

立法會
Legislative Council

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LC Paper No. CB(2)1947/18-19

(These minutes have been
seen by the Administration)

Panel on Home Affairs

**Minutes of meeting
held on Monday, 29 April 2019, at 8:30 am
in Conference Room 3 of the Legislative Council Complex**

Members present : Hon KWOK Wai-keung, JP (Chairman)
Hon AU Nok-hin (Deputy Chairman)
Hon Claudia MO
Hon Steven HO Chun-yin, BBS
Hon YIU Si-wing, BBS
Hon MA Fung-kwok, SBS, JP
Hon CHAN Chi-chuen
Hon LEUNG Che-cheung, SBS, MH, JP
Hon Christopher CHEUNG Wah-fung, SBS, JP
Dr Hon Fernando CHEUNG Chiu-hung
Hon IP Kin-yuen
Hon Andrew WAN Siu-kin
Hon CHU Hoi-dick
Hon Jimmy NG Wing-ka, JP
Dr Hon Junius HO Kwan-yiu, JP
Hon Holden CHOW Ho-ding
Hon SHIU Ka-fai
Hon Wilson OR Chong-shing, MH
Hon YUNG Hoi-yan
Dr Hon Pierre CHAN
Hon HUI Chi-fung
Hon LUK Chung-hung, JP
Hon LAU Kwok-fan, MH
Hon Kenneth LAU Ip-keung, BBS, MH, JP
Hon KWONG Chun-yu
Hon Vincent CHENG Wing-shun, MH
Hon Tony TSE Wai-chuen, BBS

Member attending : Hon Michael TIEN Puk-sun, BBS, JP

Members : Hon SHIU Ka-chun
absent Hon Tanya CHAN

Public Officers : Item III
attending

Mr LAU Kong-wah, JP
Secretary for Home Affairs

Ms Sandy CHEUNG Pui-shan
Principal Assistant Secretary for Home Affairs
(Culture) 2

Miss Rochelle LAU Shuk-fan
Assistant Director (Libraries and Development)
Leisure and Cultural Services Department

Mr Michael CHIU Yat-on
Chief Executive Officer (Planning)1
Leisure and Cultural Services Department

Miss Sharon CHAU Po-chu
Senior Librarian (Planning and Development)
Leisure and Cultural Services Department

Mr TAN Tick-yee
Assistant Director (Elderly)
Social Welfare Department

Mr Chris LIU Chi-ho
Acting Project Director 3
Architectural Services Department

Mr Gary WONG Shek-wah
Senior Project Manager 325
Architectural Services Department

Item IV

Mr LAU Kong-wah, JP
Secretary for Home Affairs

Ms Michelle LI Mei-sheung, JP
Director of Leisure and Cultural Services

Mrs Doris FOK LEE Sheung-ling
Assistant Director (Leisure Services)1
Leisure and Cultural Services Department

Clerk in attendance : Ms Joanne MAK
Chief Council Secretary (2) 3

Staff in attendance : Miss Connie AU
Senior Council Secretary (2) 6

Ms Meisy KWOK
Legislative Assistant (2) 6

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I. Information paper(s) issued since the last meeting

[LC Paper Nos. CB(2)1266/18-19(01) and CB(2)1309/18-19(01)]

Members noted that the following papers had been issued after the last meeting:

- (a) Progress report on Kai Tak Sports Park provided by the Administration; and
- (b) Administration's response to Hon Tanya CHAN's letter dated 12 March 2019.

II. Items for discussion at the next meeting

[LC Paper Nos. CB(2)1269/18-19(01) and (02)]

2. The Panel agreed to discuss the following items proposed by the Administration at the next regular meeting on 27 May 2019 at 8:30 am:

- (a) the Community Care Fund; and
- (b) promotion of sports development in Hong Kong.

