

立法會
Legislative Council

LC Paper No. CB(1) 1880/03-04
(These minutes have been seen
by the Administration)

Ref: CB1/BC/4/03/2

**Bills Committee on
Waste Disposal (Amendment) (No. 2) Bill 2003**

**Minutes of the fourth meeting
held on Thursday, 13 May 2004, at 2:30 pm
in Conference Room B of Legislative Council Building**

Members present : Dr Hon LAW Chi-kwong, JP (Chairman)
Hon LEE Cheuk-yan
Hon Miriam LAU Kin-yee, JP
Hon Emily LAU Wai-hing, JP
Hon CHOY So-yuk
Hon LI Fung-ying, JP
Hon Albert CHAN Wai-yip
Hon Audrey EU Yuet-mee, SC, JP

Members absent : Hon Abraham SHEK Lai-him, JP
Hon Michael MAK Kwok-fung
Hon LEUNG Fu-wah, MH, JP

**Public officers
attending** : Environment, Transport and Works Bureau

Ms Doris CHEUNG
Deputy Secretary (Environment and Transport) E1

Mrs Teresa WONG
Principal Assistant Secretary (Environment and Transport) E2

Ms Joyce HO
Assistant Secretary (Environment and Transport) E2

Environmental Protection Department

Dr Ellen CHAN
Assistant Director (Waste Facilities)

Mr Edmond HO
Principal Environmental Protection Officer
(Waste Policy & Services)

Civil Engineering Department

Mr Michael LEUNG
Senior Engineer/Port Works

Department of Justice

Miss Shandy LIU
Senior Government Counsel

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

Staff in attendance : Mr Stephen LAM
Assistant Legal Adviser 4

Mrs Mary TANG
Senior Council Secretary (1)2

I. Confirmation of minutes

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| (LC Paper No. CB(1) 1772/03-04 | -- | Minutes of the meeting held on 28 April 2004 |
| LC Paper No. CB(1) 1798/03-04 | -- | Minutes of the meeting held on 3 May 2004) |

The minutes of the meetings held on 28 April and 3 May 2004 were confirmed.

II. Meeting with the Administration

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|------------------------------------|----|---|
| (LC Paper No. CB(1) 1800/03-04(01) | -- | List of follow-up actions arising from the discussion on 3 May 2004 |
| LC Paper No. CB(1) 1800/03-04(02) | -- | Administration's response to LC Paper No. CB(1) 1800/03-04(01) |
| LC Paper No. CB(1) 1800/03-04(03) | -- | Summary of views/concerns (as at 12 May 2004)) |

2. The Committee deliberated (Index of proceedings attached at **Annex A**).

3. The Administration was requested to -
 - (a) include in the speech to be delivered by the Secretary for the Environment, Transport and Works at the resumption of Second Reading debate of the Bill measures which the Administration would take to respond to public concern about indiscriminate demolition of buildings by real estate developers;
 - (b) provide the number and details of prosecutions under section 9(1)(b) of the Public Cleansing and Prevention of Nuisances Regulation (Cap. 132 sub. leg. BK) in 2003;
 - (c) consider requiring those who were registered as renovation contractors under the Business Registration Ordinance (Cap. 310) to open billing accounts. To also consider lowering the threshold of \$1 million for which penalty would be imposed in the event of failure to open a billing account;
 - (d) advise the modus operandi, effectiveness and outcome of review of the trip-ticket system under the waste management plan of public works contracts as well as the timetable for extending such a plan to the private sector;
 - (e) review the drafting of new section 16A(1) to prevent private land from becoming dumping sites of waste while preserving the rights of owners in respect of use of their land; and
 - (f) review new section 16A(2) to see whether it was fair to have presumption against the driver because it would be difficult for him to establish a defence under new section 16A(3) or (4).
4. Members agreed to schedule two more meetings in June as follows -
 - (a) Monday, 7 June 2004, at 4:30 pm
 - (b) Friday, 11 June 2004, at 12:30 pm
5. The meeting ended at 4:30 pm.

