

立法會
Legislative Council

LC Paper No. CB(2)1300/99-00
(These minutes have been
seen by the Administration)

Ref : CB2/PL/HA

LegCo Panel on Home Affairs

Minutes of meeting
held on Monday, 14 February 2000 at 4:30 pm
in the Chamber of the Legislative Council Building

Members Present : Hon CHOY So-yuk (Chairman)
Hon Albert HO Chun-yan (Deputy Chairman)
Hon LEE Wing-tat
Hon Fred LI Wah-ming, JP
Hon Gary CHENG Kai-nam
Hon Andrew CHENG Kar-foo
Hon Emily LAU Wai-hing, JP
Hon FUNG Chi-kin

Members Attending : Hon NG Leung-sing
Hon CHAN Yuen-han

Members Absent : Hon Cyd HO Sau-lan
Hon Edward HO Sing-tin, JP
Hon LEE Kai-ming, SBS, JP
Hon MA Fung-kwok
Hon James TO Kun-sun
Hon Christine LOH
Hon Andrew WONG Wang-fat, JP
Hon LAU Wong-fat, GBS, JP
Hon Timothy FOK Tsun-ting, JP
Dr Hon TANG Siu-tong, JP

Public Officers Attending : Item IV

Mr Parrish NG
Principal Assistant Secretary for Home Affairs (4)

Mr Ivan CHUNG
Assistant Secretary for Planning and Lands (Planning)

Mr C D B WILLIAMS
Assistant Director of Home Affairs (2)

Mr P Y TAM
Assistant Director of Planning/New Territories
Planning Department

Mr J C COORAY
Acting Assistant Director (Development)
Territory Development Department

Mr Christopher WONG
District Officer (Tuen Mun)

Mr Y K CHEUNG
District Lands Officer (Tuen Mun)

Item V

Mr C D B WILLIAMS
Assistant Director of Home Affairs (2)

Item VI

Mr Jonathan MCKINLEY
Principal Assistant Secretary
for Home Affairs (Recreation & Sport)

Mr George LAM Hok-hay
Senior Recreation and Sport Officer
Home Affairs Bureau

Mr TANG How-kong
Chief Superintendent of Police Traffic

Hong Kong Police Force

Mr Alan LUI Sung-ye
Assistant Commissioner
(Management & licensing)
Transport Department

Clerk in Attendance : Mrs Justina LAM
Assistant Secretary General 2

Staff in Attendance : Miss Mary SO
Senior Assistant Secretary (2) 8

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Opening remark

The Chairman informed members that Mr LEE Kai-ming, Mr Fred LI Wah-ming, Mr FUNG Chi-kin and Dr TANG Siu-tong had joined the Panel as members. She added that the quorum of a meeting of the Panel was six members.

I. Confirmation of minutes

[LC Paper No. CB(2)984/99-00]

2. The minutes of the meeting held on 8 November 1999 were confirmed.

II. Information paper issued since the last meeting

[LC Paper No. CB(2)871/99-00]

3. Members noted that since the last meeting on 10 January 2000, LC Paper No. CB(2)871/99-00 was issued. The paper was the Administration's response to Members' views expressed at the special meeting on 7 December 1999 regarding the operation of section 17(1)(b) of the Building Management Ordinance (Cap 344).

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III. Items for discussion at the next meeting

[Appendix I to LC Paper No. CB(2)1034/99-00]

4. Members agreed to discuss the following items at the next regular meeting scheduled for 4:30 pm on Monday, 13 March 2000 -

- (a) Follow-up on the Concluding Observations made by the United Nations Human Rights Committee after its hearing on the Report of the Hong Kong Special Administrative Region (HKSAR) under the International Covenant on Civil and Political Rights;
- (b) Report of the HKSAR under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

Members further agreed that non-government organizations should be invited to forward submissions and also send representatives to attend the meeting for the respective items.

5. Members also agreed that representatives of the new Leisure and Cultural Services Department be invited to give a briefing on its work to the Panel at the regular meeting in April 2000.

IV. Development and improvement of rural areas

[Paper No. CB(2)835/99-00(01)]

6. The Chairman welcomed representatives of the Administration to the meeting.

7. Assistant Director of Home Affairs (2) (AD(2)/HA) said that the paper set out the basic planning, development and improvement framework within the New Territories. The paper also explained how the framework worked in practice using a number of actual development projects in Tuen Mun as examples because the original enquiry into this subject came from the Tuen Mun Provisional District Board (TMPDB).

