

立法會
Legislative Council

LC Paper No. CB(1) 547/03-04
(These minutes have been seen
by the Administration)

Ref : CB1/PL/EA/1

Panel on Environmental Affairs

**Minutes of meeting held on
Monday, 24 November 2003, at 2:30 pm
in Conference Room A of the Legislative Council Building**

- Members present** : Hon CHOY So-yuk (Chairman)
Hon Martin LEE Chu-ming, SC, JP
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
Dr Hon LO Wing-lok, JP
- Member attending** : Hon LEE Cheuk-yan
- Members absent** : Hon Cyd HO Sau-lan (Deputy Chairman)
Dr Hon David CHU Yu-lin, JP
Hon WONG Yung-kan
Hon LAU Kong-wah, JP
Hon LAU Ping-cheung
Hon Audrey EU Yuet-mee, SC, JP
- Public officers attending** : **For item IV**
Environment, Transport and Works Bureau

Ms Doris CHEUNG
Deputy Secretary (Environment and Transport) E1

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Miss Winnie HO
Principal Assistant Secretary (Environment and Transport) E2

Environmental Protection Department

Dr Ellen CHAN
Assistant Director (Waste Facilities)

Civil Engineering Department

Mr Henry CHAN
Civil 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

- | | |
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| (LC Paper No. CB(1) 351/03-04 | — Minutes of the meeting held on 27 October 2003 |
| LC Paper No. CB(1) 353/03-04 | — Minutes of the joint meeting with the Panel on Planning, Lands and Works held on 31 October 2003) |

The minutes of the meeting held on 27 October 2003 and that of the joint meeting with the Panel on Planning, Lands and Works held on 31 October 2003 were confirmed.

II. Information paper issued since last meeting

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

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III. Items for discussion at the next meeting

- (LC Paper No. CB(1) 385/03-04(01) — List of follow-up actions
LC Paper No. CB(1) 385/03-04(02) — List of outstanding items for discussion)

3. Members agreed to discuss the following items at the next regular meeting scheduled for Monday, 22 December 2003, at 2:30 pm -

- (a) Central, Western and Wan Chai West Sewerage, Stage 2 Phase 2B Works (4313DS); and
- (b) Application of the Convention on Biological Diversity and the Cartagena Protocol on Biosafety to HKSAR.

4. The Chairman reminded members of the joint meeting with the Panel on Planning, Lands and Works on Thursday, 27 November 2003, at 4:30 pm to discuss Central Reclamation Phase III and Wanchai Development Phase II. She also informed members that she would liaise with the Chairman of the Panel on Economic Services on the holding of a joint meeting on eco-tourism, as proposed by Dr LAW Chi-kwong.

IV. Construction Waste Disposal Charging Scheme

- (LC Paper No. CB(1) 385/03-04(03) — Updated background brief prepared by the Legislative Council Secretariat
LC Paper No. CB(1) 385/03-04(04) — Paper provided by the Administration)

5. The Deputy Secretary for the Environment, Transport and Works (Environment and Transport) E1 (DSETW(ET)E1) gave a power-point presentation on the proposals pertaining to the Waste Disposal (Amendment) (No.2) Bill 2003 (the Bill) which sought to effect the Construction Waste Disposal Charging Scheme (the Scheme).

6. Declaring interest as the Vice Chairman of the Chinese General Chamber of Commerce (CGCC), Mr Henry WU queried why CGCC was not included in the list of consultees for the proposed Scheme. He pointed out that, like the Hong Kong General Chamber of Commerce, CGCC had also set up an environmental concern group to monitor environmental issues. ADEP(WF) explained that as the Scheme would be targeting at construction waste rather than commercial waste, the Administration had not consulted all the trade associations. Nevertheless, she would be pleased to consult CGCC on the Scheme and include it in the list of consultees for environmental issues. Responding to Mr WU's further question, DSETW(ET)E1 confirmed that the Charging Scheme would apply to Government construction projects as well.

