

立法會
Legislative Council

LC Paper No. CB(1)626/10-11
(These minutes have been seen
by the Administration)

Ref : CB1/SS/9/09

**Subcommittee on Country Parks (Designation)
(Consolidation) (Amendment) Order 2010**

**Minutes of the seventh meeting held on
Thursday, 7 October 2010, at 4:30 pm
in Conference Room A of the Legislative Council Building**

Members present : Hon Tanya CHAN (Chairman)
Hon Miriam LAU Kin-yee, GBS, JP
Hon Emily LAU Wai-hing, JP
Hon KAM Nai-wai, MH
Hon Cyd HO Sau-lan
Hon CHAN Hak-kan
Hon IP Wai-ming, MH
Hon Albert CHAN Wai-yip

Members attending: Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP
Hon Ronny TONG Ka-wah, SC
Hon Audrey EU Yuet-mee, SC, JP

Member absent : Hon WONG Yung-kan, SBS, JP

Public Officers attending : Agenda item I
Mr Edward YAU, JP
Secretary for the Environment

Mr Joseph SHAM Chun-hung
Assistant Director of Agriculture
Fisheries and Conservation

Dr Ellen CHAN Ying-lung
Assistant Director of Environmental Protection
Mr Vincent TANG Chi-leung
Assistant Director of Environmental Protection

Mr James O'NEIL
Deputy Solicitor General
Department of Justice

Clerk in attendance: Ms Debbie YAU
Chief Council Secretary (1)6

Staff in attendance : Mrs Constance LI
Assistant Secretary General 1

Mr Arthur CHEUNG
Senior Assistant Legal Adviser 2

Mr KAU Kin-wah
Assistant Legal Adviser 6

Ms Diana WONG
Senior Council Secretary (1)8

Mr Franco KWONG
Council Secretary (1)1

Action

I Meeting with the Administration

(LC CB(1)2997/09-10(01)	Paper	No. -- Administration's comments on the proposed resolution to be moved by the Subcommittee Chairman to repeal the Amendment Order
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LC CB(1)2997/09-10(02)	Paper	No. -- Proposed resolution to be moved by the Secretary for the Environment to amend the commencement date of the
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Amendment Order and his
draft speech

The Subcommittee deliberated (Index of proceedings attached at **Appendix**).

2. The Subcommittee noted that the Administration gave notice just before the deadline (12 midnight on 6 October 2010) to move a motion to amend the commencement date of the Amendment Order by deferring it for 14 months from 1 November 2010 to 1 January 2012. Members were gravely concerned that should the Administration's motion be passed, it would be extremely difficult if not impossible for the Legislative Council to disallow the landfill extension project to proceed if the Administration's odour control measures turned out to be not effective to address the odour problem.

3. In response to Members' concerns, the Secretary for the Environment undertook that the Administration would not submit the funding proposal for the landfill extension project to the Finance Committee during the 14-month period, and that the Administration would report to the Panel on Environmental Affairs the latest progress with regard to the operation of the South East New Territories Landfill.

4. After exchanging views further on the matter, the Subcommittee reaffirmed its decision to proceed with the motion to repeal the Amendment Order.

II Any other business

5. There being no other business, the meeting ended at 6:30 pm.

**Proceedings of the seventh meeting of
the Subcommittee on Country Parks (Designation) (Consolidation) (Amendment) Order 2010
on Thursday, 7 October 2010, at 4:30 pm
in Conference Room A of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action required
000200 – 000446	Chairman	The Chairman's introductory remarks	
000447 – 001450	Administration Chairman Clerk	<p>The Administration briefed the Subcommittee on its comments (CB(1)2997/09-10(01)) on the proposed resolution to be moved by the Subcommittee Chairman to repeal the Amendment Order, and the Administration's proposed resolution to be moved by the Secretary for the Environment (SEN) (CB(1)2997/09-10 (02)). SEN further explained that the deferral would allow the Administration more time to demonstrate the effectiveness of measures introduced to minimize the odour problem arising from the operation of the South East New Territories (SENT) Landfill.</p> <p>Discussion on communication between the Subcommittee and the Administration when the latter gave notice of moving the proposed resolution.</p>	
001451 – 001551	Chairman Mr CHAN Hak-kan Assistant Legal Adviser (ALA)	In response to Mr CHAN Hak-kan's enquiry, ALA advised that he had no comment on the Administration's comments (LC Paper No. CB(1)2997/09-10(01)) at this stage because he was only able to read it shortly before the meeting.	
001552 – 002240	Chairman Mr Ronny TONG Administration	<p>Mr Ronny TONG was concerned whether the Administration had drawn up a concrete plan to identify the odour source and abate the persistent odour problem in Tseung Kwan O (TKO) within the coming 14 months, and whether the proposed extension of the SENT Landfill would proceed after the 14-month period even the odour problem remained unresolved.</p> <p>The Administration advised that the SENT Landfill extension was part of the comprehensive waste management strategy for the territory. During the 14-month period, the Administration would strive to compress its preparatory work before commencing the formation works for the extension project. Meanwhile, the Administration would continue to maintain close communication with local residents, members of the Sai Kung District Council (SKDC) as well as Legislative Council (LegCo) Members to devise additional measures to address the odour problem in TKO.</p>	
002241 – 003000	Ms Miriam LAU Administration	Ms Miriam LAU appreciated that the Administration would closely liaise with the local residents in future. She noted that residents of LOHAS Park maintained their objection to the proposed landfill extension even after the Administration proposed to defer the commencement date of the Amendment Order because they did not believe that the odour problem, which had existed for some ten years, could be resolved within 14 months. Ms LAU was concerned about the power of	

