

Sha Tin District Council
Minutes of the 2nd Special Meeting of
the Health and Environment Committee in 2020

Date : 12 March 2020 (Thursday)
Time : 10:18 am
Venue : Sha Tin District Council Conference Room
 4/F, Sha Tin Government Offices

<u>Present</u>	<u>Title</u>	<u>Time of joining the meeting</u>	<u>Time of leaving the meeting</u>
Mr TING Tsz-yuen (Chairman)	DC Member	10:18 am	4:30 pm
Mr CHAN Pui-ming (Vice-Chairman)	"	10:18 am	4:30 pm
Mr CHING Cheung-ying, MH	DC Chairman	11:23 am	4:30 pm
Mr WONG Hok-lai, George	DC Vice-Chairman	10:18 am	4:30 pm
Mr CHAN Shiu-yeung, Billy	DC Member	10:57 am	4:30 pm
Mr CHAN Nok-hang	"	11:13 am	4:30 pm
Mr CHAN Wan-tung	"	11:00 am	4:30 pm
Mr CHENG Chung-hang	"	10:27 am	4:30 pm
Mr. CHENG Tsuk-man	"	2:36 pm	3:52 pm
Mr CHEUNG Hing-wa	"	10:18 am	4:30 pm
Mr CHIU Chu-pong	"	10:18 am	4:30 pm
Mr CHOW Hiu-laam, Felix	"	10:18 am	4:30 pm
Mr CHUNG Lai-him, Johnny	"	10:18 am	4:30 pm
Mr HUI Lap-san	"	10:18 am	4:30 pm
Mr HUI Yui-yu	"	10:29 am	3:57 pm
Dr LAM Kong-kwan	"	10:18 am	2:52 pm
Mr LI Chi-wang, Raymond	"	10:18 am	4:30 pm
Mr LI Sai-hung	"	10:18 am	4:30 pm
Mr LI Wing-shing, Wilson	"	10:18 am	4:16 pm
Mr LIAO Pak-hong, Ricardo	"	10:22 am	3:24 pm
Mr LO Tak-ming	"	11:29 am	4:30 pm
Mr LO Yuet-chau	"	11:10 am	4:30 pm
Mr LUI Kai-wing	"	10:18 am	4:30 pm
Ms LUK Tsz-tung	"	10:18 am	4:30 pm
Mr MAK Tsz-kin	"	10:18 am	4:30 pm
Mr MAK Yun-pui, Chris	"	10:18 am	3:52 pm
Mr MOK Kam-kwai, BBS	"	2:30 pm	2:52 pm
Mr NG Kam-hung	"	2:25 pm	4:27 pm
Ms NG Ting-lam	"	10:18 am	4:30 pm
Mr SHAM Tsz-kit, Jimmy	"	10:18 am	4:27 pm
Mr SHEK William	"	2:30 pm	4:30 pm
Mr SIN Cheuk-nam	"	10:26 am	3:53 pm
Mr TSANG Kit	"	12:23 pm	4:30 pm
Mr WAI Hing-cheung	"	11:00 am	4:22 pm
Mr WONG Ho-fung	"	11:02 am	4:30 pm
Ms WONG Man-huen	"	10:26 am	4:30 pm

<u>Present</u>	<u>Title</u>	<u>Time of joining the meeting</u>	<u>Time of leaving the meeting</u>
Mr YAU Man-chun	DC Member	10:18 am	3:52 pm
Mr YEUNG Sze-kin	”	10:22 am	4:30 pm
Mr YIP Wing	”	10:18 am	3:56 pm
Mr YUNG Ming-chau, Michael	”	10:18 am	4:30 pm
Ms LEE Yin-ching, Karen (Secretary)	Executive Officer (District Council) 3/ Sha Tin District Office		
<u>In Attendance</u>	<u>Title</u>		
Mr WONG Shek-hay, Sebastian	Assistant District Officer (Sha Tin) (2)		
Mr YUEN Chun-kit, Derek	Senior Executive Officer (District Council) / Sha Tin District Office		
Mr HO Kin-nam, David	Executive Officer I (District Council)1 / Sha Tin District Office		
Mr CHOY Cho-hei, Saki	Executive Assistant (District Council)5 / Sha Tin District Office		
<u>In Attendance by Invitation</u>	<u>Title</u>		
Ms LAM Man-wa	Director of Yee Health Company Limited		
Ms LEE Ka-man	Secretary of Care Association Limited		
<u>Absent</u>	<u>Title</u>		
Mr LAI Tsz-yan	DC Member	(Application for leave of absence received)	
Ms TSANG So-lai	”	(”)	

Action

Welcome Speech

The Chairman welcomed all members to the second special meeting of the Health and Environment Committee (HEC) of this year.

Application for Leave of Absence

2. The Chairman said that the Secretariat of the Sha Tin District Council (STDC) had received written leave from the following members:

Mr CHING Cheung-ying	Official commitment
Mr SIN Cheuk-nam	(”)
Ms TSANG So-lai	(”)
Mr LAI Tsz-yan	Illness
Mr NG Kam-hung	Other reasons

(Remarks: Mr SIN Cheuk-nam attended the meeting at 10:26 am.)

(Remarks: Mr CHING Cheung-ying attended the meeting at 11:23 am.)

(Remarks: Mr NG Kam-hung attended the meeting at 2:25 pm.)

Discussion Items

Work Plan of the Working Group under the Committee —

Discussion on the Procurement and Distribution of Anti-epidemic Cleaning Supplies and Personal and Environmental Hygiene Publicity

3. The views of the Chairman were summarised as follows:

- (a) he thanked members for their efforts since the establishment of the Working Group on Enhancing the Public Health in Sha Tin District (WG). He said the WG had selected the co-organiser on 27 February, but due to the time constraint, the co-organiser could only be approved at the meeting on 10 March. Due to insufficient time, a special meeting was convened on 3 March to meet with the applicant. However, the co-organiser was unable to provide the supplies and receipts by 17 March and the special meeting was therefore convened. The co-organisers would be invited to brief us on the current situation in due course; and
- (b) he said that the purpose of the meeting was to consider whether to continue with the previous funding earmarked for procurement of epidemic-prevention supplies, and if so, the co-organisers would have to provide the supplies and receipts on or before 17 March. If the requirements were not met by the deadline, the Council would have to decide whether to continue with the previous round of funding earmarked for procurement of other supplies. The HEC should also decide if it would recommend that the Finance and General Affairs Committee (FGAC) and the STDC reserve \$2 million for the procurement of anti-epidemic supplies and the promotion of environmental hygiene in the next financial year.

4. The views of Mr Chris MAK were summarised below:

- (a) after holding two meetings, the WG had put forward its recommendations for the consideration of the HEC. Both meetings were valid as more than half of the members were present. He pointed out that both Organisations 1 and 2 had submitted the required documents and were endorsed by the WG as co-organisers. As the Chairman considered it necessary to meet with the four organisations, after the special meeting, the WG accepted and co-organised the event with Organisation 3 in accordance with the decision of HEC;
- (b) he found three problems with the procurement process. (a) The leakage of WG documents. Organisation 3 and Organisation 4 were 10 hours late in submitting their applications, but as more than half of the WG members accepted the late applications, he accepted the application;
- (c) at the last special meeting of the HEC, he had emphasised to the Chairman, members and the Secretariat the importance for the relevant organisations to sign documents and to promise punctual deliveries of supplies and receipts; however, the organisations could not provide them, which constituted a breach of contract;

- (d) as the organisations failed to provide supplies, the contract was signed in a hurry and the required documents were not submitted, he was disappointed in the organisations;
- (e) he opined that there were errors and omissions in the work of the Secretariat, regarding the venue of the first meeting of the WG, the date of the second meeting and the procurement process. He pointed out that throughout the procurement process, there were numerous hurdles and delays, coupled with the lack of trust among DC Members;
- (f) he asked if parties submitted quotations after learning about the quotations of Organisations 1 and 2. He said that it was not possible to buy 30 masks in the market of the territory at \$34. He had also asked other manufacturers and was told that the lowest cost of a mask was \$2;
- (g) he considered that the HEC should no longer collaborate with the co-organisers because of their reckless quotation and unacceptable substitution with other preventive supplies because of their higher quoted prices for alcohol-based hand sanitiser;
- (h) he requested the Secretariat to explain the reasons for the incessant delay in the whole procurement process, resulting in the inability to invite the co-organisers again at the present time, and the need to use the funds earmarked in the previous term and allocate funds again in the next financial year;
- (i) he requested that the co-organisers be invited again and requested the participation of all members; and
- (j) he hoped that the Secretariat would introduce penalties for relevant organisations that breached the contract.

5. The Chairman said that the HEC had the right to cancel the cooperation with the co-organiser, but the information document had not set out whether the HEC had the right to take legal action in case of non-compliance with the contract, and asked the Secretariat to provide supplementary information later.

6. The views of Mr Michael YUNG were summarised below:

- (a) he considered the performance of the Secretariat disappointing. Given the turnover of staff, he considered that the Secretariat should have followed the matter more closely;
- (b) he could not attend the first meeting of the WG because he was not a member of the WG and because of his work. He wanted to understand the whole sequence of events;

- (c) it was understood that on the day of the special meeting, there was no guarantee that the supplies would be available by the end of March;
- (d) he pointed out that it was necessary to ascertain whether there was a contract with the Organisation before discussing whether the Organisation had breached the contract; and
- (e) he would like to learn about the accounting system of the Government, whether the Home Affairs Department (HAD) was able to handle special cases in exceptional circumstances, and whether the \$2 million could be diverted in the event that the suppliers failed to deliver the supplies as scheduled. He also asked about relevant procedural formalities.

7. The views of Mr YIP Wing were summarised below:

- (a) he said that the Sha Tin District Office (STDO) had not provided the venue and secretarial services for the first meeting of the WG;
- (b) he pointed that it would be difficult for any company or organisation to provide the supplies and receipts within seven days, and enquired whether special arrangements could be made for special cases;
- (c) he considered it important to provide masks and handrub for the public; and
- (d) he would like the Secretariat to explain the relevant documents signed by the organisations and whether the organisations were required to pay compensation.

8. Mr HUI Lap-san expressed disappointment that the Yee Health Company Limited (YHCL) had reneged on its promise to provide masks before the deadline. As the HEC had taken special measures and accepted two late applicants as co-organisers, the failure of the organisations to provide supplies would affect members. He would propose a provisional motion later on.