3. In response to members' enquiries, the Secretary for Home Affairs ("SHA") said that the Administration would stand ready to answer questions relating to the Kai Tak Sports Park under the item on "Promotion of sports development in Hong Kong" at the next meeting. The Chairman suggested and members agreed that Mr LUK Chung-hung's suggestion of holding a meeting to receive public views on the development of football in Hong Kong could be further considered under the aforesaid item at the next meeting.

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III. District library and residential care home for the elderly in the Joint User Complex at Lei King Road

[LC Paper No. CB(2)1269/18-19(03)]

4. At the invitation of the Chairman, SHA briefed members on the salient points of the Administration's paper [LC Paper No. CB(2)1269/18-19(03)].

[Post-meeting note: a submission from Mr MAK Tak-ching, Eastern District Council ("DC") member, was tabled at the meeting and issued to members after the meeting (LC Paper No. CB(2)1319/18-19(01)).]

Discussion

Optimizing land use

5. Mr LAU Kwok-fan, Mr Wilson OR and Mr LEUNG Che-cheung expressed support for the proposed project. Considering that the proposed residential care home for the elderly ("RCHE") which could only provide 200 places was far from adequate, Mr LUK Chung-hung suggested that the Administration should consider increasing the plot ratio of the site so that additional floors could be built to provide more places. Mr LUK asked whether the carpark in the proposed joint user complex would be opened for public use and whether the carpark could be provided in the basement. SHA responded that the Administration had increased the number of residential care ("RC") places in the proposed RCHE from 100 to 200 in response to the views received from the Eastern DC. SHA explained that the proposed project was long-awaited by residents of the Eastern District, and subject to the approval of the Public Works Subcommittee ("PWSC") and the Finance Committee, the Administration planned to commence construction works by end 2019 for completion by end 2022. SHA said that the Administration did not consider it appropriate to introduce any structural changes to the proposed project at the present stage to avoid delaying the implementation. SHA added that the carpark in the proposed project was not open to the public.

6. The Chairman said that the Administration should endeavour to explore all possible means to increase the provision of car parking spaces and optimize land use in the long run. Sharing a similar view, Mr Tony TSE said that the Administration should give due consideration to the construction of basement floor(s) in future projects. SHA responded that the Administration had all along striven to optimize the use of limited land resources. With regard to the provision of public carparks in government

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properties, SHA said that it would be considered on a case-by-case basis having regard to local circumstances.

Admin 7. Noting that the site on which the proposed joint user complex would be built was currently used as a temporary carpark, the Deputy Chairman asked whether the Administration had assessed the impact on nearby traffic brought by the closure of the temporary carpark. He also sought information on the layout of the carpark in the proposed joint user complex and the parking space arrangement. SHA responded that the Administration would provide the requisite information when the proposed project was submitted to PWSC for consideration.

The proposed district library

8. Mr LUK Chung-hung, Mr Tony TSE and Mr IP Kin-yuen were of the view that new elements and design should be injected into the proposed district library to attract people of different age groups to use the library facilities and to promote the culture of reading. Mr TSE suggested that a more diversified range of library materials should be provided in the proposed district library to meet the pluralistic needs of users. The Deputy Chairman enquired about the opening hours of the proposed district library.

9. The Assistant Director (Libraries and Development) of the Leisure and Cultural Services Department responded that the proposed district library would introduce new spatial design and facilities like a family reading corner, a leisure reading area as well as a computer and information centre to facilitate self-learning of users and to promote the culture of reading. Besides, Radio Frequency Identification-enabled equipment (such as self-service reservation pick-up lockers/dispensers and self-charging terminals for borrowing and returning library materials) would be installed to provide round-the-clock services to users. SHA said that a library corner was planned to be set up on the ground floor to provide book loan/return service outside the normal library opening hours. With regard to the scope of library collection, SHA said that different levels of libraries would provide library materials appropriate to their respective purposes and clienteles, taking into account the specific needs of the local community.