8. Referring to paragraph 5 of the paper, Mr LEE Wing-tat asked whether all the projects under the Rural Planning and Improvement Strategy (RPIS) programme would be completed by 31 March 2000, and whether a "roll forward" plan would be in place for the continued development and improvement of the rural areas.

9. AD(2)/HA replied that the RPIS programme was due to finish on 31 March 2000. As there was a continuing need to carry on with minor environmental and infrastructural improvements in the rural areas, the Administration had proposed that the work would be carried forward under a

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Rural Public Works (RPW) Programme. AD(2)/HA further informed members that the RPW Programme was initiated in April 1999 and necessary funding would be provided on a year-by-year basis.

10. The Chairman commented that judging from the little information contained in the paper, it seemed that not much was done. She asked whether the Administration could give a more comprehensive account of what was achieved during the ten years of the RPIS programme. Principal Assistant Secretary for Home Affairs (4) (PAS(HA)4) explained that the purpose of the paper was to inform members of the framework of planning, development and improvement of the rural areas and also respond to the issues of concern raised by TMPDB at a meeting with LegCo Members in January 1999. The paper was not intended to give a full account of the RPIS projects carried out during the ten-year period of the programme.

11. The Chairman drew the Administration's attention to a comment made by the TMPDB that the pace of rural improvement in Tuen Mun had been too slow and lacked overall planning. She enquired what proportion of the total RPIS projects did those in Tuen Mun constituted.

12. AD(2)/HA reiterated the point made by PAS(HA)4 earlier that selected RPIS projects in Tuen Mun were covered in the paper because the Administration was asked to respond to certain comments and complaints raised by TMPDB. AD(2)/HA added that the Tuen Mun projects cited served as useful examples of how the framework of planning, development and improvement worked. He informed the Panel that the total amount earmarked for the RPIS minor works projects over the ten-year period was \$1.6 billion. Initially, progress was rather slow and there was no effective mechanism to consult the local people on the projects. It was only after 1994 when the Home Affairs Department (HAD) took over the programme that it moved forward swiftly. AD(2)/HA pointed out that most of the projects of the ten-year programme were carried out within the last five years. He attributed this achievement to the two-tier consultative mechanism set up to closely involve the local communities within the rural areas. The framework comprised -

- (a) a Central Steering Committee with the Director of Home Affairs as the chairman and members comprising District Board Chairmen, Heung Yee Kuk representatives, and representatives from major Government departments; and
- (b) a District Working Group for each of the nine New Territories districts with the District Officer as chairman and members comprising the District Board Chairman, Rural Committee Chairmen, etc.

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13. AD(2)/HA reiterated that minor rural improvement works would now be carried forward under the RPW Programme. HAD would make use of the same mechanism to ensure that the current consultation process both at the central and district levels was also carried forward.

14. The Chairman said that TMPDB members expressed concerns about conflicts over land boundaries and blockage of access roads to villages. AD(2)/HA informed members that there had been suggestions to conduct a comprehensive land boundary survey in the New Territories from the Survey and Mapping Office of the Lands Department and some of the Members of the Cadastral Survey Consultative Committee. Assistant Secretary for Planning and Lands (Planning) added that the Planning and Lands Bureau was looking into the proposal in consultation with the Survey and Mapping Office.

15. The Chairman enquired what the Administration's overall plan was given that the ten-year RPIS programme was about to end but the issue of land boundaries was still being studied. AD(2)/HA gave assurance that with the existing consultative mechanism, HAD was able to effectively consult the local people. Also, whenever there were problems such as problems relating to land boundaries, HAD could discuss the problems with local people and also request the relevant Government departments to assist. AD(2)/HA pointed out that HAD had been quite successful in handling complaints and overcoming difficulties relating to land boundaries. AD(2)/HA added that any general review of the land boundaries would not affect the RPW Programme, as improvement works were dealt with on a project-by-project basis, and HAD had so far been able to overcome difficulties as they arose.

