

(Translation)

Islands District Council
Minutes of Meeting of
Tourism, Agriculture, Fisheries and Environmental Hygiene Committee

Date : 25 July 2016 (Monday)

Time : 2:00 p.m

Venue : Islands District Council Conference Room,
14/F, Harbour Building, 38 Pier Road, Central, Hong Kong.

Present

Ms LEE Kwai-chun (Chairman)

Ms FU Hiu-lam, Sammi (Vice-Chairman)

Mr CHOW Yuk-tong, BBS

Mr YU Hon-kwan, Randy, JP

Mr YUNG Chi-ming, BBS

Mr CHAN Lin-wai

Mr CHEUNG Fu

Mr WONG Hon-kuen, Ken

Mr FAN Chi-ping

Mr LOU Cheuk-wing

Mr WONG Man-hon

Ms YU Lai-fan

Ms YUNG Wing-sheung, Amy

Mr TANG Ka-piu, Bill, JP

Mr KWONG Koon-wan

Mr CHOW Ho-ding, Holden

Mr KWOK Ping, Eric

Mr CHAN Ngai-chung

Mr CHEUNG Ming-keung

Attendance by Invitation

Mr CHIU Wai-yip, Michael	Senior Health Inspector (Hawker and Market), Food and Environmental Hygiene Department
Mr CHOW Kam-hung	Senior Health Inspector (Cleansing/Pest Control), Food and Environmental Hygiene Department
Mr CHAN Yung-kei	Health Inspector (Hawker and Market), Food and Environmental Hygiene Department
Mr CHEUNG Man-fung	Assistant Division Commander (Administrative) (Lantau South), Hong Kong Police Force
Ms TAM Mee-ye, Greta	Senior Environmental Protection Officer (Water Policy and Science)5, Environmental Protection Department
Mr HAU Wing-man, Raymond	Deputy District Leisure Manager (Islands)1, Leisure and Cultural Services Department

In Attendance

Mr CHOW Chit, Joe	Assistant District Officer (Islands)2, Islands District Office
Mr TANG Tai-king, Tommy	Senior Inspector of Works, Islands District Office
Ms LEUNG Wai-fong	Acting District Environmental Hygiene Superintendent (Islands), Food and Environmental Hygiene Department
Ms LO Man-kam	Administrative Assistant (Lands/Islands), Lands Department
Mr CHAN Wai-kwong	Inspector (Marine South Division), Hong Kong Police Force
Ms CHUNG Wing-yan, Carol	Assistant Police Community Relations Officer (Marine Port District), Hong Kong Police Force
Mr TO Chi-keung, Gary	Senior Transport Officer/Islands, Transport Department
Mr YEUNG Wai-tak, Victor	Senior Environment Protection Officer (Regional South)5, Environmental Protection Department
Ms LI Wing-ye, Wendy	Engineer 2 (Islands Division), Civil Engineering and Development Department
Mr WONG Cheuk-kee, Edward	Senior Fisheries Officer (Enforcement), Agriculture, Fisheries and Conservation Department
Mr FUNG Ho-lam, Chris	Agricultural Officer (Development), Agriculture, Fisheries and Conservation Department
Ms Anthea CHAU	Representative, New World First Ferry Services Limited

Secretary

Ms CHAN Nga-chi, Angie	Executive Officer (District Council)2, Islands District Office
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Absent with Apology

Mr KWONG Kwok-kam, BH, JP	
Mr WONG King-chuen	
Mr LI Man-piu, Bill	Neighbourhood Police Co-ordinator (Lantau District), Hong Kong Police Force
Mr MOK Wah-fun, Peter	Representative, New Lantao Bus Co., (1973) Ltd
Ms Cardi CHUNG	Representative, Hong Kong Tourism Board

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## Welcoming remarks

The Chairman welcomed representatives of government departments and organisations as well as Members to the meeting. She introduced the following government and organisation representatives present:

- (a) Ms LEUNG Wai-fong, Chief Health Inspector (Islands) of the Food and Environmental Hygiene Department (FEHD) who attended the meeting in place of Mr WONG Wai-wan;
  - (b) Mr CHAN Wai-kwong, Inspector (Marine South Division) and Ms Carol CHUNG, Assistant Police Community Relations Officer (Marine Port District) of the Hong Kong Police Force (HKPF) who attended the meeting in place of Mr Benji LAW;
  - (c) Mr Edward WONG, Senior Fisheries Officer (Enforcement) of the Agriculture, Fisheries and Conservation Department (AFCD) who attended the meeting in place of Ms Janice LUN; and
  - (d) Ms Anthea CHAU, representative of New World First Ferry Services Limited who attended the meeting in place of Ms Sonja CHAN.
2. Members noted that Mr KWONG Kwok-kam, Mr WONG King-chuen, Mr Bill LI, Neighbourhood Police Co-ordinator (Lantau District), and Ms Cardi CHUNG of Hong Kong Tourism Board were absent due to other commitments.

## I. Confirmation of the Minutes of Meeting held on 30.5.2016

3. The captioned minutes were confirmed unanimously without amendment.

## II. Matters on law enforcement for strengthened tackling the obstruction caused by shopfront extension by implementation of fixed penalty system (Paper TAFEHC 40/2016)

4. The Chairman welcomed Mr Michael CHIU, Senior Health Inspector (Hawker and Market) and Mr CHAN Yung-kei, Health Inspector (Hawker and Market) of FEHD, as well as Mr CHEUNG Man-fung, Assistant Division Commander (Administrative) (Lantau South) of HKPF to the meeting to present the paper.

5. Mr Michael CHIU presented the paper.

6. Mr KWONG Koon-wan enquired why San Hing Praya Street in Cheung Chau was listed as a shopfront extension (SFE) black spot, and was the only SFE black spot in Islands District, and whether other locations in the district had also been considered for listing, and if so, where those locations were. In view of the considerations for "tolerated areas" as set out in Paragraph 9 of the paper, he objected

to the listing of San Hing Praya Street in Cheung Chau as a SFE black spot. He hoped FEHD could provide the set of objective assessment criteria used in the listing of SFE black spots. In addition, he enquired whether FEHD would discuss with Members the "tolerated areas" in the Islands District and the relevant considerations.