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		<p>LegCo in disallowing the extension project to proceed should the odour abatement measures turned out to be not effective to address the odour problem.</p> <p>SEN remarked that the 14 months would provide room for additional odour control measures to take effect. He undertook that the Administration would not submit the funding proposal for the landfill extension project to the Finance Committee (FC) for consideration during the 14-month period. SEN also stressed that the landfill extension project was not only a local issue, but also a territory-wide issue concerning waste management.</p>	
003001 – 004018	Chairman Ms Emily LAU Administration	<p>Ms Emily LAU expressed dissatisfaction that the Administration still held the view that LegCo did not have power to repeal the Amendment Order. She was gravely concerned whether mechanism could be built in the Administration's proposed amendment through which LegCo could decide whether the extension project could proceed based on the effectiveness of the odour control measures in TKO.</p> <p>SEN advised that it had moved the proposed resolution after taking into account the views of members and the relevant legal framework. Before submitting the funding proposal for the landfill extension project to FC, the Administration could brief the Panel on Environmental Affairs (the EA Panel) on the operation of the SENT Landfill periodically at its regular meetings.</p> <p>Ms Emily LAU remarked that Members belonging to the Democratic Party would discuss the Administration's comments (CB(1)2997/09-10(01)) in details before taking a position.</p>	
004019 – 005250	Chairman Ms Cyd HO Clerk Administration Mr Ronny TONG	<p>Ms Cyd HO considered that repealing the Amendment Order by the Chief Executive (CE) was a better option to avoid invoking a constitutional crisis. Moreover, the Administration could re-introduce the Order sooner, say, after six months when the recently proposed odour control measures had proven to be effective. Otherwise, the Subcommittee should maintain its decision to proceed with the motion to repeal the Amendment Order.</p> <p>The Clerk advised on the voting order should the President allow both motions to proceed.</p> <p>The Administration clarified its position and legal considerations set out in its submission to the President (LC Paper No. CB(1)2997/09-10(01)) on the Subcommittee's proposed resolution to repeal the Amendment Order.</p>	
005251 – 005959	Chairman Mr KAM Nai-wai Clerk ALA Administration	<p>Mr KAM Nai-wai criticized the Administration's under-performance in formulating a comprehensive strategy for management of municipal solid waste and implementing the related initiatives.</p>	

