise, and urged the Administration to undertake that there would be no fee increase for a period. DS(HA) responded that the fee-alignment exercise might bring about adjustments to some existing fees but the adjustment should be minimal. As there was a need to rationalise the pricing structure of services provided by the two PMCs, the Administration could not undertake that there would be no fee adjustment after the reconciliation exercise. DS(HA) stressed that those fees and charges which were widely used by the public were already included in the first tier which would be subject to the negative vetting procedure of the LegCo.

Consultation mechanism

20. With reference to paragraph 6 of the Administration's paper, Mr Ambrose CHEUNG pointed out that the Administration had only undertaken to provide information on the fees and charges to the relevant LegCo panels regularly or as required. It seemed that the Administration would not consult LegCo on the determination of those fees and charges in the second tier. DS(HA) clarified that paragraph 6 of the paper indicated the Administration's intention to consult LegCo on these matters.

21. Mr Ambrose CHEUNG asked whether the new Culture and Heritage Commission and other advisory bodies would have any role to play in the

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determination of fees and charges for leisure and cultural services. DS(HA) responded that these bodies might be consulted on fees policy but would not be involved in the determination of fees and charges. Mr CHEUNG opined that the Administration should also set up an advisory body for sports and recreation similar to the Culture and Heritage Commission.

Subsidy to non-profit making organizations

22. Dr TANG Siu-tong said that district organizations were given reduction or waiver of fees when organizing activities jointly with the PMCs. He asked whether the arrangement would continue after re-organization. DS(HA) confirmed that the new Leisure and Cultural Services Department would have discretion to reduce or waive the fees in respect of activities organized jointly with district organizations. The proposed section 124L had also empowered the Financial Secretary or any public officers under his delegated authority to reduce or waive fees or charges. In this regard, the Chairman asked about the criteria for the new Department to select district organizations for organizing joint activities. DS(HA) responded that the new Department would establish networks at district level and work out a co-operative relationship.

23. Mr LEE Wing-tat asked whether the new Department would reduce or waive fees and charges for hire of venues/facilities by National Sports Associations (NSAs) and District Sports Associations (DSAs). DS(HA) responded that reduction or waive of fees and charges could be granted. The new Department would work closely with NSAs and DSAs to organise long-term venue-based training programmes.

Contracting-out schemes

24. Mr LEE Wing-tat expressed concern about fee increases following the contracting-out of the management of leisure and cultural venues. DS(HA) said that if future contracting-out proposals involved providing some degree of autonomy in fees and charges for the operator, the Administration would consult the relevant LegCo Panel beforehand. Where necessary, the Administration could also prescribe in the contract the level of fees and charges. He assured members that the Administration would be very cautious in proceeding with any contracting-out scheme.

25. In response to Mr CHAN Wing-chan's concern about the staffing implication of contracting-out proposals, DS(HA) said that the Administration would proceed with contracting-out or privatization schemes in a steady pace on the condition that they would not lead to staff redundancy. The Administration was optimistic that any surplus staff arising from such schemes could be absorbed through staff redeployment with the provision of new leisure and

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cultural services. He assured members that the Administration would give regard to the staffing implications when considering contracting-out proposals.

Role of the Financial Secretary

26. DS(HA) said that the Administration had considered members' proposal to delete the phrase "with the approval of the Financial Secretary" from section 124J(1) and concluded that the deletion would not achieve any practical purpose. PAS(Tsy) advised that there were similar provisions in other legislation where department heads were delegated the authority to determine fees and charges. The provision would demonstrate that the determination of government fees and charges was subject to an internal vetting and monitoring system. It was the Administration's position that it would follow the well-established policies for setting fees and charges for the delivery of municipal services having regard to the affordability of the public.

II. Clause-by-clause examination

[Paper Nos CB(2)96/99-00(04) and CB(2)109/99-00(02)]

27. Members noted that the Administration had provided a comparison table [Paper No. CB(2)96/99-00(04)] to highlight the differences between the existing and proposed provisions in the Hawker Regulation. The Chairman suggested that the paper would be considered when members started examination of the proposed amendments to Hawker Regulation (paragraphs 315-368 of Schedule 3).

28. Members agreed to defer the discussion of the paper on "Significant consequential and miscellaneous amendments to ordinances and subsidiary legislation in Schedule 7" [Paper No. CB(2)109/99-00(02)] to the next meeting.

III. Any other business

29. Members noted that a press release had been issued on 9 October 1999 and an advertisement placed on Ming Pao and South China Morning Post on 11 October 1999 to invite public submissions on the Bill. The deadline for submission was 18 October 1999 and the Bills Committee would meet deputations on 22 October 1999. Mr Ambrose CHEUNG requested that PMCs, being the providers of municipal services, should be allowed more time to present their views at the meeting.

30. The Chairman reminded members that the next meeting would be held on Tuesday, 19 October 1999 from 2:30 pm to 6:30 pm.

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31. The meeting ended at 10:40 am.

Legislative Council Secretariat

12 May 2000