10. Mr LEUNG Che-cheung and Mr Wilson OR said that the standard prescribed in the Hong Kong Planning Standards and Guidelines ("HKPSG") concerning the provision of district library (i.e. one district library for every 200 000 population) should be reviewed to address the needs of the public. Mr LEUNG was of the view that a major library,

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which provided comprehensive library facilities and services, could better serve the community. SHA said that members' views would be taken into consideration as and when HKPSG was next reviewed. In response to Mr Tony TSE's enquiry, SHA said that the Administration had no plan to close any public libraries in the Eastern District upon commissioning of the proposed district library.

The proposed RCHE

11. Mr KWONG Chun-yu enquired about the type of RC places to be provided in the proposed RCHE. The Deputy Chairman expressed concern about the area per resident and the facilities to be provided in the proposed RCHE. The Assistant Director (Elderly) of the Social Welfare Department ("AD(Elderly)/SWD") responded that according to the current plan, the proposed RCHE was a contract home and an operator would be selected for its operation through open tendering. AD(Elderly)/SWD said that a 6:4 ratio of subsidized to non-subsidized RC places would be adopted (i.e. 120 subsidized RC places and 80 non-subsidized RC places). Among the 120 subsidized RC places, around 108 would be nursing home places and 12 would be care and attention places. AD(Elderly)/SWD further said that the Administration might, where appropriate, adjust the ratio and type of RC places according to circumstances. The net operating floor area of the proposed RCHE was about 2 058 m² and the area of floor space per resident would comply with the requirement stipulated in the Residential Care Homes (Elderly Persons) Regulation (Cap. 459A). AD(Elderly)/SWD added that bare shell premises would be constructed for the proposed RCHE whereas the operator would be responsible for the internal fitting-out works as well as purchase of furniture and equipment which would be funded by the Lotteries Fund.

12. Noting that 40 434 elderly applicants were on the wait list for various types of subsidized RC services as at end-February 2019 and the average waiting time in the past three months ranged from 23 to 25 months, Mr YIU Si-wing asked about the measures to be taken to shorten the waiting time in the long run. He suggested that the Administration should set-up one to two RCHEs in each of the 18 districts to meet service demands. AD(Elderly)/SWD responded that besides the proposed RCHE, there were some 30 other RCHE projects (as at the beginning of 2019) coming on stream in various districts to provide more than 5 000 RC places in total upon completion. Separately, the Administration would purchase additional 5 000 EA1 places under the Enhanced Bought Place Scheme in the next five years to increase the supply of subsidized RC places for the

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elderly. The Administration hoped that the waiting time of subsidized RC places could be improved through implementation of the abovementioned measures.

13. Dr Fernando CHEUNG and Mr IP Kin-yuen considered that given the aging problem, more and more elderly couples would require long-term care services. They requested the Administration to consider providing subsidized RC places specifically for elderly doubletons. Dr CHEUNG said that there were as many as 150 000 elderly couples in Hong Kong and the number was on the rise. AD(Elderly)/SWD responded that to apply for subsidized long-term care services, an elderly person would have to undergo a standardized care need assessment to ascertain their needs. As elders assessed to be eligible for RC services could make their own choice regarding the location of the RCHE, elderly couples could choose the same RCHE if they wanted.

Progress of district facility projects

14. The Deputy Chairman said that in the 2018-2019 Budget, \$8 billion was set aside for the implementation of proposals on district facilities in 18 districts. He enquired about the implementation progress of those projects. SHA responded that the proposed project under discussion and the Community Hall-cum-Home Affairs Enquiry Centre in Cheung Chau discussed at the last meeting were two of such projects and the rest would be implemented as early as possible.

15. After discussion, the Chairman concluded that members raised no objection to the submission of the proposed project to PWSC for consideration.

IV. Use and management of public open space managed by the Leisure and Cultural Services Department
[LC Paper Nos. CB(2)1269/18-19(04) and (05)]

16. At the invitation of the Chairman, SHA briefed members on the salient points of the Administration's paper [LC Paper No. CB(2)1269/18-19(04)].