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		<p>SEN highlighted the strenuous efforts the Administration had made to reduce the reliance on landfills, which had been reflected at the relevant motion debates of LegCo during the past few years. He called on Members' support for the Administration's initiatives under "the Policy Framework for the Management of Municipal Solid Waste (2005-2014)".</p> <p>The Clerk advised that according to her understanding, if the President had ruled that the Subcommittee's proposed resolution would be moved first and was agreed to at the Council meeting on 13 October 2010, SEN could not move his proposed resolution.</p> <p>ALA advised that should the Subcommittee decide not to proceed with the proposed repeal resolution which was made on 4 October 2010 and reaffirmed on 6 October 2010, the Subcommittee Chairman might withdraw the motion anytime before it was being dealt with at the Council meeting on 13 October 2010.</p>	
010000 – 010952	Chairman Mr IP Wai-ming Administration	<p>Mr IP Wai-ming urged the Administration to withdraw the Amendment Order and to provide a timetable for closing down the SENT Landfill.</p> <p>ALA advised that in the event that the Administration's proposed resolution for the Amendment Order to commence on 1 January 2012 was passed, Members had no legal obligation to approve funding for the landfill extension project.</p> <p>In reply to Mr IP's further enquiries, SEN outlined the waste management initiatives that had been implemented and would be undertaken by the Administration to reduce reliance on landfills, such as recycling facilities, incinerator facilities, organic waste treatment facilities and sludge treatment facility.</p>	
010953 – 011548	Chairman Mr CHAN Hak-kan Administration	<p>Mr CHAN Hak-kan expressed concern that since the sludge treatment facility would only be in operation in 2013, the 14 months deferment of the Amendment Order to 1 January 2012 would not solve the odour problem.</p> <p>The Administration assured members that upon the commissioning of the sludge treatment facility, sludge would no longer be sent to the landfills. In addition, the Administration had no objection to the establishment of a multi-partisan committee to monitor the Government's work on waste management.</p>	
011549 – 012200	Chairman Administration	<p>The Chairman expressed grave concern that as the Administration had temporarily "borrowed" 18.5 hectares of land from the Clear Water Bay Country Park (CWBCP) for landfill use in 1993, it should not attempt to excise further land from CWBCP again for landfill use before returning the "borrowed" land.</p> <p>SEN responded that the part of the landfill which was secured from country park could be restored and reverted back to country park use. The Chairman remarked that green belt</p>	

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		areas or open space could hardly be regarded as country parks.	
012201 – 012828	Chairman Mr Albert CHAN ALA	<p>Mr Albert CHAN expressed grave concern about the Administration's interpretation of the power of LegCo in repealing the Amendment Order, and urged the Subcommittee to stand firm in its decision.</p> <p>In response to his enquiry, ALA advised that the deadline in normal case for giving notice to move motion to amend had already passed but the President might in his discretion specify a time limit for giving notice of motion to amend.</p>	
012829 – 013446	Chairman Mr Ronny TONG ALA	<p>Mr Ronny TONG expressed his view on the interpretation of section 34(2) of Cap. 1 and section 15 of Cap. 208, which should be understood in context, and urged the Subcommittee to move the repeal resolution at the Council meeting on 13 October 2010.</p> <p>Mr TONG enquired whether the Chairman or Members could amend the Administration's proposed resolution such that Members could disallow the implementation of the Amendment Order if the Government's odour control measures turned out to be not effective.</p> <p>ALA advised that consideration could be given to amend the commencement date to be a day to be appointed by a government official by notice published in the Gazette. Such notice would then be subject to negative vetting.</p>	
013447 – 014055	Chairman Ms Emily LAU Administration	Ms Emily LAU highlighted that compensation arrangement she had previously requested referred to district betterment facilities such as swimming pool and library, instead of simply restoring a landfill to a green belt. She welcomed the establishment of a multi-partisan committee to monitor the waste management work.	
014056 – 014533	Chairman Mr IP Wai-ming ALA Administration	<p>Noting the Administration's response that the timing of closing the SENT Landfill would depend on the volume of refuse requiring landfill disposal and the progress of commissioning waste treatment facilities, Mr IP Wai-ming considered it unacceptable for SENT Landfill to operate indefinitely.</p> <p>In reply to Mr IP's enquiry, ALA advised that the Rules of Procedure had not prescribed a deadline by which the President should give his ruling. Nevertheless, it was customary for the President to give such ruling at a reasonable time prior to the Council meeting on 13 October 2010 to facilitate Members' preparation for the motion debates.</p>	
014534 – 014915	Chairman Mr Albert CHAN	Mr Albert CHAN urged the Subcommittee to stand firm in its decision to repeal the Amendment Order and did not support the proposal for the Subcommittee to move amendment to the Administration's proposed resolution since there was lack of discussion among members and consultation with TKO residents.	

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014916 – 015307	Chairman Ms Cyd HO Administration	Ms Cyd HO requested to put on record that when CPO was enacted in 1976, the then LegCo was mostly comprised appointed members and vetting of the Ordinance was brief. Ms HO further pointed out that LegCo, not the Administration, was the only authority to enact law.	
015308 – 020214	Chairman ALA Mr Albert CHAN Ms Emily LAU Mr IP Wai-ming Ms Cyd HO	Discussion on the proposal for the Subcommittee to amend the Administration's proposed resolution, and the order of voting.	