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7. Dr LAW Chi-kwong remarked that while Members of the Democratic Party supported the Bill in principle, detailed proposals had yet to be examined in greater detail by the Bills Committee to be set up after the Bill was introduced into the Legislative Council (LegCo). Meanwhile, efforts should be made to address concerns raised by the trades, particularly waste haulers who had expressed strong reservations on charging arrangement. He then asked if the Administration had considered the waste haulers associations' proposal of entrusting property management companies, particularly those large residential developments, to collect the fee for disposal of construction waste generated within the developments. DSETW(ET)E1 replied that the Administration had carefully studied the proposal and found it not practicable since property management companies had no legal right to check whether renovation works had taken place in residents' premises. To allay waste haulers' concern about cash flow problems, arrangement had been made to bill them monthly on an accrual basis with a credit period of 30 days. Payment of the charges would be suspended if waste haulers produced evidence that they were not able to collect the charges from the waste producers. The Assistant Director of Environmental Protection (Waste Facilities) (ADEP(WF)) added that the proposed charging arrangement was discussed at the meeting with the Hong Kong Association of Property Management Companies Limited (HKAPMC) and waste haulers associations on 15 September 2003. HKAPMC pointed out that while it was not uncommon for property management companies to provide services for disposal of construction waste during intake of new developments when most residents would require renovation works, it would be difficult for them to provide such services on an ongoing basis. HKAPMC reiterated that they did not have any legal right to manage private activities such as renovation in individual units. Besides, it was not fair to use the management fees collected from all residents to cover the administrative expenses arising from handling construction waste generated by individual renovation projects. ADEP(WF) supplemented that while property management companies were welcomed to set up billing accounts for direct settlement, the Administration did not consider it appropriate to impose statutory obligations on these companies which have no direct involvement with either the generation of waste or the delivery of waste to waste facilities.

8. Dr LAW asked if consideration could be given to allowing construction or renovation contractors to set up billing accounts so that they could be able to settle the charges direct without involving waste haulers. ADEP(WF) said that it was a mandatory requirement for contractors with contracts costing over \$1 million to set up billing accounts to pay charges direct. However, the Administration would welcome any individuals or companies, including renovation contractors, to set up billing accounts for direct settlement. Mr LEE Cheuk-yan then enquired about the payment methods under the direct settlement system. ADEP(WF) said that while payment by electronic means would be preferable, details of the payment system had yet to be worked out. It was intended that account holders would be given a choice in the form of payment.

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9. While supporting the early implementation of the Scheme, the Chairman agreed that efforts be made to address concerns over fee arrangement. She asked if consideration had been given to the use of a chit system in lieu of cash for payment of waste disposal. DSETW(ET)E1 said that as waste haulers were concerned about cash flow problems rather than the payment method, the Administration had proposed to introduce a monthly billing system to address their concern. ADEP(WF) added that the use of a chit system was discussed again at the meeting with waste haulers associations on 14 November 2003. The associations had maintained their concern that waste haulers would have to bear the payment upfront under the chit system. The proposed monthly billing system where invoice would be issued at the end of a month would allow waste haulers a credit period of some 30 to 60 days to recover the charges from waste producers. This would help ease the waste haulers' concern about cash flow problems.

10. Mr LEE Cheuk-yan said that as a matter of policy, he failed to see why waste haulers should bear the responsibility for payment of waste disposal charges while property management companies and renovation contractors could be exempted. Given that waste haulers were not waste producers but involved in the delivery of waste, Ms Miriam LAU also considered it unfair to hold waste haulers responsible for payment of waste disposal charges, which in her view was at variance with the "user-pays principle". DSETW(ET)E1 said that as waste haulers earned their living by collecting and delivering waste to the waste facilities, they were users and involved in the waste disposal process. To allay waste haulers' concern, the Administration, instead of simply using the "gate fee" system commonly adopted in many overseas countries, had developed a complicated and comprehensive charging scheme, under which major construction waste producers, who were responsible for 70% to 80% of construction waste, would be mandated to pay their charges direct to Government. Charges for the remaining 20% to 30% wastes arising from ad hoc renovation works would have to be collected through waste haulers. Mr LEE however cautioned that conflict might arise if the Administration was not able to reach an agreement with the waste haulers associations over the charging arrangement. He enquired if further talks would be held with the associations about the way forward. DSETW(ET)E1 said that the Administration had been discussing the charging arrangements with the waste haulers associations over the years and would continue such discussions with a view to soliciting their support for the Scheme. It was hoped that a consensus could be reached on the use of statutory declaration as a form of proof for suspension of payment in the event that waste haulers failed to recover the charges from waste producers.

