

立法會
Legislative Council

LC Paper No. CB(1) 1694/02-03
(These minutes have been seen
by the Administration)

Ref : CB1/PL/EA/1

Panel on Environmental Affairs

**Minutes of meeting held on
Monday, 28 April 2003, at 2:30 pm
in Conference Room A of the Legislative Council Building**

Members present : Hon CHOY So-yuk (Chairman)
Hon Cyd HO Sau-lan (Deputy Chairman)
Ir Dr Hon Raymond HO Chung-tai, JP
Hon Martin LEE Chu-ming, SC, JP
Hon LAU Kong-wah
Hon Miriam LAU Kin-yee, JP
Hon Emily LAU Wai-hing, JP
Dr Hon LAW Chi-kwong, JP
Hon Henry WU King-cheong, BBS, JP
Hon LAU Ping-cheung
Hon Audrey EU Yuet-mee, SC, JP

Members absent : Dr Hon David CHU Yu-lin, JP
Hon SIN Chung-kai
Hon WONG Yung-kan
Dr Hon LO Wing-lok

Public officers attending : **For item IV**
Environment, Transport and Works Bureau

Dr Sarah LIAO
Secretary

Mrs Rita LAU
Permanent Secretary (Environment and Transport)

Ms Doris CHEUNG
Deputy Secretary (Environment and Transport) E1

Action

Ms Annie CHOI
Principal Assistant Secretary (Environment and Transport) E2

Environmental Protection Department

Dr Ellen CHAN
Assistant Director (Waste Facilities)

Civil Engineering Department

Mr C Y CHAN
Chief Engineer / Port Works

Clerk in attendance : Miss Becky YU
Chief Assistant Secretary (1)1

Staff in attendance : Mrs Mary TANG
Senior Assistant Secretary (1)2

Miss Mandy POON
Legislative Assistant 4

I. Confirmation of minutes
(LC Paper No. CB(1) 1513/02-03 — Minutes of the meeting held on
10 April 2003)

The minutes of the meeting held on 10 April 2003 were confirmed.

II. Information paper issued since last meeting

2. Members noted that no information paper had been issued since last meeting.

III. Items for discussion at the next meeting

(LC Paper No. CB(1) 1515/02-03(01) — List of follow-up actions
LC Paper No. CB(1) 1515/02-03(02) — List of outstanding items for
discussion)

3. Members agreed to discuss the following items at the next regular meeting
scheduled for Monday, 26 May 2003, at 2:30 pm -

Action

- (a) Noise Control (Amendment) Ordinance 2002 Codes of Practice on Good Management Practice; and
- (b) Staffing proposal (A proposal to make permanent the existing supernumerary posts of Permanent Secretary (Environment and Transport) and Deputy Secretary (Environment)² in the Environment, Transport and Works Bureau).

4. Ms Cyd HO proposed to discuss the disposal arrangements for clinical and other waste arising from the prevention of atypical pneumonia. As the subject straddled the work of a number of departments, the Chairman remarked that she would have to liaise with other relevant Panel Chairmen on how this should be followed up.

5. Members agreed to hold a special joint meeting with the Panel on Planning, Lands and Works on Wednesday, 14 May 2003, at 10:45 am to discuss the establishment of the Sustainable Development Fund and the vision and mission of the Council for Sustainable Development. Members of the Council as well as green groups would be invited to attend the meeting.

IV. Detailed proposals for the Landfill Charging Scheme

(LC Paper No. CB(1) 1202/02-03(04) — Updated background brief on the Landfill Charging Scheme

LC Paper No. CB(1) 1515/02-03(03) — Paper provided by the Administration)

6. Before commencing discussion, the Chairman said that she had been advised by the Administration that it had no intention to introduce the proposed Landfill Charging Scheme (LCS) at the present stage when the community was devoted to the fight against atypical pneumonia. Besides, it would take time to complete the consultation and legislative processes before the implementation of LCS.