7. Ms Amy YUNG enquired whether food premises were not regarded as shops.

8. Mr Michael CHIU replied that the number of complaints received was a major yardstick and the list of black spots was developed upon discussions amongst staff of FEHD district offices and Headquarters. The inclusion of San Hing Praya Street in Cheung Chau as a "tolerated area" would be subject to the negotiations amongst and decisions by the District Council (DC)/District Management Committee concerned and local representatives, and after approval by the DC, would be forwarded to FEHD Headquarters for consideration. Shops did not cover food premises.

9. Mr KWONG Koon-wan asked FEHD to indicate in brackets in Paragraph 8 of the paper that, it did not consult the DC or the DC Member of the district concerned on the listing of San Hing Praya Street in Cheung Chau as a SFE black spot. Since most of the land in the Islands District was zoned as "Village Type Development" (V-Zone) where business activities conducted beyond the confines of shops would not endanger the road users, he hoped FEHD would consider allowing shop tenants to lease the portions of Government land in front of their shops. He pointed out that while the existing legislation allowed some food premises to apply for use of public place as outside seating accommodation, the Fixed Penalty Ordinance forbade the shops to use the public place for storage of goods. He was concerned about a possible backlash in the community and the negative impact on businesses.

10. Mr YUNG Chi-ming objected to the listing of San Hing Praya Street in Cheung Chau as a SFE black spot. He opined that it was reasonable for shop tenants to display merchandise in front of their shops. But he disapproved the practice of shop tenants renting out shopfront areas to ease their own rent burden.

11. Mr LOU Cheuk-wing said that shops in Cheung Chau and Tai O were alike, and that the shop tenants generally believed that it was legal to place goods within a prescribed area outside the shops. He enquired about the definition of SFEs and whether FEHD would only conduct law enforcement actions at those black spots and whether it would explain the irregularities to shop tenants before taking enforcement actions. He suggested FEHD to launch education and publicity campaigns prior to the introduction of the Ordinance, such as distributing leaflets in various districts so that shop tenants could have a clear understanding of future arrangements in order to avoid possible confrontations.

12. Mr Michael CHIU gave a consolidated response as follows:

- (a) Shop tenants should not occupy or rent out the Government land in front of their shops for business activities without authorisation. Where

Government land was involved, the Lands Department (LandsD) would deal with the matter. If obstruction was caused, FEHD would take actions in accordance with the law.

- (b) Food premises and shops were of different categories and subject to different regulations. Food premises intending to provide Outside Seating Accommodation (OSA) should apply for the relevant licence, and policy support would be given by LandsD and other departments. As for SFEs, FEHD would enforce the law accordingly if the shops concerned were not located in the "tolerated areas". There would be no changes to the policy.
- (c) He understood some Members might think that some shops in Tai O (such as those selling dried seafood) were rich in local characteristics. The shop tenants might, if necessary, request FEHD through DC Members to consider their inclusion in the "tolerated areas". Details of implementation in respect of the "tolerated areas" should be discussed by Members.

13. The Chairman pointed out that leasing of shopfront areas to others for hawking involved the sale of goods and should not be dealt with solely by LandsD.

14. Mr Michael CHIU said that the sale of goods on Government land in front of shops concerned not only street obstruction but also illegal hawking, and FEHD should take actions in accordance with the Public Health and Municipal Services Ordinance. As for illegal hawking, FEHD would prosecute offenders and seize the goods as exhibits.

15. Mr CHOW Yuk-tong pointed out that the department should not target only San Hing Praya Street in Cheung Chau. He pointed out that some shops in Cheung Chau could not apply for OSA due to their geographical restrictions and that the application requirements were also not clear enough. He said that during an earlier visit to Cheung Chau, the Chief Secretary for Administration mentioned that enhancing the OSA arrangements could be considered. He hoped that FEHD could consider extending the policy for running food premises to apply for conducting business activities in front of shops to cover other types of shops so that shop tenants needed not worry. In addition, he considered the fixed penalty at the amount of \$1,500 to be reasonable.

16. Mr CHAN Lin-wai agreed with Mr LOU Cheuk-wing. He said that shop owners in Islands District used to place articles in front of their shops, and most of them did not understand the mechanism of the "fixed penalty system". He pointed out that the shops on Lamma Island were mostly owned by local residents, so it was alright for them to place articles on the private land in front of the shops. It was illegal only if the land in front of their shops was government-owned. He enquired whether FEHD and HKPF were fully cognizant of the ownership of the shopfront areas before enforcing the law to avoid disputes.

17. Mr FAN Chi-ping enquired whether the penalty was the same regardless of the number of tables placed in shopfront areas, and whether only those shops occupying Government land would be prosecuted. There were also ambiguities in

the existing licensing regime for food premises, such as the ratio of shop to kitchen floor areas.

18. Mr Bill TANG commented that there were a lot of food premises and shops in Ma Wan Chung Village (i.e. the former Tung Chung Pier) next to Yat Tung Estate in Tung Chung, and asked whether the land there was privately owned. He also enquired whether FEHD enforced the law there by giving warning or advice or issuing summons. In addition, the tenants of the Link REIT and its wet market stalls often lodged complaints to FEHD as members of the public against hawking problems, in order to force the nearby rural restaurants out of business. He enquired how FEHD would handle such complaints.

19. Ms YU Lai-fan said that according to the paper, SFEs broadly referred to the occupation of public places by shops and food premises in front of or adjacent to their premises. She enquired whether FEHD would enforce the law against food premises. Besides, many shop operators in the Islands District were unaware that FEHD was authorised to issue summonses under Section 4A of the Summary Offences Ordinance (Cap. 228) for obstruction. She hoped FEHD could launch publicity and education campaigns before the implementation of the Ordinance in order to minimise disputes. On “tolerated areas”, she agreed to the arrangement for identifying the relevant areas under the mechanism. She enquired how relevant departments would determine whether the public places in front of shops were Government-owned or privately owned, and how they would delineate the tolerated areas for the placement of articles. She also asked whether FEHD would issue advisory letters to shop owners in the district before the implementation of the Ordinance.