9. The views of Mr Wilson LI were summarised below:

- (a) he said that Members had tried their best to procure epidemic prevention supplies for the public, and the WG had convened meetings and endorsed the relevant items as soon as possible, with a view to making sure that the supplies were delivered to the public as soon as possible;
- (b) he asked the Chairman whether he could try his best to retain the \$2 million provision and hoped that the Government would cooperate;
- (c) he hoped that the Secretariat would clarify whether there was a contract and a breach of contract; and

- (d) at the WG meeting, members were aware of the late submission of the application, but they still considered the application and chose Organisation 1 as the co-organiser because the information provided was more complete. At the subsequent special meeting, members were also informed of the situation and still considered the application, out of their wish to provide the best supplies to the public. He said that data leakage was a serious allegation and he would like to seek details from Mr Chris MAK.

10. The views of Mr CHENG Chung-hang were summarised below:

- (a) members shared the concerns of the public and therefore set up the WG and approved the funding as soon as possible, and also hoped that government resources would be used by the public. He enquired the Secretariat about the means by which \$2 million could be reserved for the current year;
- (b) in order to obtain epidemic prevention supplies and funds as soon as possible, he believed that any method could be discussed, such as re-invitation to co-organisers;
- (c) he said that he could not accept that the supplies would only be available from mid to late April. He was disappointed that he had also voted for the organisation on that day and opined that the organisation had led members to have an expectation that was too high;
- (d) he opined that the issue of the breaching of contract could be discussed at a later stage, but the availability of epidemic prevention supplies was more pressing. He asked whether the Secretariat could make special arrangements to enable the relevant funds to be used after the deadline; and
- (e) he opined that suppliers should be discussing how to expeditiously procure anti-epidemic supplies for the public.

11. The views of Mr Johnny CHUNG were summarised below:

- (a) he did not recommend continuing to procure alcohol-based handrubs with the Organisation 1. He had doubts about the ability of the rganisation to provide the handrubs as the organisation had failed to comply with the activity agreement by providing the supplies and receipts on time. The distribution of anti-epidemic kits was to provide comprehensive protection to the public and if masks were not available, the availability of alcohol-based handrubs in the market would not be relevant to the needs of the public. As the raw materials and logistics for the masks could not keep up with the demand, the STDC assisted with the purchase of masks so as to alleviate the financial pressure on the public in purchasing masks;
- (b) he considered that every effort should be made to retain the funding earmarked for the last term of the STDC. In the event that the funds were not used, they would be returned to the Treasury and he did not think the Government would make good use of them. As the budget of the STDC for the coming year was still unclear, he had reservations about whether the funds could be earmarked; and

- (c) he opined that as the STDO could not effectively assist the STDC in procuring epidemic-prevention supplies, he had reservations about whether funding could be successfully allocated for the procurement of epidemic-prevention supplies in the next financial year.

12. The views of Mr Chris MAK were summarised below:

- (a) responding to Mr Wilson LI, he considered that the suspicion of data leakage was reasonable and traceable. He said that for the period of 2 days, organisations were invited to be co-organisers. Organisation 3 and 4 submitted their documents more than 10 hours after the deadline. As the convenor, he was aware that only 2 organisations had applied by the deadline and the WG members were aware of the quotation applications. He opined that the coincidence in timing constituted a reasonable cause for suspicion as only the Secretariat and WG members had read the documents. However, he believed that members of the WG would not leak information, so he suspected that it was a leak in the Secretariat. He said that late applications would not be accepted as part of the normal procurement process, but since more than half of the WG members had agreed to accept the applications, the convenor could not object. He opined that the Secretariat should remind the WG and the Chairman whether there was any problem in accepting late applications;
- (b) he said that the selected co-organiser had attracted members with unreasonable quotations and therefore he did not select the organisation as co-organiser for Activity 1; and
- (c) he reprimanded the Secretariat for its poor gate-keeping. The Secretariat had failed to exercise effective monitoring throughout the procurement process, resulting in the prolongation of the procurement period. As the public was aware of the funding approved by the STDC for the procurement, he said that the failure of the co-organisers to provide supplies on time would affect the reputation of members. He requested that the Secretariat perform its gate-keeping role properly and provide a detailed report on the entire procurement process.

13. The views of Mr Jimmy SHAM were summarised below:

- (a) in the course of the discussion on the purchase of epidemic-prevention supplies by the HEC, the STDC faced a lot of difficulties. As the STDC could not hold a meeting and the Secretariat did not provide the venue and secretarial services, the WG was only able to find a venue to hold a meeting in Ma On Shan with the assistance of Mr Chris MAK and approved the funding. The WG had invited co-organisers as soon as possible, but due to the time constraint, it did not resolve all the problems;
- (b) at the first meeting of the WG, only Organisation 1 and 2 submitted complete information while Organisation 3 and 4 provided insufficient information. As the WG wished to have more options for procuring masks, the Organisations were requested to submit the documents within one day to select the most suitable organisation to procure the masks;

- (c) at the meetings with the organisations, none of them ensured that the masks would be provided within the deadline. Therefore, the price quotation of the masks was the primary consideration of the HEC at that time; and
- (d) he considered it a waste of time to pursue responsibility at this juncture. He asked whether any of the 4 applicants could provide sufficient number of masks and receipts before 17 March and if so, whether the HEC would consider cancelling the co-operation with the selected Organisation and replacing it with one that could provide supplies.

14. The views of Mr Wilson LI were summarised below:

- (a) he hoped that public funds would be well spent and that masks could be procured for the public as soon as possible;
- (b) he agreed with the suggestion of Mr Jimmy SHAM that the procurement should be handled in a fair and open manner as soon as possible, but was concerned that, as stated at the last meeting, there was no guarantee that supplies would be available;
- (c) he said he understood the suspicion of Mr Chris MAK, and that the Secretariat had to explain the whole procedure. He was of the view that the leakage was a serious allegation and should be followed up seriously to clear the name of the Secretariat and members of the WG; and
- (d) he considered that the questions raised by Mr Chris MAK would raise the alertness of members. He said that he had not voted either, but respected the decisions of members. He considered that there was a need to enhance transparency and improve past malpractices in the current term in order to be accountable to the public.

15. In response to Mr Johnny CHUNG, the Chairman said that the funding for the WG for the coming year was \$3.67 million. If the funding for the coming year was approved, it would be submitted to the FGAC and then to the STDC for approval for procurement of epidemic prevention supplies.

16. Mr Sebastian WONG, Assistant District Officer (Sha Tin) (2) gave a consolidated response as follows:

- (a) he said the first meeting of the WG was held on 13 February to discuss the procurement of epidemic prevention supplies and publicity activities. At the meeting, the Secretariat was requested to submit the minutes of the meeting within 3 working days and to start the process of inviting Co-organisers as soon as possible. After 3 working days, i.e. 18 February, the Secretariat provided the draft of the minutes of the meeting for circulation to the WG members and prepared an invitation letter for the Convenor to consider and start the invitation process; the Convenor of the WG set a deadline for reply on 20 February, i.e. 2 working days later. Applications were received from the Hong Kong Evangelical Church School Services Team and Connaught Medical Co., Ltd. before the deadline. On 21

February, applications were received from YHCL and the Care Association Limited (CAL). All in all, 4 applications were received, where 2 of them were on time and 2 of them were late. In accordance with the practice of previous working groups, the Secretariat would submit the late applications to the WG together with a reminder that the applications were late for record purpose. It was for the WG to decide whether to accept late applications. At the second meeting of the WG held on 25 February, the WG agreed to also consider the 2 late applications. He added that none of the organisations had prepared all the documents required in the invitation letters and that members of the WG had been informed at the meeting. Therefore, at the request of the WG, the organisations were invited to provide the outstanding information and the deadline for submission was the second working day. The Secretariat had requested the organisations to supplement the outstanding documents as soon as possible after the meeting. On 26 February, all organisations were required to submit additional documents before the deadline. On 27 February, the Secretariat circulated the supplementary documents to WG members and invited them to vote on the selection for co-organisers. The voting result was that both Activities 1 and 2 would be co-organised by the Hong Kong Evangelical Church School Services Team. At the request of the Chairman of the HEC, a special meeting was held on 3 March to meet with the 4 organisations. It was passed on that day that the co-organisers of Activities 1 and 2 would be YHCL and CAL. On 5 March, YHCL and CAL submitted their undertaking. YHCL undertook to provide masks and alcohol-based handrubs before 10 March this year, and to provide receipts and certify that they were in order on 17 March this year. On 6 March, YHCL indicated that it could not provide the masks by 10 March this year and that the masks could only be supplied in batches between mid-April and end-April this year;

- (b) YHCL provided supporting documentation for the alcohol-based handrub and the mask, which did not demonstrate compliance with the requirements specified in the invitation letter. YHCL said that the relevant masks were being tested overseas and that the supporting documents that showed the masks met requirements would be provided in due course, but the certificate had not been received as of this morning; and
- (c) he added that YHCL had only indicated that it could not provide the masks by the deadline, but the price and quantity had not changed.

17. Mr Derek YUEN, Senior Executive Officer (District Council) of the STDO gave a consolidated response as follows:

- (a) he pointed out that for the financial year of 2019-2020, \$32.52 million was allocated to the STDC for organising activities by government departments, the HEC, working groups and non-governmental Organisations. According to the guidelines of the HAD, the STDC was required to earmark 5% to 10% of the funds for the new term of the STDC in the last year of their term. For the current term, 5% of the funds, i.e. \$1.626 million, was earmarked for the previous term. In order to make better use of the STDC funds, there was an over-commitment in STDC funds in 2019-2020, with a corresponding increase of \$1.626 million, in addition to the 10.88% over-commitment in 2018-2019, to offset the impact of the

earmarked funds on the overall expenditure of the new term of the STDC. The estimated amount for the financial year of 2019-2020 was therefore about \$37.68 million. As at January 2020, there was a balance of \$199,000 plus unspent funds of about \$387,000 due to cancelled activities, making a total of about \$2.2 million available for use by the STDC in the period from 2019 to 2020;

- (b) he pointed out that it was evident from the background of the funding that it came from over-commitment, reserves and cancellation of activities, and not from the funding of \$32.52 million that the STDC received; and
- (c) according to the “Manual on the Use of District Council Funds” and the “Procedures and Rules of Application for Sha Tin District Council Funds” of the HAD, all unspent STDC funds in the year would be cancelled. Therefore, there was currently no mechanism to carry forward the unspent balance of the provision to the next financial year.