Consultation with the trades

7. Referring to the previous discussion on LCS at the Panel meetings on 25 February, 27 May and 24 June 2002, Ms Miriam LAU reiterated that waste haulers were not opposed to LCS but were concerned about the cash flow problem arising from the proposed charging arrangement. In this connection, the Administration had been urged to finalize an early agreement with the trade associations on the proposed charging arrangement so that LCS could be put in place as soon as possible. Noting that the paper for the current meeting contained nothing new, she enquired about the progress of negotiation between the Administration and the waste hauler associations since the last meeting on 24 June 2002 which was more than nine months ago. While supporting the implementation of the long-awaited LCS, Ms Emily LAU also considered it necessary for the Administration to include in its paper information on the latest position and the efforts being made to address the waste haulers' concerns despite that the implementation of LCS should not be further delayed on account of their objection.

Action

8. The Permanent Secretary for the Environment, Transport and Works (Environment and Transport) (PS/ETW(ET)) acknowledged that the successful implementation of LCS would hinge on the cooperation of the trades. As such, the Administration had all along been maintaining close liaison with the trades with a view to working out an acceptable charging arrangement and resolving their difficulties in the implementation of LCS. She pointed out that the paper for the current meeting contained two new proposals viz. the provision of two sorting facilities and the introduction of sorting and public fill charges. The Administration's plan was to first solicit members' view on these proposals, in particular the provision of sorting facilities, before consulting the trades. Upon completion of the consultation exercise, a comprehensive report setting out the details of consultation and the way forward would be provided to members. Ms Emily LAU remained of the view that the outcome of the last consultation exercise should have been included in the information paper. To facilitate the legislative process, she urged the Administration to set out the full results of the next round of consultation and the measures to address the trades' concerns in future papers.

9. The Chairman remarked that she had received some complaints from the trades that they had not been further consulted on LCS. The Assistant Director of Environmental Protection (Waste Facilities) (ADEP(WF)) affirmed that the Administration held a meeting with the trades on 3 July 2002 regarding details of LCS. It was pointed out that the first phase of LCS would only target at construction and demolition (C&D) waste and would not apply to commercial and industrial waste. The proposed arrangement of providing a credit period should alleviate possible cashflow problems which waste haulers might encounter and allow them more time to collect the charge from waste producers. On their counter-proposal of extending direct settlement to property management companies, ADEP(WF) pointed out that while property management companies were welcome to open accounts for direct settlement of landfill charges, they could not be legally required to do so. The Administration also noted that waste haulers had expressed reservations about payment using ATM and/or internet and reiterated their concerns about cashflow problems. In this connection, a liaison group comprising representatives from the Government, construction associations and waste haulers would be set up to sort out the operational issues prior to the implementation of LCS.

10. Ms Miriam LAU however noted that at the meeting held in July 2002, the Administration had only explained to waste haulers why their counter-proposal was not feasible without offering any practical solutions on how the operational difficulties associated with the implementation of LCS could be resolved. In response, the Principal Assistant Secretary for the Environment, Transport and Works (Environment and Transport)E2 (PAS/ETW(ET)E2) said that the Administration had tried to address the concern of waste haulers by setting up a direct settlement system for major waste producers. As it would be extremely difficult to locate the waste producers of small ad hoc renovation works and extend the direct settlement to them, the Administration had no choice but to charge the waste haulers when they delivered construction waste to landfills – a practice that was adopted in most economies with a landfill charging system. The Secretary for the Environment, Transport and Works (SETW) said that

Action

the trades should be able to overcome the difficulties if they were committed to do so as in the case of the disposal of asbestos. Concerted efforts were required to achieve the common goal of environmental protection.

Proposed supporting measures

11. In order to reduce the amount of waste disposed of at landfills, PS/ETW(ET) said that the Administration planned to make available two sorting facilities to assist the construction industry, particularly those waste producers who could not carry out on-site sorting due to physical constraints of the sites, to separate the inert portion from the non-inert portion of mixed construction waste. These sorting facilities would receive mixed construction waste with more than 50% inert content. The proposed sorting facilities would not only reduce the amount of waste disposed at landfills but also reduce the landfill charge payable by waste producers. Expressions of interest (EoI) in the operation and management of these sorting facilities had been invited.