11. While supporting the Scheme which had already been implemented in many overseas countries, Ms Emily LAU noted that waste haulers associations had dissenting views on the use of a statutory declaration. She enquired how the Administration would deal with the bad debt problems faced by waste haulers. Sharing similar concern, Ms Miriam LAU pointed out that queries on how statutory declaration should be made and whether waste haulers would still have to settle the charges when they failed to recover these from waste producers would need to be

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addressed by the Administration before implementing the Scheme. DSETW(ET)E1 noted that waste haulers were most concerned about cash flow and bad debt problems. To this end, the Administration had agreed to accept claims lodged against waste producers at the Small Claims Tribunal as a form of proof for suspension of payment. It also had an open mind on the use of statutory declaration as another form of proof. While one waste haulers' association supported this arrangement, others did not wish to state their position as a matter of principle since they did not consider it appropriate to hold them responsible for collecting the charges under any circumstances. The Administration would continue its dialogue with the waste haulers associations. Consideration was also being given to setting up a tripartite working group with representatives from the construction industry/waste haulers, waste facility operators and government departments concerned to resolve possible teething problems prior to the implementation of the Scheme. Dr LAW Chi-kwong supported the establishment of the tripartite group, adding that the group should serve as a formal channel through which views from stakeholders on the Scheme could be collated and adequately addressed.

12. Mr Henry WU pointed out that the construction industry was concerned about the high level of waste disposal charges of \$125 per tonne at landfills, \$100 per tonne at sorting facilities and \$27 per tonne at public fill reception facilities. Noting that the charges were set to recover in full the capital and recurrent costs of these facilities, Mr WU enquired about the basis upon which the capital and recurrent costs was arrived at and whether the charges would be suitably adjusted after full recovery of the capital cost. To facilitate better understanding, the Administration was also requested to provide information on the capacity of various reception facilities and how this compared with the amount of wastes being handled now. DSETW(ET)E1 advised that the capital portion of the landfill charge was calculated by the actual capital investment averaging over the total capacity of the landfills. The recurrent portion was mainly based on the actual operating cost paid to the landfill contractors under the contracts, which was not expected to fluctuate significantly. As for public fill reception facilities, the charge was mainly based on the operating cost as the capital cost was negligible. The Civil Engineer/Port Works, Civil Engineering Department supplemented that the public fill reception facilities were expected to handle 12 million tonnes of waste per year while the sorting facilities were expected to handle 740 000 tonnes of waste per year.

13. On the problem of illegal disposal of waste, Dr LAW Chi-kwong said that the Bills Committee set up to scrutinize the Bill might need to look into the implications of illegal disposal of waste in private land as this might involve a change of land use under the Town Planning Ordinance (Cap.131). Noting that illegal disposal of waste was not a criminal offence at present, Dr LAW enquired about the legal basis for the proposed issuance of warrants for the Director of Environmental Protection to enter domestic premises and private land for dwelling purposes to remove waste. The Administration was also requested to provide past cases where warrants were issued in relation to non-criminal offences. Meanwhile, he would raise a LegCo question on the problem of illegal disposal of waste at the forthcoming Council meeting.

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14. In concluding, the Chairman said that while members supported the principle of the Bill, the Administration had to further consult the stakeholders with a view to reaching a consensus on issues such as charging arrangement. Details of the Bill would have to be examined in detail by a Bills Committee to be set up when the Bill was introduced into LegCo.

V. Any other business

15. There being no other business, the meeting ended at 3:25 pm.

Council Business Division 1
Legislative Council Secretariat
9 December 2003