18. The Chairman said that members would have to decide whether to proceed with the procurement. The co-organisers would also be invited to explain the current situation and difficulties later.

19. The view of Mr Chris MAK were summarised below:

- (a) he responded to Mr Sebastian WONG that two of the organisations had only failed to tick all the boxes in the document of the Government Logistics Department (GLD), which appeared after the WG had discussed the requirements and certification of masks, and he considered that the document had slowed down the procurement process. He said that the requirements for masks in the document were too stringent, and as a result, the organisation could not tick the two options in the document. As such, he said that the organisations concerned had in fact submitted all the required documents but had only failed to tick two of the options; and
- (b) he opined that the Secretariat had not completely complied with the details discussed by the WG to facilitate implementation.

20. The Chairman welcomed representatives of YHCL and CAL to the meeting and explained the purpose of the meeting. He invited representatives of the YHCL to explain the current situation and difficulties.

21. Ms LAM Man-wa, Director of YHCL gave a consolidated response as follows:

- (a) the agency received an undertaking from the Secretariat on 5 March and she thanked members for choosing YHCL;
- (b) she said she was surprised to receive the document and thought it would take time to procure, as she thought the deadline would be extended;

- (c) she had approached local mask manufacturers, who said that some organisations had purchased masks at cost and then supplied them to district councils at a higher price, which was why the manufacturers indicated that they would not accept that mode of partnership in procuring masks. Some other suppliers indicated that they would accept the purchase, but would have to supply the masks in batches. She also tried to enquire with Mainland manufacturers, but no masks were allowed to be exported at present; and
- (d) she said that it was not the price factor that made the goods unavailable, but the manufacturer's failure to supply the goods.

22. The Chairman said that some manufacturers expressed that some contractors increased the price of masks when supplying them to district councils after tendering and that they would not accept such a mode of partnership in the procurement of masks. He asked whether it meant that the problem could not be solved even if they continued to work with YHCL. He asked whether the organisation would be able to supply the masks if only alcohol-based handrub was supplied.

23. The responses of Ms LAM Man-wa were summarised below:

- (a) she had contacted several mask manufacturers and SOSo Mask indicated that the mode of partnership was not acceptable. The mask factories indicated that they had to wait for their turn, so the same situation would arise regardless of the organisation. If the masks were to be sourced from the Mainland or overseas, it would depend on the sourcing capability of the organisation concerned; and
- (b) she said that only alcohol-based handrub could be provided and the unit price would be reduced and the volume would be increased. She said that the exact unit price was not available at the moment but assured that it would not be as high as \$16, but the procurement and logistics would take time and it would take three to four days for delivery.

24. The views of Mr CHENG Chung-hang were summarised below:

- (a) despite the tight timeframe, he opined that the applicant should be held accountable and could not accept that the applicant would be in breach of its undertaking once it became a co-organiser; and
- (b) he opined that there was no shortage of alcohol-based handrub and the demand for masks was the most pressing. He agreed with the suggestion proposed by Mr Jimmy SHAM, and would like to re-organise the event with an organisation that could meet the deadline.

25. The Chairman invited members to note that Mr CHING Cheung-ying attended the meeting.

26. Mr Michael YUNG asked whether the Secretariat had pointed out that there was no system and mechanism for transfer of funds in accordance with paragraph 3.1 of the “Manual on the Use of District Council Funds” issued by the HAD.

27. Mr Derek YUEN responded that paragraph 1.4 of the “Procedures and Rules of Application for Sha Tin District Council Funds” that was passed at the STDC meeting on 23 January 2020 was in line with paragraph 3.1 of the “Manual on the Use of District Council Funds” issued by the HAD.

28. Mr Michael YUNG said that paragraph 3.2(c) of the HAD’s “Manual on the Use of District Council Funds” had already outlined that 5% to 10% of the funds had been earmarked by the previous term of the district councils for activities to be implemented by the next term of the district councils from January to March. He would like the Secretariat to explain paragraphs 3.2(a) and 3.2(b).

29. The Chairman enquired whether the \$1.62 million allocated in the last term could be used in the current term by changing the event into a cross-year event.

30. Mr Derek YUEN responded that the term “year” in the provision referred to the financial year and the expenditure was borne by the financial year. In the case of goods, for example, the funding of a certain financial year would cover the cost of goods received in the same financial year and the cost of activities whose receipts were handed in in the same financial year. If the goods were supplied on or after 1 April 2020, the expenditure would be included in the financial year 2020-2021. In the case of a cross-year activity, if the expenditure of the supplies was incurred in the financial year 2020-2021, it would be borne by that financial year.

31. The Chairman asked whether it could be construed that the provision of \$1.62 million in 2019-2020 could be made available for use in the following year.

32. Mr Derek YUEN responded that since the expenditure would only be incurred when the goods were delivered on or after 1 April 2020, the funds could not be spent in the following financial year.

33. The views of Mr HUI Yui-yu were summarised below:

- (a) he opined that the Secretariat had not explained whether funds for cross-year activities could be carried over to the following financial year. He asked the Secretariat about the mechanism for carrying over funds from the previous year to the following year for cross-year activities; and
- (b) he opined that the provision had already pointed out that there was an opportunity to carry over funds from the previous year to the following year, and asked the Secretariat to provide a response on the conditions to be met.

34. Mr Derek YUEN responded that the total commitment arising from cross-year activities meant that if the relevant funding could not be used in the current year, the relevant expenses would be covered by the funding of the following year. The relevant expenses would be included in the expenditure of the financial year that it was used in.

35. Mr HUI Yui-yu asked if it could be understood that assuming that the total expenditure for this event was \$4 million, if the expenditure in the previous financial year was insufficient to cover it, it could be covered by next year's allocation, but the previous year's allocation had to be spent in the previous financial year.

36. Mr Sebastian WONG responded that each year the STDC would plan the events for that year and the funds allocated for that year would be used for that year's events. A cross-year event meant that funds from the current financial year would be set aside for that event. As a result, there was no increase or decrease in funding from year to year, but the funding for the next financial year was determined in the current financial year and was not carried over from the current year to the next financial year. When goods and documents were received in the next financial year, they would be paid for with the appropriation of the following financial year.

37. Mr YIP Wing asked Ms LAM Man-wa whether she was aware of the urgency of the event when she submitted the application. He said that the comments made by Ms LAM Man-wa at the last meeting had caused other organisations to lose the opportunity, but the organisation failed to deliver the goods on time after signing the undertaking and shift the blame to the vendor. He opined that the organisations were irresponsible and deceived the STDC. He did not support the procurement of alcohol-based handrubs by the organisations as there were sufficient and cheaper handrubs available in the market.

38. Mr Felix CHOW said that at the last meeting, Ms LAM Man-wa had promised the STDC that she could procure the masks according to the quotation and signed the relevant documents to promise the delivery of supplies. As the activity involved public funds, it had to be handled according to the established procedures. He asked Ms LAM Man-wa whether she was fully confident in handling the supply of masks when she made the pledge, and whether she had confirmed the supply situation with the supplier before the meeting; if not, it indicated that the organisation had made an unrealistic pledge at the last meeting.

39. The views of Mr Chris MAK were summarised below:

- (a) he stated that the fact that the organisation had failed to deliver the goods on time constituted a breach of contract;
- (b) at the last meeting, one of the reasons for choosing the supplier was that the supplier had indicated that it had contacted the local mask supplier, whereas at the current meeting, it said that it would also contact the Mainland manufacturer, and he opined that the supplier did not honoured its verbal undertaking;
- (c) he opined that the organisation was in breach of contract in respect of the following matters. (i) Failure to provide receipts as scheduled. (2) Failure to supply the goods as scheduled. (c) The goods were not of local origin. He opined that the organisation was in breach of the decisions made by the WG and the HEC and therefore the application for the activity was not substantiated;
- (d) he asked if the organisation was promoting itself through the activity. The reputation of the STDC had been tarnished by the organisation's failure to provide goods on time; and
- (e) he expected that the relevant supplies would be provided by another supplier before 17 March this year. He said that 1 April this year would mark the start of the next financial year and a fresh invitation for procurement would have to be made before 31 March this year.

40. The Chairman said that if the event could not be completed by 17 March, it would be necessary to reserve funding with the approval of the FGAC. Members were invited to note that if the invitation to co-organisers was to be renewed, a special meeting of the FGAC had to be convened for endorsement.

41. The views of Mr George WONG were summarised below:

- (a) he was disappointed that the organisation failed to provide masks and found it unacceptable; and
- (b) he enquired about the procedure and time required for the Secretariat to re-invite the co-organisers. As the financial year ended on 31 March, he enquired whether the cases could be handled according to procedures, in the circumstance that organisations could provide receipts on or before that date.

42. The views of Mr HUI Lap-san were summarised below:

- (a) at the last meeting, he asked Ms LAM Man-wa about her source and delivery date of the masks, and she undertook to provide the mask by the end of March; and
- (b) he said that he could not accept Ms LAM's explanation for not being able to deliver the goods as scheduled and he opined that if the organisation could not ensure the delivery, it should not have signed the document. In view of the worsening the epidemic, he opined that a grace period for supply could not be granted.

43. The Chairman said that the provisional motion proposed by Mr HUI Lap-san would be discussed later.

44. The views of Mr Michael YUNG were summarised below:

- (a) given the large volume of goods, it might not be possible to provide goods and receipts in one go, he enquired whether the Secretariat could process the funding based on the quantities and receipts provided by the organisations before the deadline;
- (b) he was of the view that if the co-organisers were to be invited again, the expenditure for the activities would definitely be absorbed in the next financial year if not special arrangements could be made;
- (c) Mr Sebastian WONG said that after the WG's meeting on 25 February, the organisations were asked to submit the relevant documents on 26 February. He was concerned that the public might find the approval of the \$2 million funding by circulation of documents frivolous and, as he understood, a special meeting was called on 3 March. He considered this unsatisfactory and opined that there was room for improvement; and

- (d) he said that the WG recommended its decision to the HEC, which would then decide whether to accept the WG's decision or to consider it separately. He said that the FGAC had made its own decision before after the WG recommended a proposal to it; therefore, he opined that there was nothing wrong with the procedures of the approval of the HEC regarding the activity. He said that consideration should now be given to utilising the funding as much as possible instead of starting all over again, and that there were problems with the quotations from other organisations.