Sorting charge

12. To allow for greater flexibility, Dr LAW Chi-kwong considered it more appropriate to leave it for the contractors to decide on the fee levels for the sorting facilities. PS/ETW(ET) said that one of the reasons for inviting EoI at an early stage was to obtain useful input from the private sector on how best the sorting facilities could be operated. The Administration had an open mind on the modus operandi of the facilities and counter-proposals were welcome. PAS/ETW(ET)E2 added that the proposed sorting charge of \$100 per tonne was only an estimate to illustrate that it should be lower than the landfill charge to provide a financial incentive for waste producers/haulers to use the facilities on the one hand and not too low to prevent abuse by users on the other. However, consideration would be given to lowering the charge if the operating cost of the facilities was lower than the current estimate.

13. Noting that the waste acceptance criteria for landfills, sorting facilities and public fill reception facilities were to be determined by site staff based on visual inspection, Ms Cyd HO was concerned this might give rise to disputes between waste haulers and site staff. PS/ETW(ET) advised that as the three different types of facilities were to receive construction waste with different inert content, the site staff would have to inspect the vehicles arriving at these facilities and determine if they were carrying the appropriate waste for the facilities in question. Given the large number of waste loads, it was not practicable in terms of time, space, logistical and cost requirements to carry out detailed inspection and weighing of the detailed content of each vehicle at the gate of the facilities. Therefore, site staff would be empowered to make an immediate judgement based on visual inspection and turn away vehicles carrying inappropriate waste. Ms HO emphasized the need for further consultation with the trade to resolve possible problems arising from disputes in the determination of the inert content of the waste load. PS/ETW(ET) envisaged that these problems would diminish with time when the site staff gained more experience in the estimation of the inert content of the waste load. In inviting EoI for the sorting facilities, the Administration would take into account the relevant experience of prospective

Action

operators in waste sorting which would be useful in the future operation of the facilities.

14. The Chairman also cautioned about the possible disputes between waste producers and waste haulers over the cost for disposal of construction waste if the determination of inert content of waste load was based on visual inspection. There might be circumstances that different waste haulers would have different charges for the same waste load, thereby leading to contention within the trades over the pricing of waste disposal. Ms Miriam LAU echoed that the lack of scientific method by which waste haulers could decide on the inert content of the waste load would cause confusion and contention within the trades. She considered it necessary for the Administration to rethink about the entire charging mechanism.

15. In reply, SETW said that apart from visual inspection, the weight and density of the waste load were also useful indicators of its inert content. PAS/ETW(ET)E2 added that since the weight of inert materials were almost twice as that of non-inert waste, the weight of the wasteload would show the likely inert content therein. As most of the useful materials like metals and wood should have been sorted out for recycling, the waste load would only consist of waste and inert materials, including earth and rocks, and the waste haulers would see the content of each wasteload when the waste were loaded onto the tracks. . Waste loads comprising a low percentage of inert content would not be accepted at the sorting facilities and would be directed to landfills as it would not be cost effective to carry out sorting. A note could be issued by the sorting facilities to waste haulers for production to waste producers as proof that their waste loads were not eligible for sorting. This would avoid possible disputes over the pricing of waste disposal. As for waste arising from renovation works, PAS/ETW(ET)E2 said that they would unlikely have a high inert content and thus would not be necessary for them to go through the sorting process.

Public fill charge

16. As regards the proposed charge of \$27 per tonne for public fill reception facilities, PS/ETW(ET) said that this was imposed in line with the polluter pays principle. It would not only recover the operating charges of the public fill reception facilities but also encourage the industry to adopt means to reduce the amount of inert public fill. She also affirmed in response to the Chairman that the charging arrangements for sorting and public fill charges would follow that for landfill charge.

Landfill charge

17. Mr LAU Ping-cheung asked if the high landfill charge of \$125 per tonne was attributed to the high administrative cost charged by the Government. PS/ETW(ET) explained that the proposed landfill charge represented full recovery of the capital (\$56 per tonne) and recurrent (\$69 per tonne) costs of the three existing landfills, the management of which had been contracted out to the private sector. Of the recurrent cost of \$69 per tonne, only \$9 were the administrative costs charged by the Government.