16. Referring to the housing site in Area 54 mentioned in the paper, the Deputy Chairman asked whether the indigenous villagers were required to surrender their land. He further asked the Administration to explain the negotiation process involved, and the options presented to the villagers to secure their cooperation in this project, and other projects of similar scale in other districts. The Deputy Chairman also commented that the project seemed to be a redevelopment project as the improvement of flooding black spots, the building of new roads, and other smaller scale construction works were also dealt with at the same time.

17. District Officer (Tuen Mun) (DO(TM)) explained that the housing sites to be formed in Area 54 fell next to rather than encroached upon the five villages named in the paper. The question of existing dwellers having to move out in a wholesale manner therefore did not arise. He stressed that, in mapping out the housing sites, the Administration had taken care to ensure that the land formation works to be pursued by TDD would not aggravate the flooding problem which affected some locations in Area 54. Pending commencement of TDD's land formation contract, some improvement works to two existing stream courses had been planned under the RPIS Minor Works Programme as an interim flood-relief

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measure. Longer term improvements to the drainage system would form part of the Area 54 housing development proposals managed by TDD. The whole package (together with the construction of new roads and other related works) was presented to villagers in the first half of 1999. In August 1999, the Tuen Mun District Board and the Tuen Mun Rural Committee were satisfied that local concerns about the possible adverse impact of the housing development proposals had by and large been addressed. DO(TM) added that the necessary funding for the housing development proposals (and the ancillary drainage and road works) would come from the budget for land development rather than be charged to the RPIS or RPW programmes.

V. Resumption of private streets

[Paper No. CB(2)1034/99-00(01), Paper No. CB(2)835/99-00(02) and Paper No. CB(2)835/99-00(03)]

18. The Chairman welcomed representatives of the Administration to the meeting. She added that the matter was raised by the Eastern Provisional District Board (EPDB) and the Kowloon City Provisional District Board (KCPDB) at their respective meetings with Members.

19. Referring Members to the Administration's paper [Paper No. CB(2)1034/99-00(01)], AD(2)/HA explained that the Private Street Resumption Programme was implemented in 1986 for the resumption and repair of those private streets which were in poor conditions. AD(2)/HA said that there were many thousands of private streets in Hong Kong most of which were well looked after. The ones that required Government's attention were located in the older urban areas which, through traditions and regular use by pedestrians, had become public thoroughfares. The worst cases had been dealt with fairly quickly, and Government aimed to clear the remaining ones under a residual programme. AD(2)/HA added that over the last four years, District Officers had been asked to identify whether there were any other private streets which were in poor conditions but they all gave a nil return.

20. AD(2)/HA further explained that 75 private streets had to be deleted from the resumption programme due to a number of problems encountered. The major problem was related to the question of compensation. It was Government's policy that a private street would only be resumed if no foreseeable compensation needed to be paid out. In cases where HAD had identified legitimate claims for compensation, the private streets concerned would be deleted from the resumption programme. For instance, if the eight Wan streets in Kowloon City were resumed, they could no longer be used for normal vehicular traffic except for pedestrians and emergency vehicular access. The loss of regular vehicular access that the owners or occupiers of abutting premises used to enjoy would constitute a valid claim for compensation.

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21. AD(2)/HA informed Members that another category of private streets that Government had to delete from the resumption programme was those with protruding balconies. Property owners who maintained their balconies after resumption would constitute trespass under the law. However, to issue each owner with a licence to confirm the legality of these balconies was not feasible given the considerable staff resources involved. Government had therefore come to the conclusion that streets with overhanging balconies had to be deleted from the resumption programme.

22. AD(2)/HA added that there were at present 22 streets to be resumed/repared, and they would continue to be dealt with under Lands Department's quota of allocating staff resources for resumption/clearance of four streets at any one time.

23. Referring to the minutes of Members' earlier meetings with EPDB and KCPDB [Papers No. CB(2) 835/99-00(02) and CB(2) 835/99-00(03)], the Chairman asked if the 18 private streets in the two districts were among the 22 mentioned by AD(2)/HA. AD(2)/HA replied that the 18 streets in the two districts were deleted due to various reasons as explained in the previous paragraphs, whereas the 22 streets were outstanding ones pending review for compensation implications by the Lands Department. In fact, the main problem with the 8 Wan streets in Kowloon City arose from the narrowness of the streets rendering them unsuitable for normal vehicular access after resumption. Moreover, as some occupants of premises in the streets at present carried out car repair and other businesses, they were reluctant to give up their title and they had a legitimate claim for compensation due to loss of business after resumption. Government therefore would not proceed with resumption. He had since held meetings with the relevant Government departments to see what could be done to improve the conditions in these streets on a case-by-case basis. The situation in the Eastern District was similar in that the streets were deleted due to the protruding balconies problem.