45. Mr HUI Yui-yu agreed with Mr Michael YUNG that the \$2 million funding should be sought to be spent under the existing system. He asked whether it would be consistent with the existing mechanism if part of the supplies were supplied on or before 31 March. If all the supplies and receipts were not provided on or before 31 March, whether it would be inconsistent with the existing mechanism. He hoped that the Secretariat would respond to the question before considering other options.

46. The views of the Chairman were summarised below:

- (a) he pointed out that the documents in hand showed that the funds could be spent in the current financial year but could not be carried forward to the next financial year; and
- (b) he said that the scope of discussion had to be narrowed down after that round of speeches, and they had to resolve whether the event should continue or start from scratch.

47. The views of Mr Raymond LI were summarised below:

- (a) if the co-organisers were unable to provide supplies, he enquired about the follow-up actions to be taken;
- (b) he considered it necessary for the Secretariat to answer the question of how the funding would be used. He opined that the funding was more important and hoped that the Secretariat would accord priority to it; and
- (c) if masks could not be provided in the procurement exercise, he would object to that, and opined that members were concerned about the procurement and distribution of masks to members of the public.

48. Mr CHAN Wan-tung sought clarification on whether YHCL signed the contract and breached the contract and enquired whether the contract allowed for adjustments or compromise. If yes, he would like to know whether the organisation had other plans to continue sourcing masks, such as finding other sources.

49. Mr LI Sai-hung referred to YHCL's statement that there were manufacturers who did not accept orders to supply masks to other district councils because other organisations had raised their prices. He asked whether the organisations or the Secretariat could provide proof that the masks were supplied to district councils at cost to solve the problem.

50. The responses of Ms LAM Man-wa were summarised below:

- (a) SOSo Mask replied that it would not accept any similar purchase due to price increase. At present, there was a mechanism for Members to procure masks directly from manufacturers. The manufacturer would not accept any joint procurement of masks, even though the organisation had provided the relevant quotation document to prove its cooperation with the STDC;
- (b) she said that she was not aware of the rules on funding as she had not participated in STDC activities. She suggested that members directly purchase masks from manufacturers and use the funding to pay for them;
- (c) she understood that her organisation had to bear responsibility for signing relevant documents without keeping its end of the bargain and she apologised to members for that. She asked whether the Secretariat had considered that the organisation would not be able to provide 800 000 masks in four days. She said that if there was any stock available, it would be made available to front-line staff first, instead of waiting for the reply from the STDC before taking action. During the application process, the supplier said that the goods were available but it had to understand the usage of the goods; however, the organisation could not reply the manufacturer before the HEC had made a decision on the selection of co-organiser;
- (d) she said that the event was for a fair competition among the four organisations and would not be used to promote the company;
- (e) she said that the organisation would not give up on co-operating with the HEC because they suffered losses from being the co-organiser of the event; and
- (f) she asked if the HEC would consider allowing separate submission of receipts and goods.

51. The Chairman advised that the proposal was not feasible, as members had to take up the responsibility.

52. The views of Mr WONG Ho-fung were summarised below:

- (a) in response to Mr Raymond LI, he said that other members minded that the handling of members' Operating Expenses Reimbursement would be delayed; and
- (b) he enquired whether the organisation had procurement channels in other countries and if so, he did not mind the FGAC holding additional special meetings to expedite the process.

53. The views of Mr Chris MAK were summarised below:

- (a) in response to Mr Michael YUNG, he said that time was running out and circulation of documents was the only way;

- (b) he opined that the quotation of the first organisation was rather vague and the relevant practice was a common practice of the organisation to protect its reputation. The organisation had indicated that it would increase the number of masks provided if the cost of masks fell. He said that he would believe the undertaking because the first organisation was monitored by the Social Welfare Department; and
- (c) he asked YHCL whether the vendor could provide the mask and receipts if the Secretariat provided supporting documents to SOSo Mask.

54. The views of Mr Wilson LI were summarised below:

- (a) he considered that Ms LAM Man-wa could not use her naivety as an excuse for her failure to supply the goods as scheduled;
- (b) he hoped that Ms LAM Man-wa could provide a specific response on the estimated delivery period and quantity of the masks; and
- (c) he hoped that the \$2 million earmarked for public funds in the last term could be put to good use for the benefit of the public. He opined that there were two approaches. Firstly, co-organisers complied with the document requirements in providing supplies and receipts as scheduled. Secondly, he opined that both masks and public funds were important, and although there were difficulties in inviting co-organisers again, he hoped that the public funds earmarked in the last term could be put to good use as soon as possible for the procurement of masks in compliance with the administrative procedures and the principles of fairness, impartiality and openness.

55. The Chairman asked the Secretariat or the STDO to respond to the questions: (1) whether the organisation was in breach of contract and how to deal with the breach; (2) whether the funding could be adjusted, and whether it was necessary to re-invite co-organisers if other items were to be purchased; (3) whether the schedule and time for re-inviting co-organisers were sufficient; (4) whether separate invoices and supplies could be handled, and whether the HEC could directly issue a letter to purchase masks from the manufacturers.

56. The responses of Mr Derek YUEN were summarised below:

- (a) some members asked whether the quantity could be adjusted. The event was divided into Activity 1 and 2, with Activity 1 being the procurement of vaccination supplies and Activity 2 being the promotion and distribution of vaccination supplies. For Activity 1, the organisations were required to collaborate with those for Activity 2 to distribute the supplies to the offices of Members. Upon receipt of the invoices, payment would be made by the Secretariat. If the supplies and invoices were submitted separately, it would be difficult to trace any missing items; and

- (b) the organisation was a co-organiser and undertook to work with the WG of the STDC in the procurement and distribution of epidemic-prevention activities and to co-operate with each other in the implementation of the activities. Under the existing mechanism, the joint arrangement could be cancelled if an organisation could not meet the requirement.

57. Mr HUI Yui-yu asked whether the change in the terms of the procurement, if agreed by the HEC, would invalidate the earlier agreement signed by the organisation.

58. The responses of Mr Derek YUEN were summarised below:

- (a) as it was decided earlier that the procurement of masks and handrub would be the subject of Activity 1, if members approved the adjustment of the quantity of items instead of increasing the number of items to be procured, the amount of funding required would remain unchanged and the Secretariat would follow up; and
- (b) he reminded that the organisation of Activity 1 had to work with the organisation of Activity 2 so that the latter could deliver the supplies to Members of all district councils on 17 March. In other words, Organiser 1 should provide the supplies and receipts on or before 17 March and liaise with Organiser 2 for delivery of the supplies to DC Members.

59. Mr HUI Yui-yu asked whether it meant that the proportion of the quantity of masks and alcohol-based handrubs could be adjusted at the meeting, the remaining funding could be used to purchase alcohol-based handrubs and the funds reserved in the last term could be used if the organisations could deliver the supplies to the offices of Members on or before 17 March.

60. Mr Derek YUEN added that the organisation of Activity 1 had to collaborate with the that of Activity 2 and the latter would be responsible for the distribution of supplies.

61. The views of Mr CHAN Wan-tung were summarised below:

- (a) he pointed out that the organisation of Activity 2 had indicated at the last meeting that it would distribute vaccination kits. He asked whether the organisation of Activity 2 was also unable to provide the goods on time; and
- (b) he asked YHCL whether only SOSo Mask could provide masks.

62. The Chairman added that YHCL had indicated that alcohol-based handrubs would be available by the end of March and vaccination kits would be provided by the Care Association Limited.

63. Mr LO Yuet-chau pointed out that, in accordance with the spirit of the tender and contract if the quotations were changed to accommodate the co-organisers, the District Officer (Sha Tin) might question the decision.

64. The Chairman added that the Secretariat had just mentioned that the co-organisers could be abolished and it would be up to the HEC to adjust the amount or quantity of supplies to be purchased, and that it would not be feasible to submit separate receipts and supplies.

65. Mr Michael YUNG asked if the contract allowed for payment of part of the supplies and documents submitted. He said he would like to make the best use of the funds without having to return them to the Treasury. If the contract did not allow for this, whether payment could be made through a supplement based on the actual expenditure of the organisation. He said that without the supplies for Activity 1, Activity 2 could not be held and if the co-organisers were to be invited again, the funds would eventually have to come from the next financial year.

66. Mr CHAN Wan-tung said that as the Secretariat had just said, the goods could not be changed but the quantity could be adjusted, and that the difficulty for YHCL was that the vendors did not accept the current procurement method which required direct procurement by Members, and he said that the Secretariat had not responded to Members' question on whether they could procure the goods in that way and then use the funds to pay for them. He added that although the method was undesirable, the Secretariat had not responded as to whether Members could use the funding to pay for the procurement under the method.

67. The Chairman added that the manufacturers had indicated that they would not supply to the contractors but could discuss direct procurement by Members.

68. The responses of Ms LAM Man-wa were summarised below:

- (a) she said that the manufacturer had asked the STDC to contact them directly. On the other hand, the manufacturer said that the existing masks would be provided to front-line medical staff and then to individual collaborating Members. She said that she had asked the Secretariat about the matter and the Secretariat replied that the masks could not be procured in the name of the STDC; and
- (b) the mask manufacturer said that they were in the process of applying for supporting documents for the mask but could not provide them at present. She asked whether the STDC would accept the goods under such circumstances.

69. Mr LI Sai-hung suggested that the Chairman contact SOSo Mask to procure the mask directly from the manufacturer and that the invoice should be handled by YHCL.

70. Mr Saki CHOY, Executive Assistant (District Council)⁵ of the STDO expressed that Ms LAM Man-wa had just pointed out that the Secretariat had replied to her that the STDC could not contact SOSo Mask directly to procure the mask. He reiterated that he did not provide any information on whether the Secretariat could procure the mask in the above manner in the conversation with Ms LAM Man-wa. He pointed out in the conversation that the Secretariat had sent Ms LAM Man-wa a letter with the contact information of the agent, which allowed the mask manufacturer to contact SOSo Mask directly, but as of today, he had not received any phone call or email from SOSo Mask.

71. Mr Derek YUEN responded that if the activity co-organiser could clearly set out the quantity and amount of masks and alcohol-based handrub that could be provided in the current financial year and the next financial year respectively, liaise with the activity co-organiser and hand the supplies that could be provided in the current financial to Members of different district councils on or before 17 March this year, then the expenses could be covered by the funding of the current financial year with the approval of the HEC. The expenditure of the next financial year would be covered by the appropriation for the following financial year.

