

立法會
Legislative Council

LC Paper No. CB(2)2328/05-06
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by the Administration)

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Panel on Constitutional Affairs

**Minutes of special meeting
held on Thursday, 27 April 2006 at 9:00 am
in Conference Room A of the Legislative Council Building**

- Members present** :
- Dr Hon LUI Ming-wah, SBS, JP (Chairman)
 - Hon James TIEN Pei-chun, GBS, JP
 - Hon Albert HO Chun-yan
 - Ir Dr Hon Raymond HO Chung-tai, S.B.St.J., JP
 - Dr Hon David LI Kwok-po, GBS, JP
 - Hon Margaret NG
 - Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP
 - Hon CHEUNG Man-kwong
 - Hon Howard YOUNG, SBS, JP
 - Dr Hon YEUNG Sum
 - Hon LAU Kong-wah, JP
 - Hon Emily LAU Wai-hing, JP
 - Hon CHOY So-yuk, JP
 - Hon LI Fung-ying, BBS, JP
 - Hon Audrey EU Yuet-mee, SC, JP
 - Hon LEUNG Kwok-hung
 - Hon WONG Ting-kwong, BBS
 - Hon Ronny TONG Ka-wah, SC
 - Hon CHIM Pui-chung
 - Hon Patrick LAU Sau-shing, SBS, JP
 - Hon TAM Heung-man
- Members absent** :
- Hon Jasper TSANG Yok-sing, GBS, JP (Deputy Chairman)
 - Hon LEE Cheuk-yan
 - Hon Martin LEE Chu-ming, SC, JP
 - Hon Bernard CHAN, JP
 - Hon CHAN Kam-lam, SBS, JP
 - Hon Mrs Sophie LEUNG LAU Yau-fun, SBS, JP
 - Hon LEUNG Yiu-chung

Dr Hon Philip WONG Yu-hong, GBS
Hon WONG Yung-kan, JP
Hon LAU Chin-shek, JP
Hon LAU Wong-fat, GBM, GBS, JP
Hon Miriam LAU Kin-yea, GBS, JP
Hon Timothy FOK Tsun-ting, GBS, JP
Hon TAM Yiu-chung, GBS, JP
Hon Abraham SHEK Lai-him, JP
Hon LEE Wing-tat
Hon Daniel LAM Wai-keung, BBS, JP
Hon MA Lik, GBS, JP
Hon Alan LEONG Kah-kit, SC
Dr Hon KWOK Ka-ki
Dr Hon Fernando CHEUNG Chiu-hung
Hon CHEUNG Hok-ming, SBS, JP
Hon KWONG Chi-kin

**Public Officers :
attending**

Item I

Mr Stephen LAM
Secretary for Constitutional Affairs

Dr Patrick HO
Secretary for Home Affairs

Mrs Carrie LAM
Permanent Secretary for Home Affairs

Mr Joseph LAI
Deputy Secretary for Constitutional Affairs

Mrs Pamela TAN
Director of Home Affairs

Ms Anissa WONG
Director of Leisure and Cultural Services

**Clerk in :
attendance**

Mrs Percy MA
Chief Council Secretary (2)3

**Staff in :
attendance**

Mr Arthur CHEUNG
Senior Assistant Legal Adviser 2

Mrs Eleanor CHOW
Senior Council Secretary (2)4

Mrs Fanny TSANG
Legislative Assistant (2)3

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I. Review of the role, functions and composition of the District Councils
(Consultation Document on “Review on the Role, Functions and Composition of District Councils”)

Leaflet on "Enhancing work in districts, Strengthening District Councils"

LC Paper No. CB(2)1863/05-06(01) – Paper on "Review on the Role, Functions and Composition of District Councils"

LC Paper No. CB(2)1863/05-06(02) – Material for power-point presentation on "District Council Review")