20. Mr Michael CHIU responded as follows:

- (a) Concerning the relevant guidelines and ordinance as well as the enforcement details of the fixed penalty system, FEHD would issue the enforcement guidelines to its frontline law enforcement officers after consulting the Department of Justice. The details of implementation were yet to be finalised.
- (b) In relation to food premises and general shops, he clarified that, strictly speaking, the "fixed penalty system" was applicable to both shops and food premises. Owners of food premises could apply for OSA because they were granted the restaurant licence. Owners of general shops, on the other hand, did not have to obtain a licence from FEHD for the sale of commodities and therefore it would be difficult to regulate how the shops conducted business activities in front of or adjacent to their premises.
- (c) With respect to land titles in Islands District, all land (whether government or privately owned) was treated as public place at law provided that other persons could freely access or pass through and was thus subject to law enforcement by FEHD. However, FEHD would also take into account the distinct local characteristics of the Islands District.

- (d) Regardless of the extent of street obstruction by food premises or shops, the fixed penalty of \$1,500 was imposed in relatively less complex cases. For more serious cases, FEHD would issue summonses or take further actions. In cases where such extension was especially egregious, FEHD might prosecute the offending shop owners by way of summons and take offenders to court.
- (e) Whenever complaints about hawker obstruction in public places at Yat Tung Estate were received, FEHD would investigate on-site regardless of the identities of the complainants, and take actions in accordance with the law.
- (f) As for public education, announcements in public interest were already broadcast on television. Besides, FEHD would work with the Home Affairs Department and HKPF to distribute leaflets and advisory letters to shop owners to ensure that stakeholders would be well informed and comply with the Ordinance.
- (g) He welcomed Members to discuss the appropriate locations and implementation of "tolerated areas", such as the tolerance level and the size concerned. As for the incorporation of "tolerated areas" as proposed by Members, the proposal would be forwarded to FEHD Headquarters for follow-up upon endorsement by the Committee, in order to explore the feasibility in terms of legislative or administrative arrangements.

21. Mr Ken WONG enquired whether the placing of articles by shop operators on private land in front of shops would be considered by FEHD as obstruction and hence subject to prosecution. He was concerned that landowners might resort to road closure if business operators would be subject to prosecution after the implementation of the Ordinance. He pointed out that the situations in urban areas and the Islands District were different in that the public places in urban areas were provided for pedestrian access while the local business operators in Islands District did not mind pedestrians passing the private land in front of their shops. Therefore, FEHD should not apply the practice in urban areas to the rural setting. He enquired whether the LandsD had stipulated the width of the streets.

22. Mr KWONG Koon-wan proposed that if the advisory letter was to be co-undersigned by the Tourism, Agriculture, Fisheries and Environmental Hygiene Committee (TAFEHC), the contents of Paragraph 9 of the paper about "tolerated areas" (i.e. "cases where business activities are conducted beyond the confines of shops that constitute a distinct characteristics and contribute to the vibrancy of the district may either be assigned lower enforcement priorities or even tolerated, subject to the conditions that the SFEs do not cause any imminent danger to pedestrians and other road users, and that the shop operators can exercise self-discipline by adhering to a level of extension agreed with the enforcement departments and other departments concerned") should be incorporated therein, so that business operators were made aware of the room for discretion under the Ordinance. If business operators were not aware of the above, the relevant departments would then have

greater justification and encounter few disputes when enforcing the relevant ordinance.

23. Ms Amy YUNG expressed doubts about the prosecution and law enforcement against placing articles on private land. She agreed that actions should be taken against obstruction in public places, so as not to cause danger to road users or affect environmental hygiene. Many food premises in the Islands District placed tables outside the premises and there were flea markets as well, which were the local characteristics of the district. She hoped that FEHD could take the above into consideration when studying the Ordinance and designating the "tolerated areas".

24. Mr Michael CHIU gave a consolidated response as follows:

- (a) Places provided for free access by pedestrians were deemed public places at law, no matter they were publicly or privately owned. FEHD was aware of the local characteristics of Islands District and would take them into account during law enforcement.
- (b) Food premises wishing to operate OSA business could file applications to FEHD. Flea markets would not be subject to the enforcement actions by FEHD if they were located on private land without pedestrians passing by. However, if flea markets traders conducted hawking activities in public places, they not only caused obstruction but were also engaged in illegal hawking. FEHD would enforce the law depending on the circumstances.

25. Ms LO Man-kam commented that LandsD did not specify which parts of the Government land were regarded as streets. As far as she knew, the definition of "streets" was determined by the Highways Department (HyD). Generally speaking, the government land should be open to the public if it was not leased or granted to any department. Besides, LandsD had made no specific requirement to the width of a street.

26. Mr Ken WONG pointed out that the police had no right to enforce the law against a citizen playing with an electric car on private land. He questioned why FEHD had the right to issue summonses against SFEs on private land. He was worried about that the streets in Islands District would become even narrower and more filthy after the implementation of the Ordinance.

27. Mr FAN Chi-ping enquired whether FEHD had any specifications in relation to OSA applications or the ratio of kitchen to shop areas.

28. Mr CHAN Yung-kei said that according to the law, the food room of a restaurant should comply with specific requirements and be proportionate to the gross floor area of the restaurant. Concerning alfresco cafes, if the business area of a shop was extended beyond its confines to provide OSA, the food room should be enlarged correspondingly by 10%. The number of dining tables outdoors should be determined by the layout, the gross floor area and the food room requirements.



29. Mr Michael CHIU added that the "tolerated areas" were not proposed by FEHD but were proposed, discussed and endorsed by the Committee, and then submitted to FEHD Headquarters for consideration.

30. The Chairman opined that it was impracticable to finalise the details of "tolerated areas" before the implementation of the Ordinance. She suggested that the details be studied by a working group.

31. Mr Ken WONG asked FEHD to reply how much space would need to be reserved on private land for pedestrian access.

32. Mr CHEUNG Fu enquired whether FEHD would institute prosecutions against SFEs on private land.

33. Mr Michael CHIU acknowledged Members' views on the distinct local characteristics of Islands District.

34. Ms LEUNG Wai-fong added that FEHD mainly took actions against street obstruction. Therefore, no prosecutions would be instituted if business operators placed articles on the private land at shopfront without causing obstruction.

35. Mr Michael CHIU said FEHD mainly targeted street obstruction caused by goods placed outside shops in the course of business. The pedestrian flow rate was not the only factor to determine whether street obstruction was caused.

36. Ms LO Man-kam said that the definition of "streets" should be interpreted by the Transport Department and HyD.

37. Ms YU Lai-fan enquired when FEHD could reply to Islands DC (IDC) so that residents would be informed of relevant enforcement arrangements.

38. Mr CHEUNG Fu said that if the advisory letter was to be issued in the name of the TAFEHC, discussion should be held by members before its issue and distribution.