72. The views of the Chairman were summarised below:

- (a) he enquired about the amount of supplies that could be provided by YHCL under the existing procedures; and
- (b) whether the mask manufacturer could meet the time limit and procedures for supplying masks if the HEC or the convenor of the WG contacted the mask manufacturer directly.

73. The responses of Ms LAM Man-wa were summarised below:

- (a) she stated that SOSo Mask did not inform her of the procedures for direct procurement from the STDC and therefore she could not promise that the deal would happen if the STDC contacted them directly; and
- (b) she said that the manufacturer replied on 6 March this year that it could supply 10 000 bottles of alcohol-based handrub by the end of March, but when the FDA certificate for the alcohol-based handrub was submitted to the Secretariat, the Secretariat pointed out that the certificate could not prove the ingredients of the alcohol-based handrub, and thus the procurement was suspended at present.

74. The views of Mr YAU Man-chun were summarised below:

- (a) he considered that the deadline of 17 March was tight for both the STDC and the co-organisers. He pointed out that the deadline was due to the need for the FGAC to meet on 17 March immediately after the STDC meeting and he hoped that members could reach a consensus on the extension to allow more time for both sides to procure; and
- (b) he opined that the liaison with the manufacturers by the HEC or the convenor of the WG might not be successful either. As the quantities of masks and alcohol-based handrubs could be adjusted, he opined that the HEC could adjust the quantities of masks and alcohol-based handrubs that YHCL was currently committed to supplying so that members could have supplies to distribute.

75. Mr LO Yuet-chau hoped that the organisations would have a clear understanding of the relationship between the STDC and the co-organisers, who were the suppliers responsible for sourcing and negotiating with the manufacturers on procurement matters, and should not shift the responsibility to the STDC. He said that the organisation had wasted the time of STDC in resolving their problems, and had also betrayed the trust of the WG and the HEC, as well as increased the administrative time of the STDC and the Secretariat. He opined that it would not be helpful if the organisations continued to handle the problem in the same manner.

76. Mr CHAN Wan-tung considered it necessary to address the problem of manufacturers not accepting the procurement of masks for the STDC by the co-organisers. He suggested that at the meeting, Members should contact the mask manufacturers directly to enquire about the supply of masks if the procurement could be done through direct contacts with the STDC.

77. The Chairman pointed out that YHCL had been invited as a co-organiser earlier, instead of inviting SOSo Mask directly, so it was not allowed in the procedure.

78. Mr Chris MAK considered YHCL to be a sham. He did not accept that the organisation could only provide 10 000 bottles of alcohol-based handrub by the end of March this year as this did not meet the requirements of the activity. He felt that the organisation lacked integrity and shifted the responsibility to the STDC. He suggested that the meeting be adjourned and that the STDC Chairman contact the manufacturer concerned.

79. The views of the Chairman were summarised below:

- (a) he said that direct contact with the vendor would be subject to a decision on whether to cancel the co-organiser. He asked whether the Secretariat could do that and let the HEC or the WG procure directly from the vendor;
- (b) he referred to the need expressed by the Secretariat to re-invite the co-organisers; and
- (c) at present, the only viable option was to allow the co-organisers to adjust the quantity of supplies to be used from the previous allocation. If the organisations were allowed to organise the activities as originally planned, they would have to pay for the expenses in the next financial year.

80. The views of Mr Michael YUNG were summarised below:

- (a) he opined that re-inviting co-organisers would only result in the postponement of the event to the next financial year;
- (b) he proposed that issues relating to the procurement of epidemic-prevention supplies and publicity should be discussed directly with the HEC without the need to set up a WG;
- (c) he doubted whether the organisation would be able to provide 10 000 bottles of alcohol-based handrub by the end of March, as the supporting documents for the alcohol-based handrub were not satisfactory;
- (d) he wished to ascertain the direction of the present discussion. He considered that a decision had to be made as to whether or not to accept payment for the supplies and receipts that could be provided, and when they could be provided, as the whether Activity 2 could be held depended Activity 1. If the organisations were unable to provide the supplies and receipts by 17 March, he considered that there was no need for further discussion; and
- (e) under the present circumstances, it was difficult to source masks. He was worried that if masks of unknown quality were to be sourced and opined that the funding should not be used reluctantly.

81. The Chairman advised that there were 3 ways to deal with the situation: 1) cancel all the activities and invite the co-organisers again; 2) allow the organisations to provide alcohol-based handrub only and allocate funds for the purchase of masks in the next financial year; 3) continue with the activities and allocate funds in the next financial year.

82. Mr Johnny CHUNG considered that the biggest problem was that SOSo Mask did not believe that YHCL was the co-organiser of the STDC activities and therefore refused to supply masks to them. He suggested that the meeting be adjourned before the Chairman's proposal was put forward so that the HEC could contact the manufacturers to solve the problem of manufacturers not supplying masks to them.

83. Ms LAM Man-wa replied that 800 000 masks would be required for the entire activity and she said that 200 000 could be supplied initially.

84. The Chairman asked Ms LAM Man-wa whether she could provide the above 200 000 masks and 10 000 bottles of alcohol-based handrub by 17 March.

85. Ms LAM Man-wa responded that there were difficulties with only 5 days' time and would like to have further discussion with members.

86. The Chairman asked the Secretariat whether the deadline could be extended subject to the agreement of the Chairman of the FGAC to convene a special meeting on 24 March.

87. Mr Derek YUEN replied that the end of March was the close of the financial year, and the organisation had to provide supplies and receipts on or before 17 March, so that the Secretariat could process the payment. This was a matter of the end of the financial year of the Government. The cut-off date was not on 31 March, as payment could not be made 1 week before the end of the year. Therefore, the organisation must provide the goods and receipts on or before 17 March and pass them on to the co-organisers of Activity 2, for the payment to be processed in the current financial year. Or else, the payment would be processed in the following financial year, and the deadline would have nothing to do with the date of the FGAC meeting.

88. The Chairman enquired whether a special meeting of the FGAC could be convened on 19 March to consider the funding application.

89. Mr Michael YUNG said that the Secretariat had just pointed out that it had nothing to do with the date of the meeting and asked whether the Secretariat's reply earlier meant that the submission of supplies and receipts on 17 March would be required and the Secretariat would start the administrative procedures to request payment from the Treasury.

90. Mr Derek YUEN responded that by the end of the financial year, i.e. 17 March, the organisations were required to provide the supplies and receipts and liaise with the co-organisers of Activity 2 for delivery of the supplies to the offices of Members of different district councils. The Secretariat could only commence the payment procedures after the Members had indicated receipt of the supplies.

91. The views of Mr Michael YUNG were summarised below:
- (a) he indicated that he could pay for the goods and documents provided by YHCL on 17 March; and
 - (b) he asked whether YHCL was clear that the above masks and receipts should be provided on 17 March. He asked whether the supplies provided by the organisation were required to meet GLD standards and provide relevant supporting documents, or whether a certificate issued by the manufacturer would suffice.
92. The views of the Chairman were summarised below:
- (a) YHCL had completed the GLD's documentation and the supplies were theoretically up to standard; and
 - (b) he asked whether the Secretariat could postpone the FGAC meeting or convene an special meeting as the organisations had indicated that they would not be able to deal with it on 17 March.
93. Mr Michael YUNG said that the problem was not whether to convene a FGAC meeting or not, but to provide invoices to the Secretariat on 17 March for processing the payment procedures. He therefore enquired about the amount of supplies and receipts that could be provided by YHCL on 17 March, and whether the Secretariat would need to check the supporting documents for the supplies.
94. The views of Mr CHAN Pui-ming were summarised below:
- (a) he would like the STDO and the Secretariat to answer whether the Secretariat would be able to handle the payment process if YHCL provided the supplies and receipts on 17 March. He also asked about the administrative procedures after the provision of the goods and receipts and whether the procedures could be completed on the same day; and
 - (b) he asked YHCL to respond to the volume of goods that could be delivered on 17 March.
95. Mr Derek YUEN responded that the organisation had provided the supplies and receipts on 17 March and liaised with the co-organisers of Activity 2 for the supplies to reach the offices of Members of all district councils, then the Secretariat would be able to handle the payment procedures, provided that the organisation was clear about its supply quantity. If Members had doubts about the quality of the masks, the organisations would be required to provide documentary proof on the standard of the masks.
96. The Chairman advised that the payment process could only be processed upon completion of the activity on or before 17 March. It was now for members to decide whether to contact SOSo Mask or terminate the event.
97. The Chairman adjourned the meeting for 10 minutes.

(After adjournment)

98. The views of the Chairman were summarised below:

- (a) he said that he had called SOSo Mask during the recess but was unable to contact the person in charge;
- (b) he pointed out that the current priority was to decide whether the activities should continue. If yes, the funds earmarked in the previous term could not be used and the meeting had to proceed to Agenda Item 2 to decide that the FGAC and the STDC would earmark funds for the activities in the next financial year; and
- (c) the resolution was preceded by a presentation from Ms LAM Man-wa, representative of YHCL, on the quantity of goods that could be supplied on 17 March, as she had indicated at the adjournment of the meeting that only 20 000 masks could be supplied.

99. The responses of Ms LAM Man-wa were summarised below:

- (a) she indicated that the organisation was able to provide 27 600 bottles of 30ml alcohol-based handrub on or before 17 March and that the supporting documents were now available for the Secretariat's inspection at a unit price of \$9; and
- (b) the organisations were able to supply 20 000 masks on or before 17 March and 250 000 masks on or before 25 March. The relevant masks were in transit.

100. The Chairman advised that it was now a matter of decision whether to accept the 27 600 alcohol-based handrubs and 20 000 masks to be provided by the organisations on or before 17 March.

101. Mr HUI Yui-yu opined that the funding should be used as much as possible and suggested revising the quantity of supplies to be purchased by deducting the price of 20 000 masks and using the remaining amount to purchase alcohol-based handrubs.

102. Ms LAM Man-wa responded that she would need to count the stock of alcohol-based handrub in the warehouse in order to give an accurate answer, but she confirmed that there were about 30 000 to 40 000 units of alcohol-based handrub.