Secretary for Constitutional Affairs (SCA) and Secretary for Home Affairs (SHA) briefed members on the background to the review of the District Councils (DCs) and the purpose of the Consultation Document on the “Review on the Role, Functions and Composition of District Councils” (the Consultation Document). In gist, the Consultation Document put forth proposals for DCs to assume responsibility for the management of libraries, community halls, leisure grounds, sports venues and swimming pools, within the limits of the existing statutory powers and resources of the executive departments, as announced in the Chief Executive’s Policy Address of 2005-06. The Consultation Document also sought the views of the public on some DC election-related matters and the composition of DCs. Public consultation on the Consultation Document would end on 31 July 2006.

2. Permanent Secretary for Home Affairs (PSHA) gave a power-point presentation on the background and scope of the review, as well as the key proposals in the Consultation Document.

Role and functions of DCs

3. Mr Ronny TONG said that the Administration had failed to define the role of DC members in the Consultation Document. Although Article 97 of the Basic Law (BL 97) stipulated that district organisations should not be organs of political power, it was his view that this only referred to an independent political entity, and not the political power of DC members. The Administration should devolve substantive power to DC members in the management of district affairs.

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4. Ms Emily LAU said that if the Administration intended to groom political talents, DC members should be allowed to participate in public administration in order to enhance their executive and administrative skills. She asked how this could be achieved under the package of proposals set out in the Consultation Document. She further asked whether local legislation would be amended in order to devolve more power to DCs.

5. SCA responded that BL 97 stipulated that district organisations were to be consulted by the Government on district administration and other affairs. BL 98 further provided that the powers and functions of district organisations and the method for their formation should be prescribed by law. The Consultation Document put forward proposals for DCs to play a more active role in the management of some district facilities within the constitutional framework of the Basic Law, the legal provisions in the District Council Ordinance and other relevant legislation governing the management of those facilities. As the proposals would have a considerable impact on departmental operations, the Administration considered it prudent to start on a pilot basis. Subject to the outcome of the pilot scheme, the Administration would finalise the proposals and review whether existing legislation was adequate to give effect to the proposals.

6. SCA further said that the package of proposals to enhance the role and functions of DC members was conducive to grooming political talents. One of the proposals was the setting up of a District Facilities Management Committee (DFMC) under each DC, which would provide opportunities for DC members to be actively involved in the management of some district facilities, to steer and oversee the work involved. DC members who joined DFMCs would gain valuable experience in district administration, as they would –

- (a) consider and endorse proposals relating to the operation, management and maintenance of district facilities;
- (b) initiate or endorse proposals on programmes and activities to be undertaken at the facilities; and
- (c) prioritise works projects to improve and upgrade existing facilities or to establish new facilities based on the resources available.

7. PSHA supplemented that DC members were familiar with the operation of district facilities and the need of local residents. The proposal would enable DC members to have greater involvement in the management of not only the “hardware” of the district facilities, but also the accompanying “software” for promoting the use of those facilities or making better use of the facilities to achieve wider social objectives.

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8. Mr Howard YOUNG asked about the differences between the proposed DFMC and other committees under each DC.

9. PSHA explained that the operation and composition of DFMCs were basically the same as those of other committees under DCs. DC members would be free to join the respective DFMCs and there was no limit on the membership. However, in the light of the establishment of DFMCs, DCs would be requested to consider the need to rationalise other committees under DCs.

10. Mr Albert HO said that the Administration had not transferred part of the functions and powers of the former municipal councils to DCs as it had promised. He was of the view that DCs should make policy decisions and should not be involved in the management of facilities. Mr HO further said that according to paragraph 2.6(b) of the Consultation Document, the concerned departments could follow the decisions of DCs on the management of district facilities as far as possible subject to, inter alia, the prevailing government policies on staff and resources management. He expressed concern whether DCs could make decision on matters which might have resource implications, such as extending the opening hours of district facilities.