39. The Chairman asked FEHD to further study the Ordinance and then report the findings to the Committee.

(Mr Victor YEUNG and Ms Anthea CHAU arrived at about 2:10 p.m. and Mr Bill TANG arrived at about 2:25 p.m.)

(Post-meeting note: While the "fixed penalty system" was also applicable to street obstruction by food premises, FEHD had put in place a separate mechanism and a different ordinance specifically to deal with illegal extension of food premises. Therefore, the fixed penalty system mainly targeted street obstruction by non-food premises.)

III. Question on illegal entry of Mainland fishing vessels into Hong Kong waters for fishing  
(Paper TAFEHC 41/2016)

40. The Chairman welcomed Mr CHAN Wai-kwong, Inspector (Marine South Division) of HKPF, and Mr Edward WONG, Senior Fisheries Officer (Enforcement) of AFCD to the meeting.

41. Mr Randy YU presented the question.

42. Mr CHAN Wai-kwong said that the number of arrests made by the Marine South Division with regard to illegal entry of Mainland fishing vessels dropped by two-thirds in the first half of 2016 compared with the same period in 2015, according to the related figures over the past two years. The prosecution and conviction in relation to illegal fishing fell under the purview of AFCD. The Police was gravely concerned about illegal fishing activities. The Marine South Division already deployed more police launches on patrol along the boundary of Hong Kong waters and stepped up crackdown efforts with the help of radars. The police public relations office and the intelligence unit had regular communications with various fishermen's associations and the community members to strengthen intelligence collection and deployment. The above arrest figures indicated that the illegal entry of fishing vessels for fishing was already brought under control. Besides, in terms of cooperation with Mainland law enforcement agencies, the Marine Police had established an immediate notification mechanism with its Mainland counterparts. As a result, the police could promptly deploy patrol launches to intercept any vessels illegally entering Hong Kong waters. In addition, the Marine Police and Mainland law enforcement agencies had set up a communication mechanism for regular intelligence exchanges for targeted deployments. In future, the Police would continue to work with other government departments (including AFCD) for joint operations, maintain liaison with Mainland authorities and to gather intelligence from the local community.

43. Mr Edward WONG said AFCD was responsible for taking enforcement actions against activities in contravention of the Fisheries Protection Ordinance (Cap. 171). Cases of Mainland fishing vessels illegally entering Hong Kong waters would be dealt with by the Marine Police where no fishing activities were involved, or referred to the AFCD for follow-up and prosecution where fishing activities were involved. According to the information available, Mainland vessels often conducted fishing activities along the marine border of Hong Kong and then swiftly returned to Mainland waters when chased by Police. It was difficult for AFCD to enforce the law since it could not pursue the fishing vessels across the border. On the other hand, nowadays Mainland vessels conducted fishing activities mainly with fixed gears (such as gill nets and cage traps). They left their fishing gears in Hong Kong waters for a period of time before returning to retrieve the gears and their catch. AFCD would proactively consider removing the fishing gears placed by Mainland fishing vessels in local waters, which would probably help curb the problem. The department would also maintain close communication with relevant fishery authorities in the Mainland. In early June, AFCD exchanged views with the relevant Zhuhai authorities, which promised to strengthen harbour management and

monitoring during fishing moratoriums, and to forbid Mainland fishing vessels from leaving the ports for engaging fishing activities in Hong Kong waters.

44. Mr Randy YU expressed great confidence in the Marine Police and AFCD. The media reported that while illegal fishing vessels from the Mainland increased by more than 50%, the number of police arrests dropped by two-thirds. He enquired whether the significant difference was due to the fact that Mainland vessels fishing along the marine border would return to Mainland waters when being chased, and Hong Kong authorities had no power to enforce the law and intercept the vessels beyond its waters. He hoped that Hong Kong could enhance its immediate notification mechanism with the Mainland.

45. Mr Eric KWOK pointed out that the amount of marine produce in Hong Kong was already small, but the Marine Police had failed to intercept and prevent illegal fishing activities vigorously in the past decade. He enquired about the communication channels between the Police and local fishermen, and the way in which intelligence collected was processed. Mainland fishermen conducted fishing activities with trawls and even cyanide which harmed Hong Kong's natural ecology and precious resources. He enquired how AFCD would stop such activities and whether the Marine Police would deploy drones to monitor the long coastline as their foreign counterparts did.

46. Mr KWONG Koon-wan asked the Police and AFCD to provide the yearly arrest statistics from 2013 to 2015 since the ban on trawling was enacted in 2012. He opined that cross-boundary trawling would need to be addressed via a sound notification mechanism between the two sides by HKPF and AFCD in conjunction with the Guangdong Public Security Department and Mainland fishery authorities, and all relevant departments should take actions in tandem to identify and intercept illegal Mainland fishing vessels. He enquired whether the Marine Police had developed any effective devices to counteract radar detection, which was used by Mainland fishing vessels to avoid law enforcement vessels.

47. Mr Ken WONG said that he had times and again reported to AFCD cases of sea urchin poaching by Mainland fishing vessels in Hong Kong waters. Some Mainlanders entered Hong Kong legally as deckhands but not for helping local fishermen with fishing. Eventually, they were found not guilty because AFCD was reluctant to amend the law. Besides, while AFCD set up marine reserves and marine parks to impose many restrictions on local fishermen, many Mainland fishing vessels were seen fishing in those waters, and the department did not have enough manpower or patrol vessels to chase and intercept Mainland fishing vessels. Being unable to patrol local waters around the clock, AFCD stopped its enforcement actions after 5:00 p.m. leaving the Marine Police to hold the fort. He praised Marine Department (MD) for prosecuting vessels poaching sea urchins which could help crack down on sea urchin poaching.

48. Mr CHAN Wai-kwong gave a consolidated response as follows:

- (a) The report gave the number of Mainland fishing vessels suspected of illegal fishing in Hong Kong waters, while he provided the number of illegal

immigrants arrested onboard the Mainland fishing vessels. Since AFCD was responsible for taking law enforcement actions against illegal fishing, the number of illegal immigrants from the Marine Police was for reference only. The Police would seize illegal fishing tools from the vessels on which illegal immigrants were found. Apart from illegal fishing, the police also cracked down on other illegal activities in Hong Kong waters.