103. Mr HUI Yui-yu asked Ms LAM Man-wa to calculate the price of 20 000 masks and use all the funds from Activity 1, after deducting the purchase price of the masks, for the procurement of alcohol-based handrubs. He asked Ms LAM Man-wa whether sizes of alcohol-based handrubs were available.

104. Ms LAM Man-wa responded that if other sizes of alcohol-based handrubs were needed, she would need to consult the manufacturer, Opal Cosmetics Group Co., Ltd. (Opal).

105. Mr HUI Yui-yu asked whether the organisation would procure another source of alcohol-based handrubs if, after counting the quantity of existing alcohol-based handrubs, the total value of the alcohol-based handrubs could not cover the balance after deducting the value of 20 000 masks from the approved amount of Activity 1, so as to maximise the use of the funding.

106. Ms LAM Man-wa responded that her colleague gave an interim reply that there were 50 000 bottles of alcohol-based handrub.

107. The Chairman said that after YHCL submitted the supplies and receipts on 17 March, the cost of the remaining supplies would be funded by the next financial year.

108. Mr HUI Yui-yu enquired about the total value of the 20 000 masks from Ms LAM Man-wa.

109. Ms LAM Man-wa responded that the price of the 20 000 masks was \$108,000. If the funding was deducted from the price of the masks, using \$9 as the unit price of alcohol-based handrub, the organisation would need to purchase 141 000 units of alcohol-based handrub but could only provide 50 000 units at present.

110. Mr HUI Yui-yu asked Ms LAM Man-wa whether she could purchase the remaining alcohol-based handrubs from other suppliers.

111. Ms LAM Man-wa responded that 50 000 tubes of 30ml alcohol-based handrub could be supplied on or before 17 March at a unit price of \$9.

112. The Chairman advised that \$450,000 for the purchase of alcohol-based handrubs and \$108,000 for the purchase of masks would be deducted from the allocation of \$1.38 million and the remaining amount would be returned to the Treasury.

113. Mr HUI Yui-yu commented that the activity should not waste the funding by allowing the co-organisers to purchase different sizes and brands of alcohol-based handrubs. He suggested that a special HEC meeting be convened to endorse the amendment after YHCL calculated the total amount of alcohol-based handrubs and masks that could be supplied on or before 17 March.

114. Mr CHENG Chung-hang said that he had chosen the organisation because it could provide more and cheaper masks, but now the price was \$5.4 per mask and \$9 for 30ml alcoholic handrub, which was the same as the retail price. While he appreciated members' wish to maximise the use of the funding, he considered that one should not be reluctant to procure supplies after an organisation had exaggerated its commitment and failed to deliver.

115. The responses of Ms LAM Man-wa were as follows:

- (a) she indicated that she had no intention of forcing the STDC;
- (b) the FDA documents for the alcohol-based handrub in the earlier quotation did not meet the Secretariat's requirements. Since the quotation was based on the price of \$50 for a mask and a bottle of alcohol-based handrub, it was not expensive. Now, after splitting the quotation, Opal was able to provide 50ml of alcohol-based handrub at a unit price of \$10, subject to compliance with the documentation requirements. Due to bulk purchase, the 30ml alcohol-based handrub just

mentioned might also be reduced to \$8-9. She enquired whether there was an urgent need for a reply on the exact price within the next day; and

- (c) she asked whether the provision of 200 000 masks on 25 March could be covered by the provision earmarked in the last term.

116. Mr CHAN Pui-ming asked the STDO and the Secretariat to provide supplementary information on whether 17 March was the deadline for the Government procurement process.

117. Mr Sebastian WONG responded that 17 March was the deadline for processing payments for the current financial year and the Treasury should be informed of the payment processing on or before that date.

118. Mr CHAN Pui-ming invited members to consider whether the principle of maximising the use of the \$2 million provision or supplying the goods according to the original quotation requested by YHCL should be adopted. In addition, if the organisation could only provide part of the goods and receipts, members would need to consider whether to change the event to a New Year's Eve event with the remaining amount to be covered by the next financial year's provision, or to terminate the event and process it again in the next financial year.

119. The views of Mr Johnny CHUNG were summarised below:

- (a) he expressed strong objection to the current price of the mask being higher than the quoted price. He considered that it was against the principle of fairness for the organisation to quote a low price and then raise the price after being selected as the co-organisier. He said that the public had expectations of the current term of STDC and would be very disappointed if members hastily made the decision; and
- (b) he objected to using all of the funds on the procurement of alcohol-based handrub just for the sake of using up the funds. The STDC funds should not be used just for the sake of it or recklessly given out.

120. The views of Mr CHAN Wan-tung were summarised below:

- (a) he said that 50 000 bottles of alcohol-based handrub were in stock and it might not be urgent to adjust the quantity;
- (b) he suggested that YHCL consider sourcing from other mask suppliers who had available stock and could provide certificates;
- (c) as masks and alcohol-based handrubs were readily available, he suggested that allowing the organisation to procure goods from other suppliers first and then convene a special meeting on 16 March to adjust the total quantity required according to the quantity of goods available at that time to avoid constant changes; and

- (d) he opined that there would be more choices in procuring masks at unit prices comparable to those currently available in the market, and that the organisations were not well-prepared and should be given time to continue their procurement before the deadline.

121. The Chairman said that he had just received a call from the person in charge of SOSo Mask and he said he might not be able to provide the masks.

122. The views of Mr Ricardo LIAO were summarised below:

- (a) he was of the view that the price was the reason for members' initial choice and he opined that it was not fair to adjust the price now; and
- (b) he suggested that the remaining applicants be contacted and the co-organisers be reselected on the basis that the unit prices of masks and alcohol-based handrubs were similar to those quoted at the time of the quotation and that more masks were available.

123. The views of Mr Chris MAK were summarised below:

- (a) he believed that members did not want public money to be spent for its own sake, nor should it be handed out for the sake of handing it out;
- (b) he considered that YHCL had been inconsistent throughout the application process and therefore he had no expectation and confidence in the organisation; and
- (c) while appreciating the dilemma faced by the STDC, he opined that the \$2 million provision should not be used to purchase alcohol-based handrubs. He said that this was a total departure from the principles discussed at the WG, including the quality and quantity of masks as well as the quantity of alcohol-based handrubs. He could only accept the procurement of 27 600 bottles of alcohol-based handrubs as quoted by the organisations. He opined that the public also would not accept using all of the surplus money to purchase alcohol-based handrubs.

124. The views of Mr HUI Yui-yu were summarised below:

- (a) he said that it was unsatisfactory that the organisation did not procure on the basis of quotations;
- (b) he opined that if in future the selected organisation would not be able to revise the quotation in any circumstances, he would then accept this principle in dealing with the present case. If in future the organisation would be allowed to revise the quotation depending on the circumstances, he considered it necessary to consider the rationale for the organisation's revision depending on whether or not it was acceptable to the HEC;

- (c) he did not agree that alcohol-based handrub was useless because alcohol-based handrub was a consumable product and the public would always have the opportunity to use it, and the price could be further discussed; and
- (d) he suggested that the organisations follow the principle of fully utilising the funding and then a special meeting be convened to discuss whether to accept the revised quotation after providing a new one.

125. The Chairman remarked that the decision of the HEC and its WG was final and the HEC had the power to revise the contents of its quotation, but due to the time limit, it might not be able to complete the activity before the deadline if it waited for the organisation to count the stock and revise the quotation.

126. The views of Mr Jimmy SHAM were summarised below:

- (a) he said he was angry about today's meeting. Despite the tight invitation process, which put pressure on the applicants, the actions of YHCL were infuriating. Although the organisations quoted competitive prices, they could not keep up their promises and were seemingly forcing the STDC to buy their accumulated goods;
- (b) he said that if the unit price of the mask was \$5, he could have chosen other organisations. The organisation was selected because of its competitive pricing; however, it failed to honour its promise upon being selected and even asked the STDC to change its quotation to accommodate it;
- (c) he opined that the organisations should be responsible for liaising with vendors and assisting them in contacting the STDC to prove their status as co-organisers; and
- (d) he thought it would be cutting the feet to fit the shoes to adjust the quantity of supplies. He said that the only acceptable way was to provide the goods in batches according to the quotations and the STDC would allocate funds according to the quantity. If the whole quotation was to be changed, he opined that it would deviate from the original intention of the selected organisations. Even though he was not satisfied with the Government's use of public money, he believed that taxpayers' money should not be wasted. He would rather return the money to the Treasury than buy expensive supplies from untrustworthy Organisations.

127. The views of Mr YEUNG Sze-kin were summarised below:

- (a) he strongly agreed with the remarks made by Mr Jimmy SHAM. He opined that organisations should honour their initial undertakings in the quotations; and
- (b) he did not agree that it was a waste of public money to change the quotations to accommodate the organisations. He opined that public money belonged to the public, and it was difficult to be accountable to the public for purchasing vaccination supplies at high prices.

128. The views of Mr Johnny CHUNG were summarised below:

- (a) the organisation's quotation was the reason for selection and he opined that the quantity could be adjusted, provided that the unit price of the masks was not higher than the original quoted price of 30 masks for \$34;
- (b) he opined that whether to change the quotation document would depend on whether the change would affect the fairness of the selection of co-organisers; and
- (c) he opined that it was not a must that consumables be distributed. He said that the raw materials of masks were out of stock, but as alcohol was a compound, there would not be any shortage of raw materials and it was only the logistics that could not respond to the demand for the time being.

129. The views of the Chairman were summarised below:

- (a) he pointed out that the existing co-organisers were unable to provide masks at the quoted unit price of 30 masks for \$34;
- (b) he asked if members would continue to procure alcohol-based handrubs;
- (c) he said that if members decided to cancel the whole event, he would proceed to Agenda Item 2, requesting the FGAC and the STDC to set aside \$2 million in the next financial year for the purchase of epidemic prevention items and publicity; and
- (d) at members' request, future procedures for inviting co-organisers would be handled by the HEC.

130. Mr Billy CHAN asked if the organisation could purchase 20 000 masks at the quoted price.

131. The responses of Ms LAM Man-wa were summarised below:

- (a) she indicated that she had always been willing to supply masks at the price quoted, but that the discussion just now was to resolve the issue of supplying masks on or before 17 March by offering \$5 each for masks that were in stock;
- (b) in view of the current supply of masks, if the HEC agreed to supplying masks in batches, they could be supplied at the price quoted; and
- (c) she said that 20 000 masks could be provided to the STDC at the price quoted.