Discussion

Proposed legislative amendment to step up control of noise nuisance in parks

17. Members in general expressed support for the Administration's proposal to amend section 25 of the Pleasure Grounds Regulation

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(Cap. 132BC) ("the Regulation") with a view to addressing public demand for proper and effective control of noise nuisance caused by singing groups in public pleasure grounds ("PPGs") managed by the Leisure and Cultural Services Department ("LCSD"). However, some members including Mr LAU Kwok-fan, Mr YIU Si-wing, Mr CHAN Chi-chuen, Mr Michael TIEN, Ms Claudia MO and Mr Vincent CHENG were of the view that the maximum penalty for breach of section 25 of the Regulation, currently pitched at a fine at level 1 (\$2,000) and an imprisonment for 14 days, lacked sufficient deterrent effect. They pointed out that the tipping from members of the public (e.g. in the form of "lai see") to the performers might have by far exceeded the penalty level. They considered that the Administration should address the issue of giving tips to performers. Mr LAU Kwok-fan and Mr Vincent CHENG suggested that higher penalties should be imposed on repeated offenders. Mr Michael TIEN suggested raising the penalty to level 2 on first conviction, and to level 3 on second and subsequent convictions. Ms Claudia MO and Mr YIU Si-wing suggested raising the penalty level to \$10,000 to align with that under sections 4 and 5 of the Noise Control Ordinance (Cap. 400) ("NCO") which provided control over noise from domestic premises and public place.

18. The Director of Leisure and Cultural Services ("DLCS") responded that the same penalty level (i.e. a fine at level 1 and imprisonment for 14 days) was prescribed for contravention of various provisions of the Regulation. Nevertheless, the Administration was open-minded to the suggestion of increasing the penalty level for contravention of section 25 of the Regulation and would take into account the views of relevant government departments and the public, and seek legal advice in considering the way forward. DLCS said that while begging and sale of goods were not allowed in PPGs, members of the public were not prohibited from tipping others in the form of "lai see" in PPGs under the Regulation or other existing legislation. That said, DLCS undertook that LCSD would continue to look into the issue.

19. Mr KWONG Chun-Yu, Mr LUK Chung-hung and Mr Vincent CHENG expressed concern that the proposed new arrangement whereby LCSD venue staff and any other persons (including nearby residents) who were annoyed by the noise could act as prosecution witnesses might create pressure on the staff as they had to institute prosecutions against persons in violation of section 25 of the Regulation and to act as prosecution witness. Mr KWONG was also concerned if LCSD had sufficient manpower to undertake the enforcement work.

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20. DLCS explained that at present, if enforcement action was taken by LCSD under section 25 of the Regulation, it had to be established that a "venue user" had been annoyed, and the venue user had to be willing and able to serve as a prosecution witness. Otherwise, LCSD could not take enforcement action solely based on the staff's observations or complaints received. The proposed legislative amendment was intended to make prosecution more effective. DLCS said that LCSD would strengthen staff training to equip them with the necessary skills and knowledge to undertake the prosecution works. In addition, LCSD would continue to strengthen the relevant guidelines provided to its staff for monitoring and regulating noise nuisance caused by activities at outdoor leisure venues. DLCS further said that only authorized officers of LCSD would take enforcement action in PPGs under the Regulation. Staff hired by outsourced contractors (such as venue security staff) would only assist in duties like maintaining the order and reminding venue users to be mindful of the sound volume when the sound level was too high. DLCS added that additional staff would be deployed in PPGs where necessary to ensure effective enforcement.