- (b) There was still room for improvement in the notification mechanism between the Police and Mainland law enforcement agencies. Both sides would review the mechanism on a regular basis and would continue to exchange intelligence and strengthen co-operation. At present, the notification mechanism comprised three tiers. The most immediate exchange of intelligence was made between patrolling officers and Mainland patrol vessels on a daily basis. In addition, the police public relations office and the intelligence unit as well as Marine Police launches obtained the latest information from fishermen everyday through communication during marine patrol. After intelligence analysis by the intelligence unit, the police then made deployment plans for joint operations with other departments. Since the beginning of the fishing moratorium in May this year, the number of joint operations had increased, averaging two days per week.

49. Mr Edward WONG gave a consolidated response as follows:

- (a) Illegal fishing as set out in the Ordinance fell into two categories: the use of prohibited fishing gears or methods, such as trawling or the use of toxic substances (e.g. cyanide or explosives); and the use of unregistered fishing vessels for fishing activities in Hong Kong waters. Under the Fisheries Protection (Amendment) Ordinance, which came into force in 2012, AFCD sought to limit the fishing volume to a certain level and introduce a registration system for local fishing vessels through legislative amendments. The vast majority of Mainland fishing vessels operating in Hong Kong committed an offense with the use of non-local fishing vessels for fishing.
- (b) In 2013 there were a total of 13 prosecutions against the use of prohibited fishing gears or methods, without any Mainland fishermen involved. And there were 7 prosecutions against the use of unregistered vessels for fishing in Hong Kong, with 3 cases involving Mainland fishermen and 4 involving local fishermen. In 2014, there were 7 prosecutions against the use of unregistered vessels for fishing in Hong Kong, none of which involved Mainland fishermen, while there were 11 prosecutions against the use of prohibited fishing gears or methods, 6 of which involved the use of trawls by Mainland fishermen. And in 2015, there were 33 prosecutions against the use of unregistered vessels for fishing in Hong Kong, 11 of which involved Mainland fishermen, and 5 prosecutions against the use of prohibited fishing gears or methods, 1 of which involved electrofishing by Mainland fishermen. There were 4 prosecutions in 2016 so far, of which 1 involved the use of unregistered vessel for fishing by Mainland fishermen. Five other cases were under processing.

- (c) Regarding co-operation with relevant Mainland authorities, with the Fishery Corps of Guangdong Province (FCGP) as its counterpart, AFCD, under the coordination of FCGP, conducted day-to-day exchanges with the Zhuhai and Shenzhen branches of FCGP about Mainland fishing vessels entering Hong Kong waters illegally for fishing. Although AFCD officers worked eight hours a day, they also carried out patrol missions at irregular periods or at night. They would try their best to intercept and prosecute any Mainland vessels operating illegally in Hong Kong. In cases where interception failed, AFCD officers would record the details of the vessels concerned, such as the number of people on board, the Mainland licence number and photos for transmission to Mainland authorities through the notification mechanism for follow-up actions with FCGD and its two branches. "Three no's" vessels (those having no name, no registration certificate and no homeport) were also illegal in the Mainland. But if relevant vessels only violated the laws of Hong Kong but not those of the Mainland, it would be difficult for Mainland authorities to enforce the law. AFCD carried out large-scale joint operations with the Marine Police and FCGD once a year to combat illegal fishing.
- (d) On Mainland deckhands poaching sea urchins in Hong Kong waters, prosecutions would be difficult to some extent, since the Mainland deckhands involved entered the territory legally and had not breached their conditions of stay. In view of this, AFCD revised the application guidelines for Mainland fishermen deckhand quotas two years ago. If AFCD was aware of any poaching or related activities by legal Mainland deckhands upon receiving any referral from the Immigration Department, MD or the Marine Police, no applications would be accepted from the quota holders within the next six months as punishment. AFCD hoped the said mechanism would have a deterrent effect, but its effectiveness remained to be seen.

50. Mr Eric KWOK said that in recent years, people were found catching fish fry at Pui O estuary during the morning ebb in March. He asked AFCD whether it was illegal to catch fish fry, and whether AFCD or Marine Police could stop large-scale fry catching to ensure the sustainable development of the local fishery industry.

51. Ms Amy YUNG pointed out that there were a lot of vessels fishing at Sze Pak Wan. As AFCD had just mentioned, there was an upward trend in the number of Mainland vessels entering Hong Kong for illegal fishing, which indicated that the problem was deteriorating. As far as she knew, AFCD arranged resources for the arrest of cyclists along Lo Fu Tau Country Trail on Saturdays and Sundays. She suggested AFCD to allocate more resources to strengthen law enforcement against illegal fishing, which would be beneficial to the local fisheries industry.

52. Mr Ken WONG hoped that AFCD could strengthen communication with the Police and refer cases of poaching by Mainland deckhands to relevant departments for information. He enquired how many applications AFCD had rejected after the

revision of the application guidelines.

53. Mr Edward WONG responded as follows:

- (a) On protection of fish fry, the Fisheries Protection Ordinance did not expressly prohibit the capture of fish fry. AFCD opined that traditional fishing methods, such as hand-lining, gill netting, cage trapping and seine netting were all sustainable, except for trawling, with their targeted catch varying. For example, seasonal fish were only briefly seen in the waters and would have little impact on the overall fisheries resources. Fish fry caught by local fishermen were mainly reared on mariculture rafts or resold for mariculture purposes.
- (b) After the trawling ban was imposed, AFCD commissioned the South China Sea Fisheries Research Institute to carry out an analysis of the inshore fisheries resources of Hong Kong. Preliminary data showed an improvement in the situation. At the completion of the investigation and after reaching a conclusion, AFCD would report the results and take follow-up actions.
- (c) AFCD had mapped out the priorities and took into account different considerations regarding the overall allocation of law enforcement resources as well as its various work areas. At present, AFCD had two or three enforcement teams at its disposal, which carried out duties at irregular periods every day, especially during the fishing moratoriums. He did not think it necessary to allocate extra resources for the enforcement measures against illegal fishing for the time being. He understood Members' concerns over the fisheries resources, but AFCD also needed to ensure the safety of hikers. The department would take into account different factors in its deployment of resources.
- (d) AFCD had taken punitive measures, though infrequently. Upon receiving referral cases, AFCD would warn quota holders that the relevant regulations had to be complied with. There were no repeat offenders so far. AFCD, however, would monitor closely the situation.