132. The Chairman asked why the price for 20 000 masks was \$108,000 just now, but 20 000 masks could be provided at the quoted price of \$34 for 30 masks now.

133. Ms LAM Man-wa replied that \$108,000 was the purchase price of the masks but in the spirit of contract, 20 000 masks could be provided to the STDC as quoted.

134. The views of Mr CHING Cheung-ying were summarised below:

- (a) at that time, the price quoted by the organisation was \$50 for an anti-epidemic kit, each of which included 30 masks and a 30ml alcohol-based handrub. He suggested that the organisations provide the maximum number of anti-epidemic packs to the HEC on a pack basis, so that the spirit of contract would not be violated. Although this would not be a full use of the funding, he considered that public funds should be used with care and should not be used recklessly so as not to attract criticism; and
- (b) he said that he would consider the provision for procurement of epidemic prevention supplies and publicity in the next financial year.

135. The Chairman opined that, with 20 000 masks, only 666 anti-epidemic kits could be provided, but the organisation could provide 50 000 alcohol-based handrubs. Hence, it was now time to decide whether to treat the masks and the alcohol-based rubs separately or to treat them as anti-epidemic kits.

136. Mr CHENG Chung-hang asked whether, in the spirit of contract, the same unit price for alcohol-based handrub was required or whether masks and alcohol-based handrub had to be bundled in order to procure masks at quoted prices.

137. The Chairman remarked that masks and alcohol-based handrub could be handled separately without the need to bundle them.

138. Mr CHENG Chung-hang said that he would not object if 20 000 masks were procured at the quoted price.

139. Mr Chris MAK opined that the organisation had to provide 27 600 anti-epidemic kits and 20 000 masks were not enough to meet the requirement. He opined that an additional 7 600 masks would need to be procured by the organisation to meet the specified amount.

140. The Chairman reminded members that the price quoted by the organisation was 30 masks for 1 pack.

141. Mr Chris MAK thought it was possible to change the number of masks per unit, but they would need to be supplied according to the quoted price. He pointed out that the number of masks must be able to be divided by 27 600 anti-epidemic packs. He was worried that if Activity 1 was not approved, Activity 2 would not be approved either.

142. The Chairman advised that the number of masks should be in units of 30 masks each and could not be changed to 1 mask each.

143. Mr Chris MAK pointed out that as 5 masks would also be distributed by the co-organisers of Activity 2, members would also have supplies to distribute. If the number could not be adjusted, he would rather cancel the activity.

144. Mr Ricardo LIAO thanked Mr CHING Cheung-ying for reminding the HEC to use the anti-epidemic kit as the unit of calculation. He agreed with Mr Chris MAK, that it was only fair to the other applicants if the organisation had to purchase a specified amount of additional masks to meet the quota requirement.

145. The views of Mr CHAN Pui-ming were summarised below:

- (a) the quotation provided by the organisation included 27 600 units of mask and alcohol-based handrub, of which 30 units of mask were priced at \$34 and 30 ml of alcohol-based handrub was priced at \$16, and the organisation had calculated the prices on a combined basis. He enquired whether the Secretariat could process the payment according to the number of copies provided by the organisation and then according to its unit price; and
- (b) he opined that the purchase should be based on the unit price quoted, which was 30 masks and 30ml of alcohol-based handrub in each kit. He said that he would welcome more masks and alcohol-based handrubs in each kit, but wished to base this on the unit price and did not consider it meaningful if the number of masks per kit was reduced just to meet the specified amount.

146. The views of Mr Jimmy SHAM were summarised below:

- (a) he opined that the STDC entrusted the activity to the wrong organisation and had fallen short of public expectation. He said that he would not adjust the price. According to Mr CHING Cheung-ying's proposal, the organisation would be able to provide more than 600 anti-epidemic kits according to the quoted price. He believed that the STDC under this proposal can abide by the spirit of the contract. It was because the price of masks was attractive when choosing a co-organiser that they were willing to purchase masks and alcohol handrub together. He opined that the best practice was to procure as many anti-epidemic kits as possible; and
- (b) he did not advise wasting public money on procuring alcohol-based handrubs other than anti-epidemic kits because the focus of the activity was on masks and the alcohol-based handrubs provided by the organisation were not attractive.

147. The views of Mr HUI Yui-yu were summarised below:

- (a) he proposed to reject all of them. Mr Johnny CHUNG just mentioned that if an organisation was selected for the lowest price and then changed the price, resulting in a quote that was not the lowest, it should not be accepted by the HEC. He agreed that this standard should be adopted; and
- (b) he said that at the time of the quotation, the number of masks provided by the organisation was the highest and the price was the lowest, but now the organisation could only provide 20 000 masks. He opined that if the quotation was based on the requirement of 20 000 masks, the price of other organisations could have been even lower. He therefore opined that it would not be fair to allow adjustment in the number of masks to be provided. Since the organisation failed to provide the masks as quoted, he suggested cancelling the whole activity on the

principle of complete fairness.

148. The views of Mr Michael YUNG were summarised below:

- (a) he enquired whether the STDC would be in breach of contract if the HEC cancelled the joint activities with the organisations;
- (b) under the spirit of contract, he opined that it was reasonable to procure the anti-epidemic packs on the basis of quotations of organisation; and
- (c) he considered that it was time to consider: 1) rejecting the whole exercise and returning this year's funding to the Treasury; 2) sourcing as much as the organisation could provide.

149. Mr TSANG Kit agreed with Mr CHING Cheung-ying that it was under the spirit of contract to procure as many anti-epidemic kits as the organisation could provide and to return the remaining amount to the Treasury.

150. The Chairman invited members' views on the voting procedure.

151. Mr Raymond LI asked the Secretariat whether the option proposed by Mr HUI Yui-yu was feasible and if so, it could be included as the third voting option.

152. The Chairman remarked that the decision of the HEC on changes to the activities would be final.

153. Mr CHAN Wan-tung understood members' wish to respect the spirit of contract and said that he hoped to make the best use of the funding for purchasing anti-epidemic supplies. He pointed out that he would consider allowing the organisation to procure alcohol-based handrubs as much as possible if the adjustment in quantity did not violate the spirit of contract.

154. The Chairman invited members to vote on the 3 options. Firstly, to cancel the event altogether and invite co-organisers again; secondly, to procure 666 anti-epidemic kits at a unit price of \$50; thirdly, to procure alcohol-based handrubs only.

155. Mr Jimmy SHAM amended the second option to include the purchase of an anti-epidemic kit consisting of 30 masks and 1 x 30ml alcohol-based handrub at a unit price of \$50 and to purchase the maximum number of kits possible.

156. The Chairman responded that the organisation had indicated that only 20 000 masks could be supplied on or before 17 March, i.e., only 666 anti-epidemic packs could be supplied, not that it was limited to 666.

157. Mr Michael YUNG referred to the organisation's indication that only a specified number of masks could be provided and the number of alcohol-based handrub was limited by the number of anti-epidemic packs. He wondered if the amount of alcohol-based handrubs procured exceeded the number of anti-epidemic kits, whether consideration would be given to allocating funds for purchasing masks in the coming year to produce anti-epidemic kits for distribution, so as to properly utilise the additional alcohol-based handrubs procured.

158. Mr Raymond LI suggested 3 options for amendment. 1. Reject all of them; 2. Purchase the maximum quantity of masks and alcohol-based handrubs at current prices; 3. Purchase the maximum quantity of alcohol-based handrubs at current prices after purchasing masks. He suggested making a decision on the above 3 options before discussing whether to allocate funding in the next financial year.

159. The views of Mr HUI Yui-yu were summarised below:

- (a) he said that if only the principle of fairness was taken into account, the adjustment of the quantity and the quotation had already caused unfairness;
- (b) he opined that if the organisation was willing to revise the unit price of the alcohol-based handrub to be lower than that of the other applicants, he could accept the revision and let the organisation procure as much alcohol-based handrub as possible; and
- (c) he opined that if the standard of complete fairness was adopted, any change in quotations would be unfair to other organisations, whereas if a more lenient principle was adopted, it would be acceptable as long as the organisation's price was the lowest.

160. The views of Mr CHAN Pui-ming were summarised below:

- (a) provision of goods was handled by Activity 1 and distribution of supplies was handled by Activity 2;
- (b) he had indicated his willingness to accept more masks and alcohol-based handrubs at the same unit price, or at a lower price; and
- (c) it was now only a matter of deciding whether to continue or cancel the procurement.

161. The Chairman advised that as the principle of fairness had been mentioned, it would be unfair to revise the prices at present. It was therefore now necessary to resolve whether to continue with the procurement and if so, to procure the packs at \$50 each as specified in the quotation with no other options.

162. Mr CHAN Wan-tung enquired whether the activity was currently classified as a cross-year activity, with the organisation providing 666 packs first and the remaining number of packs to be funded in the next financial year, or whether the activity would end after the organisation had provided 666 packs and funding would be allocated in the next financial year and co-organisers would be invited again.

163. The Chairman remarked that the activity would be completed after 666 packs had been provided by the organisation and any unspent funding would be returned to the Treasury. The next agenda item was to further discuss the re-invitation of co-organisers in the next financial year.

164. Mr Michael YUNG suggested to suspend the meeting and to resume the discussion after the Education and Welfare Committee (EWC) meeting.

165. The Chairman asked members to note the attendance of Mr NG Kam-hung.

166. The Chairman adjourned the meeting to continue after the EWC meeting.

(After adjournment)

167. The Chairman said that 2 options were put to a vote. Firstly, to cancel the whole thing and start all over again; secondly, to procure the maximum number of anti-epidemic packs at the unit price quoted by the organisations. He reminded members that the organisations had indicated that only 20 000 masks could be provided by the deadline, i.e., only 666 packs could be provided.

168. Mr HUI Yui-yu said that if there were only 2 options, he suggested members to choose Option 1 as only a few hundred anti-epidemic packs would be provided in Option 2, and he said that after it was reported by the media, it would be difficult to provide an explanation to the public.

169. The views of Mr CHIU Chu-pong were summarised below:

- (a) he opined that if there were other options suggested by members, they should be included in the voting options; and
- (b) he opined that the funds set aside in the last term should be used as much as possible as the number of anti-epidemic kits was small and he preferred having more alcohol-based handrubs to distribute to the public.

170. Mr SHEK William suggested procuring as much supplies as the organisation could provide and distribution arrangements could be discussed at a later stage.