24. The Chairman pointed out that according to the minutes of Members' meeting with KCPDB, only 5% of the respondents of the survey conducted by KCPDB members indicated reluctance to surrender their title, and this seemed to contradict what Members were told by the Administration. AD(2)/HA responded that the mandatory requirement for resumption was a 100% agreement by the owners.

25. Mr NG Leung-sing said that EPDB had suggested that the relevant legislation should be amended to deal with legal complications arising from protruding balconies. He asked if Government would consider the suggestion. AD(2)/HA assured members that all possible options to resolve the problem had been examined. While the process of amending the relevant legislation would not pose a problem, implementation would be extremely difficult as it would entail the issuance of individual licences to each and every owner affected. The

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number involved would be enormous, and that some owners might be dead or unable to be traced. The resource implications were so great that Government finally decided not to pursue the option of amending the law.

26. Mr NG further asked whether the problem of resources could also be overcome through legislative means. AD(2)/HA replied that it would be extremely difficult to have clauses in a piece of legislation which made Government only partly liable or partly responsible for compensation. It would open up much wider legal problems. He added that some options to deal with the problem of private street might seem very attractive to laymen. However from the legal point of view, they presented greater difficulties than the existing situation.

27. Referring to reports of nuisance complaints, incidences of burst pipes and choked drains as detailed in Annex I to the Administration's paper, Mr LEE Wing-tat expressed concern about the state of disrepair in the private streets. He also expressed concern about the safety standards of the buildings in the private streets, and that in case of fire, the fire engines would not be able to access the streets because they were too narrow. He feared that the problem would get much worse if nothing effective was done. He urged the Administration to consider legislative control, or find ways to facilitate the owners concerned to work together to resolve the problem.

28. The Chairman asked whether the Administration was prepared to assume responsibility for the day-to-day maintenance and cleanliness of the private streets as if they were public roads. She further asked whether the Administration would consider legislative measures to deal with the problems of unauthorized building works, illegal occupation of premises, etc. in the private streets.

29. AD(2)/HA responded that Government would not wash its hands on the matter and had come up with both long-term and intermediate solutions. In the long run, redevelopment would be the answer. In fact, Government did approach the Land Development Corporation on the case of the Wan streets. However, in view of the proposal to set up the Urban Renewal Authority (URA), it was considered more appropriate to keep the matter on hold until its formation. In terms of intermediate solutions, AD(2)/HA said that HAD had tried to persuade the owners to be more actively involved in management of the private streets. With the assistance of the District Councils concerned, HAD had also tried to encourage owners to set up mutual aid committees (MAC), owners' corporations (OC) or some other forms of organizations so that they could act together to improve the conditions of the streets.

30. AD(2)/HA further said that HAD also regularly liaised with the relevant Government departments to improve the conditions of the private streets. For instance, the Fire Services Department conducted regular tests to ensure that fire

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engines could access the buildings in the private streets in case of fire. Regular road sweeping was maintained and the Water Supplies Department also regularly checked on water pipes and carried out repair work, if necessary. AD(2)/HA pointed out that the interim measures were generally successful and were well received by the majority of owners and tenants.

31. The Chairman said that in the past, Government departments concerned were not willing to assist in the management and maintenance of the private streets. She asked whether these departments could now be approached for assistance. AD(2)/HA responded that in the past the Administration had relied on the fact that the private streets would be resumed. It was only in the last 18 months that the departments had switched to the present approach of taking constructive actions to improve the conditions of the private streets because in many cases resumption was not a feasible alternative.

32. Mr NG Leung-sing said that it would take some time before the Urban Renewal Authority Bill would be passed and the URA established. He asked whether the Administration would, in the interim period, work with the District Councils concerned to approach and discuss with the owners of the private streets about the redevelopment plans for their properties. AD(2)/HA responded that HAD had closely liaised with the previous Provisional District Boards and now with the District Councils on matters relating to private streets.