54. Mr Ken WONG suggested that AFCD follow MD's practice by making it compulsory to mark the fishing licence number on the hull of the vessels for easy identification and law enforcement.

55. Mr Edward WONG said that AFCD would maintain close communication with MD concerning the registration of fishing vessels. AFCD maintained a database for the registration of local fishing vessels, while MD was responsible for managing all vessels in Hong Kong. The data of MD should prevail since local fishing vessels could not get registered with AFCD until they were licensed by MD. The department exchanged information with MD regularly to take note of any non-compliant vessels which failed to notify AFCD of changes in registration particulars. Besides, data on registered vessels were stored in the mobile tablets of AFCD officers, who could then access the registration status and details by inputting

the vessel licence number while on patrol. Information of non-compliant vessels would also be passed on to the Marine Police in hard copy, so that the latter would notify AFCD if they found such vessels during patrol duty.

(Mr Bill TANG and Mr Randy YU left the meeting at about 3:10 p.m. and 3:20 p.m. respectively)

IV. Question on the colour of structures above mariculture rafts in Sok Kwu Wan, Lamma Island  
(Paper TAFEHC 42/2016)

56. The Chairman welcomed Mr Edward WONG, Senior Fisheries Officer (Enforcement) of AFCD to the meeting.

57. Ms YU Lai-fan presented the question.

58. Mr Edward WONG responded as follows:

- (a) Mariculture activities in Hong Kong were regulated by the Marine Fish Culture Ordinance, with Sok Kwu Wan as 1 of the 26 designated marine fish culture zones in the territory. The Ordinance stipulated clearly that all structures or tents above the mariculture rafts within such culture zones must be painted in dark green. Starting from 2002, the AFCD relaxed the restrictions and allowed recreational fishing activities at mariculture rafts as an additional source of income, provided that mariculture remained their main business. Later, the relevant licensees set up the Recreational Angling on Mariculture Rafts Association (RAMRA) to demand for more rights or further relaxation to develop businesses. RAMRA believed that it should have the right to change the colour of structures above the rafts allowed to conduct recreational fishing so that their rafts could be more attractive and differentiable from the conventional ones.
- (b) AFCD did not object to painting the structures above the mariculture rafts in other colours. However, since onshore and offshore stakeholders (e.g. fishermen, hikers or environmentalists) had divisive opinions about the colour of such structures, the relevant Rural Committee or DCs had to be consulted. Besides, not all colours were deemed acceptable despite the relaxation of restrictions. Firstly, no reflective colours should be used since they would affect nearby hikers, villagers and other mariculture rafts. Secondly, the colours should be compatible with the surrounding environment and AFCD discouraged the use of excessively bright colours. A consensus had been reached between RAMRA and AFCD on the use of different shades of green, blue or brown colour. The white or light grey colour currently proposed by Lamma Fisherfolk's Village was also acceptable. Any proposed changes to the colour of structures above the mariculture rafts were subject to approval by the relevant DCs, and an application had to be made to AFCD for approval prior to a change of colour. Members of RAMRA in Sai Kung had obtained approval from the

DC for changing the colour of the structures and the applications were being processed by AFCD.

59. Mr CHOW Yuk-tong declared that he owned a mariculture raft and agreed that painting the related structures with a reflective colour would affect others. He pointed out that AFCD had issued a letter to Lamma Fisherfolk's Village to solicit its opinion on the colours of structures above the rafts. The Village consulted the local community which supported the use of a lighter colour.

60. Mr Edward WONG reiterated that AFCD and RAMRA had reached a consensus on the colour of structures above mariculture rafts which was now pending approval by IDC. AFCD would grant approval accordingly if IDC supported the relaxation on the colour of structures above mariculture rafts in Sok Kwu Wan, Lamma Island. Preliminarily, there would be no big problems changing the colour of the structures to white or light grey as proposed.

61. The Committee endorsed changing the structures above the mariculture rafts in Sok Kwu Wan, Lamma Island to lighter colours acceptable to the AFCD.

V. Question on replacement of rubbish bin in Islands District  
(Paper TAFEHC 43/2016)

62. The Chairman welcomed Mr CHOW Kam-hung, Senior Health Inspector (Cleansing/Pest Control) of FEHD to the meeting to respond to the question.

63. Mr KWONG Koon-wan presented the question.

64. Mr CHOW Kam-hung said that FEHD had conducted two operations, one at night and another in early morning, against dumping of domestic waste in public places or beside litter containers in Cheung Chau. No irregularities were detected in the operations. FEHD would monitor the situation and the hygiene condition of the streets where the newly-designed litter containers were placed. FEHD would step up enforcement actions if necessary. There were currently a total of over 800 litter containers in Islands District. 40 (20 in Cheung Chau) were replaced with the newly-designed ones on 13 June. Those replaced would be placed at other locations, while the brand-new ones of the old design would continue to be used. Unserviceable ones would be dealt by Supplies Section of FEHD for disposal according to established procedures.

65. Mr KWONG Koon-wan asked FEHD to step up law enforcement and enquired how the Supplies Section would handle the brand-new litter containers of the old design.

66. Mr CHOW Kam-hung added that it was not intended in the meantime to phase out the old litter containers completely with those of new design. Brand-new ones of the old design or the used ones would remain in use on the streets in Islands District. The Supplies Section would dispose of unserviceable litter containers, such as the broken ones. Generally speaking, the Supplies Section would check the



condemned items to determine if they could be recycled or reused (e.g. the internal metal parts) and then proceed through tendering for recycling by recyclers.

67. Mr KWONG Koon-wan pointed out that there were many brand-new litter containers of old design in Cheung Chau, and they could probably last for five to six years. He enquired whether there was a timetable for their replacement with the litter containers of new design. He also wanted to know how the old ones would be disposed of if they were to be phased out completely in the next two years.

68. Mr CHOW Kam-hung said that the brand-new litter containers of old design or the serviceable ones were still in use in many places in Islands District, and surplus new litter containers in Cheung Chau would be redistributed to other areas. Some litter containers in other parts of Lantau Island might need to be replaced. There were not too many containers in stock, and the litter containers of old design could be used to replace the unserviceable ones in the district. There would be no excess stock.

(Mr WONG Man-hon left the meeting at about 4:00 p.m.)