21. Members expressed concern about the criteria adopted by LCSD in determining whether a performing group had caused noise nuisance in PPGs. Mr Michael TIEN suggested that in addition to the noise level, the pitch should be taken into consideration when setting the criteria. DLCS said that objective criteria would be adopted as far as possible (e.g. sound measuring devices were used to measure and monitor the noise level generated from activities) in determining whether a performing group had caused noise nuisance in a PPG and reference would be made to the relevant stipulations in NCO. In response to Mr LUK Chung-hung's enquiry, DLCS said that the relevant prosecution threshold would not be changed after amendment of section 25 of the Regulation.

22. Mr Michael TIEN was concerned in what way the venue staff could ascertain the target of prosecution from amongst a singing group (including singers, musicians and helpers etc.). Ms Claudia MO suggested that if a responsible person could not be identified, all persons who had participated in the performing activities concerned should be prosecuted. DLCS responded that generally speaking, the person(s) who had caused the noise nuisance would be prosecuted. LCSD would, depending on the actual circumstances, collect evidence as far as possible, including photos, video and closed-circuit television footage taken on the spot, for ascertaining the prosecution target and for instigating prosecution.

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23. Mr Vincent CHENG and Mr HUI Chi-fung requested LCSD to step up measures to tackle the serious noise nuisance problem in Hoi Sham Park and area in the vicinity of the Central Pier respectively. Mr CHENG suggested imposing restriction on the size of the sound amplification devices brought into PPGs. Mr LAU Kwok-fan suggested that LCSD should exercise the power under section 32 of the Regulation to remove persons who had contravened the provisions of the Regulation from the venues concerned. He also suggested that the Administration should consider prohibiting repeated offenders from entering the PPGs concerned. Mr CHAN Chi-chuen asked whether noise control measures would be imposed on large-scale entertainment activities in PPGs.

24. DLCS said that LCSD strived to strike a balance between the competing demands of different users of PPGs with diverse interests. Users of PPGs would usually be allowed to enjoy the public open space in the way they liked (including the playing of musical instruments) so long as their activities would not cause nuisance to others. DLCS further said that LCSD adopted a multi-pronged approach in addressing the noise nuisance problem in PPGs. In PPGs like the Hoi Sham Park and the Tuen Mun Park where the noise nuisance problem was prevalent, LCSD might consider deploying staff with experience and/or with disciplinary service background to assist in the enforcement work. DLCS said that the suggestions of removing offenders of the Regulation from PPGs or prohibiting repeated offenders from entering PPGs had to be considered carefully as it might lead to unnecessary confrontation between LCSD venue staff and performers or other persons concerned. LCSD would seek legal advice in this regard where appropriate. Regarding the holding of large-scale entertainment activities in PPGs, DLCS said that organizers had to comply with the prescribed conditions for hiring and the noise control guidelines.

Designation of PPGs

25. DLCS said that it had recently come to the notice of LCSD that there were differences in the wording of the English language text and the Chinese language text of the definition of "PPG" under the Public Health and Municipal Services Ordinance (Cap. 132) which might give rise to ambiguities as to whether or not a plan must be deposited in the Land Registry ("LR") for the venue to be a PPG. To err on the side of caution, LCSD considered it prudent to temporarily suspend law enforcement in the venues concerned to avoid doubt until the plans for respective PPGs were deposited. DLCS further said that LCSD was working closely with the Lands Department (the Authority to prepare the plans of PPGs) and LR to

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speed up the deposit of plans. It was anticipated that the vast majority of the outstanding plans would be deposited in LR by June 2019 and the list of venues which had not completed the plan deposit procedure was being updated. The Deputy Chairman asked which PPGs had not completed the procedure for depositing the plan in LR in accordance with Cap. 132. DLCS said that to avoid causing confusion to the public or affecting the operation of the venues concerned, LCSD did not intend to make public the list of PPGs concerned for the time being. In response to concern about possible objections raised by members of the public against prosecutions made in the past in "PPGs" for which the procedure of depositing plans in LR had not completed, DLCS said that members of the public who had such objections to the fixed penalty notices issued or cases adjudicated could enquire with the departments concerned in accordance with the established procedures.