**Proceedings of the meeting of the
Bills Committee on Waste Disposal (Amendment) (No. 2) Bill 2003
Meeting on Thursday, 13 May 2004, at 2:30 pm
in Conference Room B of Legislative Council Building**

Time marker	Speaker	Subject(s)	Action required
000000 - 000241	Chairman	Introductory remarks and confirmation of minutes of meeting held on 28 April and 3 May 2004 (LC Paper Nos. CB(1) 1772 and 1798/03-04 respectively)	
000242 - 001265	Administration Ms Emily LAU Mr Albert CHAN	Power-point presentation on the existing system at landfills and discussion on the mode of operation of the charging scheme at the waste reception facilities	
001266 - 001661	Ms Miriam LAU Administration Chairman	Progress of provision of sorting facilities - (a) tenders would be invited after the passage of the Bill, and contracts would be awarded only after the passage of the relevant Regulations; and (b) implementation of charging scheme to tie in with commissioning of sorting facilities	

Time marker	Speaker	Subject(s)	Action required
001662 - 002356	Ms Miriam LAU Chairman Ms Emily LAU Mr Albert CHAN Administration	Legislative timetable - (a) subject to passage of the Bill within the current LegCo session, the relevant Regulations were expected to be tabled for negative vetting in October 2004; (b) draft regulations would be submitted to the Bills Committee at the next meeting for members' reference; and (c) charging scheme was expected to be implemented in 2005	
002357 - 002665	Chairman Administration Ms Miriam LAU Ms Emily LAU	List of follow-up actions arising from the discussion on 3 May 2004 (LC Paper No. CB(1) 1800/03-04(02)) Trial run on the charging scheme - (a) trial run should best be conducted after upgrading of the computer system and associated works; (b) Subcommittee set up to scrutinize the regulations should be invited to the trial run; and (c) members' request for early tabling of the regulations should be included in the report of the Bills Committee to the Council	

Time marker	Speaker	Subject(s)	Action required
002666 - 003011	Mr Albert CHAN Chairman Administration Ms Emily LAU	<p>Indiscriminate demolition of buildings -</p> <p>Administration's view that measures to prevent indiscriminate demolition should more appropriately be pursued separately</p> <p>Members' request for these measures to be included in the speech to be delivered by the Secretary for the Environment, Transport and Works at the resumption of Second Reading debate of the Bill</p>	<p>The Administration to include in the speech to be delivered by the Secretary for the Environment, Transport and Works at the resumption of Second Reading debate of the Bill measures which the Administration would take to respond to public concern about indiscriminate demolition of buildings by developers</p>
003012 - 003831	Ms Emily LAU Chairman Administration Mr Albert CHAN Ms Miriam LAU	<p>Administration's response on requirement to cover loading compartments during transportation -</p> <p>(a) 57 prosecutions against nuisances caused by falling objects from loading compartments of trucks had been made under section 9(1)(b) of the Public Cleansing and Prevention of Nuisances Regulation (Cap. 132 sub. leg. BK) from May 2003 to April 2004; and</p> <p>(b) the issue should be taken up by the relevant Panels as the requirement was not confined to the transportation of construction and demolition (C&D) materials</p>	<p>The Administration to provide the number and details of prosecutions under section 9(1)(b) of the Public Cleansing and Prevention of Nuisances Regulation (Cap. 132 sub. leg. BK) in 2003</p>

Time marker	Speaker	Subject(s)	Action required
003832 - 011337	Chairman Administration Ms Miriam LAU Ms Emily LAU Ms Audrey EU Miss CHOY So-yuk Mr LEE Cheuk-yan	Summary of views/concerns (LC Paper No. CB(1) 1800/03-04(03)) Payment of charges through billing accounts - Members' concern on - (a) rationale for imposing penalty on failure of opening billing accounts by contractors of works projects over \$1 million when all payments had to be settled through billing accounts; (b) need to extend the penalty to projects less than \$1 million for more effective control on waste disposal; (c) need for effective measures to ensure that C&D materials were disposed of and charged in a proper manner; (d) need to require renovation contractors who were so registered in their business registration to open billing accounts; and (e) allowing waste haulers to open billing accounts might create incentives for embezzlement of disposal charges through illegal disposal of waste	The Administration to consider requiring those who were registered as renovation contractors under the Business Registration Ordinance (Cap. 310) to open billing accounts. To also consider lowering the threshold of \$1 million for which penalty would be imposed in the event of failure to open a billing account