33. The Chairman said that the District Councils concerned would be informed of today's deliberations.

IV. Regulation of motocross courses

[LC Paper No. CB(2)1064/99-00(01)]

34. The Chairman welcomed representatives of the Administration to the meeting.

35. Referring to the Administration's paper, Principal Assistant Secretary for Home Affairs (Recreation & Sport) (PAS(RS)) explained that there were at present three private motorcross clubs in Hong Kong, each of these was a registered business, providing a training ground and lessons for their members, making use of private land. PAS(RS) informed members that there was an international body, the Federation Internationale de Motocyclisme (FIM), which regulated the sport of cross-country cycling. The Federation had safety standards and guidelines for its members, and it also had a recognized membership structure throughout the world. He pointed that in the HKSAR, the Hong Kong Automobile Association (HKAA) was a recognized member of the FIM and therefore the HKAA was in a position to give professional guidance to the three motorcross clubs. The Administration had already discussed with the HKAA and it was already in contact with the clubs. PAS(RS) added that he was

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aware that two of the clubs had submitted applications for membership of the Motor Sports Council of the HKAA.

36. PAS(RS) said that the Administration regarded motorcross as a sport and as most sports in the HKSAR were generally regulated by their international and local federations, the Administration would like to see the motorcross clubs joining the HKAA and abiding by the regulations and safety standards set by the HKAA in accordance with the FIM safety standards. PAS(RSA) pointed out that this course of action would be a quicker route than formal legislation. It also provided a certain amount of expert input into the regulation of these clubs. He added that the Administration had not ruled out the possibility that formal legislation might need to be considered as current legislation did not cover the kind of operation that these motorcross clubs had. However the immediate priority was to ensure that activities at the three clubs could be conducted safely and in accordance with established safety principles.

37. Mr Gary CHENG said that although the professional guidance to be provided by the HKAA could bring the existing safety measures and facilities up to required standards, there was still the question of motorcross activities being held on private roads which needed to be tackled. He asked whether there was any legal loophole in respect of accidents occurring on private land.

38. Assistant Commissioner (Management & Licensing), Transport Department (AC(M&L)) explained that according to the Road Traffic Ordinance, the definition of "road" included every thoroughfare, street, lane, alley, way and place to which the public had access. As access to the venues for the motorcycling activities run by the three clubs were restricted to members only, the Ordinance had not been applied to regulate the activities at these clubs. As to whether these venues were considered to be private roads and whether private roads were subject to certain forms of control in existing legislation, the Administration was currently seeking legal advice.

39. Mr Andrew CHENG enquired whether in other countries there was legislation to ensure that the guidelines and regulations of the relevant motorcross federations met certain safety standards. He also referred to paragraph 7 of the paper and asked whether the Administration had considered requiring motorcross clubs to be members of HKAA

40. PAS(RS) responded that the Administration did not have information as yet on whether other countries had separate legislation in addition to international federations' requirements to ensure that these requirements were met. However, he pointed out that it was the general practice that if a local federation for a particular sport was affiliated to an international body which already had recognized safety standards, there would not be separate government legislation in many cases. Nevertheless, he undertook to find out and report back to the Panel. PAS(RS) also informed members that the third

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motorcross club which had not yet submitted an application to the HKAA was in fact preparing one and the HKAA would in due course consider all three applications.

41. As to whether the Government would make it compulsory for a motorcycling club to become a member of the HKAA, PAS(RS) replied that in the absence of legislation, the clubs could only be encouraged to become members of the HKAA. They could not be compelled to do so. However, should the clubs respond negatively, then Government might need to revisit the question of legislative control.

42. Mr LEE Wing-tat commented that Government's approach was too reactive. In view of the increasing popularity of the motorcycling sport, more clubs were likely to be set up. In the absence of legislative control, these clubs would be able to operate even if they refused to become HKAA members. He was of the view that the Administration should consider the introduction of a licensing system as a permanent control measure. PAS(RS) said that the Administration would consider Mr LEE's views. He added that at present, people in the HKSAR were free to practise many sports in a private or public venue. They could do so without necessarily having to join the local sports association concerned, or coming under the control of any body apart from the management of the premises. He pointed that in discussing today's item, a much broader question of the practice of the more dangerous sports was raised. He said that the Administration could certainly consider the matter, although he could not give a timetable as to how long it would take.

43. There being no other business, the meeting ended at 6:00 p.m.

Legislative Council Secretariat

1 March 2000