11. Mr HO pointed out that the decisions of the former municipal councils were implemented by the government departments concerned, which were the executive arm of the two councils. He expressed concern whether the decisions of DCs on management of district facilities would be duly implemented by the concerned departments. He also expressed concern whether staff of the concerned departments would be confused about the line of reporting under the proposed arrangement, i.e. whether they were accountable to DCs or executive departments.

12. PSHA responded that the concerned departments could not depart from prevailing Government policies in discharging their duties. For instance, they had to follow the policies of the Government on procurement, fees and charges. Referring to the example of extending the opening hours of some district facilities, PSHA explained that if the DC concerned was convinced that a proposal should be implemented to meet the needs of the district, it was the duty of the concerned department to assess the financial implications of the proposal, and whether the additional resources required, if any, could be met by the department or the DC concerned etc.

13. Dr YEUNG Sum expressed regret that the Administration had not honoured the undertaking of the former SCA that part of the functions and powers of the former municipal councils would be transferred to DCs. In his view, DCs should have powers over financial management, staffing matters, and policy making. Any proposals voided of such powers would be meaningless.

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14. SCA disagreed that the Administration had not honoured its undertaking. In this connection, he quoted the speech of the former SCA delivered during the Second Reading debate on the Provision of Municipal Services (Reorganisation) Bill at the Council meeting on 2 December 1999 as follows –

“In the debate yesterday, some Members asked whether we would consider the possibility of enhancing the status and role of District Councils. I can only say that we do not rule out such a possibility. But I cannot say that the Government has arrived at any positive views in this respect, nor can I say that the Government has already drawn up any timetable. But here I can assure Members that we will continue to explore this issue as an ongoing concern. Members will understand that we will have to proceed stage by stage, and we have only just made a start. But how long will it take us to complete the work of this present stage? I cannot possibly give any definite answer to Members, but I do hope Members will understand that we do have to prioritize things when it comes to political development. In other words, we will need to attend to issues of greater importance. Having said all this, I must reiterate that we have never said that we are not going to look into this possibility. We will consider the idea at a later time.”

15. SCA further said that DCs’ involvement in the management of district facilities would be supported by an increased provision of DC funds to \$300 million per year for programmes and community involvement projects, and a proposed dedicated capital work vote for minor works with an annual provision of \$300 million. DCs were empowered to prioritise these projects and advise the concerned departments accordingly. The concerned departments were required to manage district facilities within the limits of their statutory powers and resources available. In line with the existing practice, the Administration would consult DCs on policies relating to district management. Staff management, however, would remain in the hands of the concerned departments.

Relationship between the Administration and DCs in the management of district facilities

16. Members noted that the Consultation Document proposed to involve DCs in the management of five types of district facilities, namely, libraries, community halls, leisure grounds, sports venues and swimming pools (including beaches). At present, these five types of district facilities were managed by the Home Affairs Department (HAD) in respect of community halls, and the Leisure and Cultural Services Department (LCSD) for the rest.

17. Mr Albert HO asked why civic centres were not among the list of district facilities for which DCs could assume management responsibility. SHA explained that leisure and cultural services could be district or territory-based. The scope of this DC empowerment exercise covered district-based facilities

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only. The Consultation Document proposed that all such facilities in the districts, except those planned and operated as regional or territory-wide facilities should be brought under DFMC's purview. District-based facilities included district libraries, swimming pools, parks, local open space, sitting-out areas, indoor sports centres and sports grounds. Territory-based facilities under LCSD's purview included the City Hall, the Central Library, museums and civic centres.

18. Miss CHOY So-yuk asked whether HAD and LCSD would continue to provide administrative support to DCs in the management of the district facilities. PSHA responded in the affirmative.

19. Ms Emily LAU said that at present, Heads of Departments (HoDs) had substantive power in district administration. She asked how differences in opinion between HoDs and DC members would be resolved. She also asked about the demarcation of duties among District Officers (DOs), HoDs, and DC members.