VI. Questions on marine waste found on the beaches of Lantau Island and coastal areas  
(Papers TAFEHC 44/2016 and 46/2016)

69. The Chairman suggested the questions in Papers TAFEHC 44/2016 and 46/2016 be discussed together, since they were interrelated. She welcomed Ms Greta TAM, Senior Environmental Protection Officer (Water Policy and Science) of the Environmental Protection Department (EPD), Mr CHOW Kam-hung, Senior Health Inspector (Cleansing/Pest Control) of FEHD, and Mr Raymond HAU, Deputy District Leisure Manager (Islands) of the Leisure and Cultural Services Department (LCSD) to the meeting. The written replies by MD and AFCD had been submitted to Members for perusal before the meeting.

70. Ms Amy YUNG presented the question in Paper TAFEHC 44/2016. As Mr Randy YU left the meeting early due to other commitments, Mr Ken WONG presented the question in Paper TAFEHC 46/2016 on his behalf.

71. Ms Greta TAM responded as follows:

- (a) The government set up the "Interdepartmental Working Group on Clean Shorelines" in late 2012 to deal with marine refuse in Hong Kong. The Working Group was led by the Environment Bureau and coordinated by EPD, with members from EPD, AFCD, FEHD, LCSD, MD, the Drainage Services Department, the Civil Engineering & Development Department and LandsD. Regarding the large quantity of marine refuse drifted to Hong Kong waters recently, EPD promptly contacted relevant departments for clean-up as soon as possible.
- (b) EPD started to receive complaints about marine refuse as from mid-June 2016 and noted that there had been severe rainstorms and floods in

provinces along the Pearl River such as Guangdong, Guangxi, Hunan and Jiangxi. It was reported that Guangdong and Liuzhou of Guangxi were ravaged by severe 1-in-20 years floods. The floods might have brought refuse from the Mainland, which had been flushed out to the sea, to Hong Kong waters by sea currents and the southwest monsoon. The Working Group commenced a study on the sources of marine refuse in Hong Kong in 2013. Study findings revealed that a higher amount of marine refuse was generally collected in summer (especially after heavy rains and typhoons). The collection of higher amount of marine refuse in coastal areas recently was believed to be related to the severe rainstorms and floods in the Mainland. Heavy rains were associated with climate change, and extreme rains might become more frequent. In response to the recent incident of marine refuse found on beaches, the Working Group sought to adopt a more forward-looking approach to tackle the issue. EPD planned to strengthen coordination with the Hong Kong Observatory and other relevant departments to monitor the changes in rainfall in the region for better preparedness. In addition, EPD would maintain liaison with relevant authorities in Guangdong to enhance coordination.

- (c) EPD established the Beach Grading System and the Annual Ranking System under the Beach Water Quality Monitoring Programme. For beach grading, EPD classified water quality into "good", "fair", "poor" and "very poor", based on the *E. coli* level of the 5 most recent samplings. A beach would also be given a "very poor" grading when the last *E. coli* reading exceeded the count of 1 600 per 100 ml of beach water, in which case LCSD would be informed of the result. EPD took samples at Discovery Bay Beach on 6 July and the *E. coli* level exceeded 1 600 per 100 ml. EPD classified the beach as Grade 4 ("very poor") on 7 July and promptly notified Discovery Bay Services Management Limited so that swimmers would be informed of the latest water quality. On 7 July, EPD arranged its staff to take sample again and conduct field investigation. On the following day, analysis results showed that the *E. coli* level dropped significantly to the normal level suitable for swimming. Therefore, the water quality of the beach was upgraded to Grade 2 as "fair". Since 60 mm of rainfall had been recorded in the 24 hours prior to 6 July, it was believed that heavy rain was the main cause of the deterioration of beach water quality. EPD did not identify any sources of pollution during the field investigation in the afternoon of 7 July. Besides, cleanliness of Tai Pak Beach at Discovery Bay was normal between 1st and 7th of July, without any discovery of significant amount of marine refuse. Since water quality would generally worsen within a short time after heavy rain, EPD advised swimmers to note the beach grading and avoid swimming for up to three days after a storm or heavy rain.

72. Mr Raymond HAU said that in mid-June, LCSD found marine refuse at the beaches, especially those in Cheung Sha, Pui O and Tong Fuk. LCSD promptly stepped up cleaning and the situation was currently under control. In view of the greater amount of refuse than usual, LCSD had allocated additional resources to complete the clean-up the soonest possible. The department had also taken the

initiative to ask MD for help to clean up the floating refuse, and MD had deployed vessels for the task. If unusually large amounts of refuse washed up on the beaches, LCSD would alert swimmers by broadcast and notices. It would also ask EPD to test the sea water samples to determine the swimming suitability. LCSD would close a beach if the test result justified a Grade 4 classification.

73. Mr CHOW Kam-hung responded as follows:

- (a) In early July, FEHD received notification from EPD about the excessive waste accumulation at 13 non-gazetted beaches. As of 22 July, FEHD had conducted a total of 44 clean-ups at the said 13 beaches, with about 28 tonnes of waste cleared. The clean-ups were largely completed. FEHD would deploy extra manpower for clean-up should any more waste be washed ashore.
- (b) As for the family activity held on Tai Pak Beach, Discovery Bay, the organiser had applied to FEHD for a Temporary Place of Public Entertainment Licence. The relevant information provided indicated that the activity was held only on the beach but not the sea. Besides, FEHD inspected Discovery Bay Beach on the 14th, the 19th and the 21st of July but found no accumulation of waste. The family activity was also being held.
- (c) Regarding the proposal of stepping up efforts in the testing of local marine produce to ensure their safety for consumption, the Centre for Food Safety (CFS) implemented a routine food surveillance programme under which CFS adopted a risk-based principle in determining the types of samples collected, the sampling frequency and number of samples taken, as well as the types of laboratory analysis to be conducted. CFS reviewed its sampling programme regularly, taking into account such factors as the past food surveillance results, local and overseas food incidents and relevant risk analysis. Local seafood produce were also monitored as per the said principle, so as to ensure any food sold in the territory complied with the legal requirements and were suitable for human consumption in order to safeguard public health.