Time marker	Speaker	Subject(s)	Action required
		<p>Administration's response -</p> <ul style="list-style-type: none">(a) need to impose penalty on principal contractors to ensure that they would open a billing account within 14 days for any new projects valued \$1 million or above and pay disposal charges for the project through the account. This was meant to prevent principal contractors from passing on their responsibility for waste disposal charge to sub-contractors and waste haulers;(b) mechanism would be in place to ensure that C&D materials from projects valued \$1 million or above were properly disposed of;(c) threshold at \$1 million was set having regard to other legislation;(d) deposit and late payment charges would be introduced to prevent abuse of the charging scheme; and(e) practical difficulties in requiring renovation contractors to open billing accounts since some of them had no business registrations	

Time marker	Speaker	Subject(s)	Action required
011338 - 013733	<p>Ms Emily LAU Chairman Miss CHOY So-yuk Administration Ms Audrey EU Ms LI Fung-ying</p>	<p>Control of landfilling activities Members' concern on -</p> <ul style="list-style-type: none"> (a) new section 16A(1) as presently drafted would allow landowners to use their agricultural land as dumping sites; (b) need to obtain approval from the Environmental Protection Department before conducting landfilling activities and intrusiveness of such a requirement; (c) need for mechanism to allow landfilling activities in private land where justified; (d) need to prevent contaminated materials from being used for landfilling; (e) consideration could be given to confining "deposited waste" in new section 16A(1) as C&D waste; and (f) control of landfilling activities on owners' rights in the use of land <p>Administration's response -</p> <ul style="list-style-type: none"> (a) landfilling activities on private land was discussed at meeting of the Panel on Planning Lands and Works on 23 March 2004; 	<p>The Administration to review the drafting of new section 16A(1) to prevent private land from becoming dumping sites of waste while preserving the rights of owners in respect of use of their land</p>

Time marker	Speaker	Subject(s)	Action required
		<p>(b) an undertaking had been made at the meeting to consult Town Planning Board on the proposed introduction of a marking scheme under which owners who allowed their land to be used as dumping sites would risk the success of future applications for change of land use;</p> <p>(c) consideration would be given to introducing deeming provision to control the size and duration of landfilling activities in the second stage amendments to the Town Planning Ordinance; and</p> <p>(d) examination would be made on measures to address land filling activities on private land from the environmental protection point of view.</p>	
013734 - 013935	Chairman Administration Ms Emily LAU	Need to step up education and publicity before extending the charging scheme to cover municipal solid waste in the long run	
013936 - 014141	Miss CHOY So-yuk Chairman Administration	Need to deal with owners' claims of not knowing any landfilling activities in their agricultural land	
014142 - 014243	Chairman Administration	<p>Need for a comprehensive waste management plan</p> <p>Exemption of construction contracts awarded before commencement of the charging scheme</p>	

Time marker	Speaker	Subject(s)	Action required
014244 - 014651	Chairman Administration Ms Emily LAU Mr LEE Cheuk-yan	Administrations' explanation on the trip-ticket system - (a) contractors of public works contracts were required to draw up waste management plan and implement trip-ticket system to ensure proper disposal of C&D materials/waste; (b) contractors failing to comply with trip-ticket system could risk the loss of future tendering opportunities for government contracts; and (c) review would be conducted on the effectiveness of the trip-ticket system Members' request for time table for extending the trip-ticket system to the private sector	The Administration to advise the modus operandi, effectiveness and outcome of review of the trip-ticket system under the waste management plan of public works contracts as well as the timetable for extending such a plan to the private sector
014652 - 015346	Administration Ms Emily LAU Ms Miriam LAU	Contingency plan for breakdown of weighbridge	
015347 - 015845	Ms LI Fung-ying Administration Chairman Ms Emily LAU Mr LEE Cheuk-yan Miss CHOY So-yuk Ms Miriam LAU	Discussion on the liability under new section 16A Members' concern on - (a) liability of waste haulers who acted according to the instruction of their employers; and (b) need for written instructions to be provided by employer Administration's explanation on the defence provisions under new sections 16A(3) and (4)	The Administration to review new section 16A(2) to see whether it was fair to have presumption against the driver because it would be difficult for him to establish a defence under new section 16A(3) or (4)
015846 - 015950	Chairman	Schedule of meetings	