Action

18. Noting that the demand for payment of landfill charges would be suspended if waste haulers had concrete evidence showing that they failed to collect the charges from the waste producers, Ms Miriam LAU enquired about the type of evidence which should be submitted and the consequence of suspended payment. PS/ETW(ET) said that waste haulers who wished to apply for suspension of payment would have to produce proof that they had lodged their claims with the Small Claims Tribunal (SCT). Payment of the landfill charges would be suspended pending the outcome of the decision of SCT. Ms Miriam LAU found the proposed arrangement unfair to waste haulers who had little bargaining power. She pointed out that as waste haulers were remunerated on a waste load basis, the landfill charges in addition to the waste collection charges which they had to bear upfront would likely give rise to cashflow problems. Besides, they might not have the time and resources to lodge their claims with SCT. The proposed arrangement was a retrogression from the earlier proposal where only statutory declarations from waste haulers were required as evidence for suspension of payment of landfill charges. Ms Emily LAU echoed that the lodging of claims to SCT would create undue hardship to waste haulers.

19. Given the small difference of \$25 between sorting and landfill charges, the Chairman expressed concern that this might not provide the necessary incentive for waste producers to use the sorting facilities, particularly those whose construction sites were far away from these facilities. She also enquired if the proceeds from the sale of recycled materials after sorting should be kept by the waste collectors or returned to the Government. SETW advised that credit items such as metal works were often sold to recyclers at an early stage and thus would unlikely form part of the waste load going to the sorting facilities where the inert content would be taken out for recycling or reuse.

20. On recycling, Ir Dr Raymond HO queried the accuracy of the high reuse rate of 80% for construction and demolition (C&D) materials. PAS/ETW(ET)E2 said that the Administration was able to maintain a 80% reuse rate for C&D materials in previous years because there was sufficient number of reclamation projects to absorb the inert C&D materials. With the decrease in the number and scale of reclamation projects, the Administration had to set up two fill banks to stockpile inert public fill for future use when reclamation projects were available. As regards the two proposed sorting facilities to be set up in Tuen Mun and Tseung Kwan O, it was estimated that they could together handle about 2 500 tonnes of mixed construction waste each day. After sorting, the non-inert waste would be disposed of at the landfills.

Fly-tipping

21. As fly-tipping was rampant in many areas in Hong Kong such as Kam Ping Street and Tin Hau Temple Road, the Chairman considered that measures, including an increase in penalty, should be put in place as deterrent. PS/ETW(ET) assured members that the Administration would step up both publicity and enforcement against fly-tipping at those environmental blackspots, including the streets referred to by the Chairman. On the proposal to strengthen legislative measures against fly-tipping, PS/ETW(ET) said that the Department of Justice had advised that the proposed measures were not consistent with the Bill of Rights and were

Action

disproportionate to the severity of the offence. The Chairman opined that the Administration should review and simplify the prosecuting procedures for fly-tipping which was expected to increase after the implementation of LCS.

Way forward

22. The Chairman remarked that members supported LCS in principle and agreed that this should be put in place as soon as possible. Dr LAW Chi-kwong said that Members of the Democratic Party had all along been supporting the implementation of LCS. It was regretted that the Scheme was repeatedly delayed as a result of the failure to reach an agreement with the trades on the charging arrangement. He also agreed that the drafting of the legislation on LCS should proceed in parallel with the next round of consultation with the trades on the charging arrangement and measures to allay their concerns. Ms Miriam LAU reiterated the need for the Administration to further consult the trades on the charging arrangement, including guidelines on the collection of landfill, sorting and public fill charges. Her views were shared by Ms Emily LAU who opined that waste haulers should be given clear instructions on where to dispose of their waste loads. SETW assured members that the Administration would further consult the trades and would endeavour to resolve the operational difficulties encountered by waste haulers.

23. Ms Cyd HO enquired about the legislative timetable for LCS. PS/ETW(ET) said that the drafting of the legislation had commenced and hopefully it could be introduced into the Legislature within this year for implementation in 2004.

V. Any other business

24. There being no other business, the meeting ended at 4:10 pm

Council Business Division 1
Legislative Council Secretariat
20 May 2003