74. Several Members offered the following views:

- (a) Mr Eric KWOK presented a photo of Pui O Beach and enquired whether the issue of marine refuse could be discussed at a higher or even the directorate level between the relevant authorities in Hong Kong and the Mainland. He also enquired why MD did not collect floating refuse on the sea to intercept pollutants at source.
- (b) Mr KWONG Koon-wan said that the refuse problem at non-gazetted beaches should not be taken lightly. For example, large amounts of refuse were spotted on the beach of Siu Tung Wan at Cheung Chau. He suggested the Government to tackle the issue the same way as in the plastic pellet spill incident a few years ago, by mobilising voluntary organisations

or private companies to help with the clean-up. In that regard, he hoped relevant departments could liaise with him after the meeting to arrange the clean-up activities at non-gazetted beaches.

- (c) Mr Holden CHOW believed that MD was to blame for the incident, because the refuse would not have drifted to other beaches if MD had actively cleared the trash at sea. If the marine refuse had entered Hong Kong waters due to the wind direction, he enquired whether MD would then especially arrange ships to collect the marine refuse so as to tackle the problem at source and save the manpower for beach clean-up.
- (d) Ms YU Lai-fan said that she had asked LCSD and FEHD to monitor the refuse problem at both gazetted and non-gazetted beaches back in May. She thanked the two departments for following up vigorously and the clean-up. She suggested that the Administration allocate additional resources to the relevant departments, for example, MD to prevent marine refuse from drifting to beaches in Islands District.
- (e) Ms Amy YUNG said that apart from syringes, there were medicine bags with simplified Chinese characters among the refuse. She hoped that relevant departments would remind their counterparts in Guangdong Province of the need for handling medical waste with special care. Such waste, when drifting to Hong Kong along with other refuse, would pollute the environment and the sea which could be very hazardous.
- (f) The Chairman hoped that MD would formulate policies and allocate additional resources to avoid recurrence of such incidents after floods and heavy rains in future.

75. Ms Greta TAM gave a consolidated response as follows:

- (a) The Working Group welcomed members of the public to participate in or organise beach clean-up activities. Organisers could contact relevant departments for provision of gloves and garbage bags, as well as arrangement for transport and disposal of marine refuse collected. Relevant details were available on the "Clean Shorelines" website. In addition, EPD organised joint clean-up activities with community groups on a monthly basis, in which community groups recruited volunteers while EPD provided the logistic resources (such as gloves, garbage bags and transport arrangements).
- (b) To tackle marine refuse problem in Hong Kong, the Working Group adopted a three-pronged approach as recommended by the study completed in 2015, namely reducing waste generation at source, reducing the amount of refuse entering the marine environment and removing refuse from the marine environment; accompanied with a series of measures to further enhance the cleanliness of Hong Kong's shorelines. The report had already been uploaded to the "Clean Shorelines" website. The report also identified 27 priority sites which were more prone to refuse accumulation,

10 of which were in the Islands District. Relevant departments were given resources for enhancing clean-up operations in 2015/16. About additional 440 operations were conducted at those 27 priority sites with more frequent operations in summer in accordance with the study's recommendations. Coupled with south-westerly winds which were prevalent in summer, the southwest sea currents flowing to northeast might bring trash which had been flushed out from the Pearl River region into Hong Kong waters. Hence, MD increased the clean-up frequency in summer, especially in the waters to the south and the north of Lantau Island.

- (c) EPD had yet to identify the source of the medical waste discovered in the recent incident. Since the implementation of the Clinical Waste Control Scheme in August 2011, the healthcare sector's overall compliance had been good. No non-compliance cases were found during the surprise inspections conducted during the past six months.

(Mr Ken WONG left the meeting at about 4:35 p.m.)

VII. Question on the proposed public columbarium development in Sham Shui Kok East and Sham Shui Kok West  
(Paper TAFEHC 45/2016)

76. The Chairman welcomed Ms LEUNG Wai-fong, Chief Health Inspector (Islands) of FEHD to the meeting. The Food and Health Bureau said that FEHD's representative would attend the meeting to respond to the question. The written reply from FEHD had been provided to Members for perusal before the meeting.

77. Ms Amy YUNG presented the question.

78. Ms LEUNG Wai-fong briefly presented FEHD's written reply.

79. Ms Amy YUNG said that the proposed sites of the said columbaria were close to Tung Chung, although they fell into the jurisdiction of Tsuen Wan DC. She was concerned about the traffic arrangements at Ching Ming and Chung Yeung Festivals. She pointed out that Cheung Tung Road, which connected the two proposed sites, was only an auxiliary road and would be congested and prone to accidents during heavy traffic. Therefore, she opined that IDC should be consulted, and hoped that the Government could consult IDC as soon as possible after completion of the study.

VIII. Progress report on DC-funded District Minor Works Projects  
(Paper TAFEHC 47/2016)

80. The Chairman welcomed Mr Tommy TANG, Senior Inspector of Works of Islands District Office (IsDO) to the meeting to present the paper.

81. Mr TANG Tai-king said that the footpath at Fan Lau Tung Wan, Tai O (IS-DMW-614) had been completed.

82. Mr CHEUNG Fu enquired why his project proposal concerning Chi Ma Wan to Pui O was not included in the paper.

83. Mr Tommy TANG explained that the project would be included in the proposal for 2016/17, which was being compiled by the Secretariat and would be discussed at the next meeting.

84. Members endorsed the paper and noted the content of the IsDO's report.

#### IX. Report by Working Group

(i) Tourism, Agriculture, Fisheries and Environmental Hygiene Committee Activities Working Group

85. The Chairman said that the Working Group Report had been faxed or emailed to Members for perusal prior to the meeting (see Reference 1 for details). Members were invited to comment on the report.

86. Members had no comment and endorsed the report.

(ii) Islands Healthy City and Age-friendly Community Working Group

87. Mr KWONG Koon-wan said that the Working Group Report had been faxed or emailed to Members for perusal prior to the meeting (see Reference 2 for details). Members were invited to comment on the report.

88. Members had no comment and endorsed the report.

#### X. Any Other Business

89. The Chairman said that the Hong Kong Tourism Board (HKTb) had applied for permission to use the maps featured in the "Islands GoGoGo" pamphlets. HKTb considered the maps user-friendly and hoped that permission would be given for it to reproduce those 6 maps for free distribution to visitors at its visitor centres. The maps would only be used for travel guide and not for commercial purposes.

90. The Committee agreed to allow HKTb to use the maps in the "Islands GoGoGo" pamphlets produced by the TAFEHC.

#### XI. Date of Next Meeting

91. The meeting adjourned at 4:52 p.m. The date of next meeting was scheduled for 2:00 p.m. on 26 September 2016 (Monday).

- END -