20. Mr Albert HO asked whether the Steering Committee on District Administration (SCDA), to be chaired by SHA or PSHA, was set up with a view to resolving disputes between DCs and executive departments.

21. Mr LAU Kong-wah said that any reform of DCs should aim at providing prompt response to the aspirations of the residents. He expressed concern whether SCDA, an additional tier of committee, would cause further delay in the provision of district facilities and services. He considered it to be useful for SCDA to provide a performance pledge on the lead time required for resolving a case referred to it. He said that in order to foster partnership with other organisations in the provision of various programmes for the local community, it might be necessary to give DOs more power to decide on financial matters. He further asked whether senior officers, other than DOs, would directly involve in controversial district issues.

22. SHA said that in future, the Administration would deal with district matters at three levels with a view to strengthening communication with DCs. On the first level, DOs, being the representative of Government at district level, would continue to chair the respective District Management Committees (DMCs). DMCs served as a forum for inter-departmental consultation on district matters and for co-ordinating the provision of public services and facilities to ensure timely response to district needs. At present, issues that could not be resolved by DMCs were followed up by HAD with departments concerned at the senior directorate level. In future, these issues would be referred to the second level, SCDA. SCDA, to be chaired by SHA or PSHA and attended by the relevant HoDs, served as a forum for top management in various departments to exchange views on issues of mutual concern and resolve inter-departmental district management issues, as well as to formulate strategies and provide a steer to DOs and DMCs on enhancing district work. It could also

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be asked to look into cases where DCs/DFMCs were not satisfied with the relevant department's response in respect of the management of district facilities. If there were any significant issues that could not be resolved by SCDA, SHA/PSHA would escalate the matter to the highest level, the Policy Committee, which was co-chaired by the Chief Secretary for Administration and the Financial Secretary.

23. SHA further said that in future, HoDs who had direct interface with the public would be required to attend one DC meeting every two to three months in order to ensure that they had a better feel of the sentiments of DC members on issues within their purview. In addition, it was proposed that CE should host an annual District Administration Summit to enhance communication between the Administration and DCs at the most senior level. As regards enhancement on district partnership, SHA said that with the proposed increase in DC funds for community involvement projects and the greater involvement of DCs in the management of district facilities, DCs were encouraged to proactively reach out to other organisations and sectors to take forward joint projects to address district needs.

24. Mr Ronny TONG said that DC members often felt frustrated about their work, as the Administration did not attach much importance to their views. He considered that a culture should be developed within the Government so that the views of DC members would be respected and taken seriously. Otherwise, political talents would be discouraged from participating in the work of DCs.

25. PSHA said that the Administration would enhance communication with DCs. Some HoDs had already responded positively to the suggestion for them to attend DC meetings. In addition, the Chief Secretary for Administration would write to remind principal officials, permanent secretaries and HoDs that they should respect the views of DC members.

26. SCA said that the proposals put forth in the Consultation Document were aimed at implementing the policy set out in the Chief Executive's Policy Address 2005-06 to enhance the role and functions of DC members, as well as providing a system for incorporation of DCs' views relating to district management.

Funding provision for DCs

Environmental improvement and community involvement projects

27. Noting that the DC funds earmarked for programmes and activities for environmental improvement and community involvement projects for 2006-07 was \$173.5 million and was proposed to be increased to \$300 million to cover activities and projects in leisure and sports facilities, Mr Howard YOUNG asked how the provision would be distributed among the 18 DCs.

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28. PSHA said that at present, each DC was allocated funds to carry out community involvement and minor environmental improvement projects, having regard to the characteristics and needs of the district. A small portion of the funds was centrally kept by HAD as a reserve e.g. for carrying activities such as the Clean Hong Kong campaign. PSHA added that there were different ways to allocate the \$300 million. For instance, an allocation could be made on the basis of objective criteria such as the population size, district size, number of district facilities in a district, or a portion of the funds could be allocated to individual DCs for projects of a smaller scale and the remaining portion to be kept centrally in HAD for projects of a larger scale, say costing over \$5 million. All these options could be explored and the Administration was prepared to listen to the views of DC members on how the \$300 million should be allocated.