26. The Chairman and Mr MA Fung-kwok enquired whether the venue staff had encountered any resistance from members of the public when implementing the relevant regulations (e.g. the smoking ban) in PPGs in the past few months during which the corresponding law enforcement work was suspended. Mr MA asked if the Administration would propose amendment to section 2 of Cap. 132 to rectify the differences in the English language text and the Chinese language text regarding the definition of PPG. DLCS responded that although the relevant law enforcement work was temporarily suspended in the PPGs concerned, the frontline staff would continue to administer advice to persons in breach of the relevant regulations and they were generally cooperative. DLCS said that the priority work was to speed up the deposit of plans in LR. She added that LCSD and the departments concerned had reviewed the plan deposit arrangement and had worked out a proper mechanism for the preparation of plans and their deposit in LR in future.

Injecting art and design elements in public open space

27. Mr YIU Si-wing and Mr MA Fung-kwok welcomed the injection of art and design elements into public open space. Mr YIU asked if extra maintenance was required to keep the facilities and artworks in good shape. Mr MA suggested that art and design elements should be injected to more LCSD venues, and short-term exhibition of artworks should be arranged in large public parks to promote art appreciation. DLCS said that for projects, such as the "City Dress Up : Seats · Together", the curators/artists concerned would be required to provide three years' maintenance service to their creations. DLCS added that LCSD would continue to collaborate with

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government departments including the Architectural Services Department and stakeholders to enhance the art and design elements of public open space and provide venue support to organizations for the holding of art exhibitions.

(At 10:30 am, the Chairman directed that the meeting be extended by 15 minutes beyond the appointed ending time.)

28. The Chairman hoped that LCSD could enhance the spatial design of public open space so that it could accommodate more different kinds of activities including morning exercise. Dr Junius HO said that cycling should be allowed in PPGs as it was a popular sports activity.

Motion

29. After discussion, Mr LAU Kwok-fan moved the following motion which was seconded by Mr Vincent CHENG:

(Translation)

"In recent years, members of the public have often complained that the use of audio equipment or musical instruments by performers in their singing, dancing or other performances in parks has created excessive noise and caused serious nuisances to other park users and nearby residents, and the giving of tips was involved in some performances. The Leisure and Cultural Services Department ("LCSD") has proposed to amend the Pleasure Grounds Regulation ("the Regulation") to include nearby residents and LCSD staff as the prosecution witness so as to step up the control of noise nuisances in parks. However, in the absence of a comprehensive review of the Regulation, the implementation of the new proposal is not expected to solve the noise nuisance problem at its roots. In this connection, this Panel urges the Government to:

1. conduct a comprehensive review of the Regulation to actively address, among other issues, noise nuisances caused by performing activities and the giving of tips to performers, prescribe an objective standard of "nuisance" to balance the interests of various venue users, and formulate clear guidelines and enable frontline staff to seek assistance from the Police in taking enforcement actions in case the venues are in chaotic situations beyond the control of the staff;

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2. study raising the maximum penalty under section 25 of the Regulation, including setting up a progressive fixed penalty system to increase the penalty level according to the number of times of breaches to deter repeated offenders of noise nuisance; and

3. study empowering frontline staff to take enforcement actions with various severity, such as requesting park users who ignore advice from park staff to leave and drawing up a "blacklist" to prohibit repeated offenders of the Regulation to enter the parks within a certain period of time."

30. The Chairman put the motion to vote. The voting result was that eight members voted for the motion, and no member voted against the motion or abstained from voting. The Chairman declared that the motion was passed.

(Post-meeting note: The Administration's response to the above motion was circulated to members vide LC Paper No. CB(2)1560/18-19(01) on 29 May 2019.)

V. Any other business

31. There being no other business, the meeting ended at 10:39 am.

Council Business Division 2
Legislative Council Secretariat
26 September 2019