District minor works

29. Mr Patrick LAU pointed out that each district had its own characteristics and asked whether DCs would be given the power to plan and design minor works projects within their respective districts.

30. Miss CHOY So-yuk asked whether DCs could have financial autonomy under the proposed arrangement in initiating minor works projects which had been demanded by the districts for a long time.

31. SHA and PSHA responded as follows –

- (a) it remained the function of LegCo to approve district-based works projects costing more than \$15 million. In accordance with the established practice, papers prepared by the Administration for the Public Works Subcommittee and the Finance Committee would include a paragraph setting out the position of the DC concerned on the proposed works projects; and
- (b) at present, DCs had autonomy over minor environmental improvement projects costing \$600,000 or less. In future, it was proposed that DCs could initiate and prioritise proposed works projects costing up to \$15 million, to be funded from a dedicated capital works block vote. The concerned departments would be responsible for implementing these projects. As regards whether DCs could be involved in the design and execution of such works, the Administration was open-minded and would welcome DC members' involvement. However, consultation so far indicated that there were divided views among DC members.

32. Mr LAU Kong-wah expressed concern about the adequacy of, and the basis for arriving at, the proposed annual provision of \$300 million for the

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dedicated capital works block vote. He requested the Administration to provide a breakdown of the existing outstanding minor works projects in each district and the capital costs involved. SHA undertook to provide a response in writing.

(Post-meeting note: The Administration's response was issued to members vide LC Paper No. CB(2)2009/05-06(01) on 13 May 2006.)

33. Ir Dr Raymond HO raised two points. He said that there were 169 outstanding projects of the former municipal councils. According to press reports, the total costs of these projects were about \$20 billion. In his view, the annual provision of \$300 million for the implementation of district projects was insufficient. Mr HO further said that at present, minor works projects were undertaken by works departments or contractors entrusted by HAD. With the enhanced role of DCs in initiating and implementing minor works projects in the districts, he expressed concern whether individual DCs would be provided with adequate technical and professional support for the design, tender and supervision of the projects.

34. PSHA clarified that the 169 outstanding leisure and cultural services projects referred to by Mr HO were of a much larger scale and were different from the minor works projects for which an annual allocation of \$300 million would be provided. She said that under the existing arrangement, minor works projects initiated and carried out by DCs faced the problem of the lack of professional departmental support and/or resources to cater for their subsequent management or maintenance. Under the proposed arrangement, the respective departments, namely HAD and LSCD would be responsible for the management and maintenance of these projects, and additional funds would be included in the departments' operational expenses for this purpose. SHA added that since the proposals were to be implemented first in several districts on a pilot basis, the Administration could review the adequacy of the provision in due course.

35. On the latter point raised by him, Ir Dr HO requested and the Administration undertook to provide a written response to explain the proposed new arrangements.

(Post-meeting note: The Administration's response was issued to members vide LC Paper No. CB(2)2009/05-06(01) on 13 May 2006.)

Composition of DCs – appointed and ex-officio seats

36. Mr Ronny TONG, Ms Emily LAU and Dr YEUNG Sum said that appointed and ex-officio membership of DCs should be abolished. They asked whether the appointed and ex-officio membership of DCs was one of the issues under review in the current consultation exercise. SCA said that the Administration would continue to listen to views from the public on the composition of DCs.

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II. Any other business

37. Ms Emily LAU suggested and members agreed that the review of DCs should be further discussed at the next regular meeting of the Panel to be held on 15 May 2006.

38. The meeting ended at 10:40 am.

Council Business Division 2
Legislative Council Secretariat
9 June 2006