171. The Chairman said that many members had mentioned the principle of fairness and that allowing adjustments to the unit price would be unfair to other applicants, hence the revised proposal.

172. Mr Wilson LI said that he would like to suspend the meeting for 3 minutes so that members could understand the differences of having 2 options and 3 options.

173. The Chairman said that in the discussion just now, the organisations had indicated that only 20 000 masks could be provided and the price quoted by the organisations was based on \$50 for each anti-epidemic pack. If the price of masks and handrubs were to be separated, the organisations would have to lower the price on the spot, which would be unfair to other applicants, hence Option 3 was cancelled.

174. Mr Raymond LI asked whether Option 3 was feasible and whether the Chairman would include Option 3 in the ballot document.

175. Mr Jimmy SHAM opined that there was a need to clarify what constituted a breach of agreement first. He opined that Option 3 should be accepted as a voting option as long as members took note of the reduction in the price of alcohol-based handrub from \$16 to \$9.

176. The Chairman adjourned the meeting for 5 minutes.

(After adjournment)

177. The Chairman said that before proceeding to the voting procedure, he would like to invite the Secretariat or the Assistant District Officer to clarify the penalties to be imposed on the co-organisers for failing to honour the quotation pledges and how the Secretariat would handle the matter.

178. Mr Derek YUEN responded that the WG had issued letters to the 2 co-organisers stating that they had to comply with the rules, e.g. the amount approved, actual expenditure, etc. The STDC reserved the right to change the rules if necessary. Upon completion of the letters, the co-organisers should understand that unless otherwise specified, all activity-related funds would not be disbursed to the co-organisers if they did not fully comply with the requirements of the projects concerned. The 2 co-organisers have signed and returned the reply slips undertaking to fully comply with the requirements specified in the letter. The co-organisers should understand that the STDC might cancel all or part of the payment if they failed to comply with the rules or provide the required documents on time for reimbursement, i.e. the HEC had the right to cancel the joint activities and the right to make changes to the activities.

179. Mr Jimmy SHAM asked if the co-organiser failed to honour the agreement, whether the STDO could only rescind the agreement, but could not take other follow-up or penalising actions.

180. Mr Derek YUEN responded that the penalties for organisations that did not fulfil the contract was not specified in the discussion of the joint activities. Under the existing regulations, there was no mention of penalties but the HEC had the right to cancel the joint activities with the organisations.

181. The Chairman stated that the following options would be put to vote. Option 1, to cancel the event; Option 2, to honour the contract at the unit price quoted by the co-organiser; Option 3, to procure as much as possible with the remaining funds.

182. Mr Jimmy SHAM said that the options were unclear and he wished to amend Option 2 to purchase the maximum number of anti-epidemic kits at the unit price quoted; Option 3 to purchase the maximum number of anti-epidemic kits at the unit price quoted and to use the remaining money to purchase the maximum number of alcohol-based handrubs at a maximum unit price of \$9.

183. The views of Mr Michael YUNG were summarised below:

- (a) the organisation had stated that \$34 for 30 masks and \$16 for 1 bottle of alcohol handrub would be calculated as \$50 for each anti-epidemic pack. As the unit price of the alcohol-based handrub was reduced to \$9 under Option 3, he wished to know whether the price reduction was initiated by the organisation or requested by the HEC, which he considered to be a tender return, and asked whether there

was any problem with the Secretariat's adjustment; and

- (b) he asked if there were other options that were in line with the "Manual on the Use of District Council Funds", the "Sha Tin District Council Standing Orders" and the procurement code recommended by the Independent Commission Against Corruption.

184. Ms WONG Man-huen understood that members wanted to maximise the use of funds, but she was concerned that Option 3, which adjusted the quantity and unit price of the supplies, might constitute a tender return or affect the procurement process.

185. The views of Mr Raymond LI were summarised below:

- (a) he opined that Option 3 did not require a unit price of \$9.
- (b) he opined that no price adjustment should be made as the Secretariat had advised that the quantity of the items could be adjusted; and
- (c) if a member opined that the voting scheme was unreasonable, he or she might choose to cancel the event.

186. The views of Mr Wilson LI were summarised below:

- (a) he appreciated members' wish to make the best use of public funds to procure the maximum amount of epidemic prevention supplies for the public, and he was not trying to use up the funds; and
- (b) he was not inclined to cancel the event, but he would like the Secretariat's response on the feasibility of Option 3 as it involved a tender return.

187. Mr Derek YUEN responded that there was no provision for adjustment of the unit price in the application documents issued by the Secretariat to the co-organisers requesting them to provide the quantity and unit price of the supplies. It might be unfair to other applicants if the unit price was adjusted now.

188. Mr Johnny CHUNG pointed out that the current procurement and promotion of hygiene was only an STDC activity and not conducted according to standard tendering procedures in the name of the STDC, and therefore it was not a formal tendering process legally and administratively. He opined that Option 3 was almost like a tender return under normal procurement procedures.

189. Mr Chris MAK expressed his wish to proceed to the voting process as soon as possible, and if members did not support individual options, they could vote for other options.

190. Mr Raymond LI said that the purpose of the question was to resolve whether price adjustment was feasible. As price adjustment was not feasible, he suggested that Option 3 adopt the original quotation of the organisation and request the co-organiser to procure the alcohol-based handrubs. If the organisation reduced the price, it would be responsible for the relevant changes.

191. Mr George WONG pointed out that since the quotation stated that the organisation should provide 27 600 masks and handrubs, the organisation should provide 27 600 alcoholic handrubs even if it could not provide sufficient quantity of masks. He was of the view that Option 3 was simply to specify that the price should not be higher than the quoted price and it was the responsibility of the organisation to lower the price.

192. The Chairman said that they should vote on whether to continue with the activity; if yes, whether to procure according to the quotation or to purchase more supplies. The distribution arrangement and quantity per unit would be handled by the WG.

193. The views of Mr CHAN Wan-tung were summarised below:

- (a) he enquired whether the same principle could be applied to the procurement of more handrubs, as it had been discussed that more masks could be procured if there were surplus funds;
- (b) he considered it important to adhere to the principle that the unit price of handrubs under Option 3 should not be higher than that quoted by other applicants; and
- (c) members' discussion was based on the claim of the STDO and the Secretariat that the amount was adjustable and the principle to not breach the contract.

194. The Chairman pointed out that adherence to contractual principles was a point raised by many members present at the meeting. As the price of an anti-epidemic kit was quoted at \$50 per kit, it would be unfair to other organisations if the price of the handrub was lowered now, which was why there were only 2 options at first. However, the third option was included only when members indicated their wish to procure as much supplies as possible.

195. The Chairman announced a vote on the continuation of the activity.

196. Mr HUI Lap-san proposed an open ballot and was supported by 4 members present.

197. The Chairman announced that the motion to proceed was passed with 36 votes in favour, 1 vote against, no abstention and 1 attending member not casting a vote.

Members in favour (36):

Mr YAU Man-chun, Mr SHEK William, Ms NG Ting-lam, Mr NG Kam-hung, Mr Jimmy SHAM, Mr LI Sai-hung, Mr Wilson LI, Mr Raymond LI, Mr Felix CHOW, Mr Michael YUNG, Mr CHEUNG Hing-wa, Mr HUI Lap-san, Mr HUI Yui-yu, Mr Billy CHAN, Mr CHAN Pui-ming, Mr CHAN Wan-tung, Mr CHAN Nok-hang, Ms LUK Tsz-tung, Mr MAK Tsz-kin, Mr Chris MAK, Mr TSANG Kit, Mr CHING Cheung-ying, Ms WONG Man-huen, Mr WONG Ho-fung, Mr George WONG, Mr YEUNG Sze-kin, Mr YIP Wing, Mr LUI Kai-wing, Mr Ricardo LIAO, Mr CHIU Chu-pong, Mr CHENG Chung-hang, Mr CHENG Tsuk-man, Mr LO Tak-ming, Mr Johnny CHUNG, Mr SIN Cheuk-nam, Mr WAI Hing-cheung.

Member against (1):

Mr TING Tsz-yuen

Member not casting a vote (1):

Mr LO Yuet-chau

198. The Chairman advised to vote on how to proceed with the procurement, whether to procure anti-epidemic kit at a unit price of \$50, or to procure anti-epidemic kit at a unit price of \$50 and purchase handrubs with the remaining funding.

199. Mr Michael YUNG said that the difference between the 2 options was how to deal with the balance. In addition, he objected to the option of specifying the unit price of alcohol-based handrubs, as he thought it would constitute a tender return if members asked whether the organisation would lower the unit price.

200. Mr CHAN Pui-ming pointed out that the unit price of \$9 for alcohol-based handrub, was proposed by YHCL.

201. The Chairman said that as members were not in favour of handling the matters together, they would be handled separately. A vote was taken on whether or not to procure the maximum number of anti-epidemic packets at \$50 per packet as quoted by the organisation. He reminded that only a maximum of 666 masks could be procured as the organisation had indicated that only 20 000 masks could be provided and each pack should contain 30 masks.

202. Ms WONG Man-huen enquired whether it was now voting to procure as many anti-epidemic packs as possible according to the quotations of the organisations.

203. The Chairman responded to Ms WONG Man-huen that the current practice was to go by quotations from organisations.

204. Mr CHIU Chu-pong asked whether Option 3 would be voted on in the next round of voting.

205. The views of Mr Raymond LI were summarised below:

- (a) he considered that the decision to continue with the activity in the first round of voting was already equivalent to Option 2, and therefore it was now only necessary to vote on whether to use the surplus under Option 3; and
- (b) he said that there would be conflict with the first round of voting if Option 2 was rejected. He opined that it was now only a matter of voting on which option to choose for the activities and how to use the remaining funds.

206. The Chairman reiterated that in the first round of voting, it had been decided to continue to co-organise the activities and it was now necessary to deal with how to conduct the activities. 2 options had just been put forward, to procure the packs at unit price and to use up the remaining funds. However, members did not agree to handle the matters as one, so the option of procuring the packs at unit price had to be rejected before voting on ways to use up the remaining funds.

207. Mr CHIU Chu-pong proposed that Options 2 and 3 be voted on together.

208. Mr CHAN Pui-ming said that it had been resolved to continue with the joint activities and so the HEC only had to procure as much as it could according to the unit price and vote on how to use up the remaining funding afterwards.

209. Mr Jimmy SHAM summed up the options. Option 1, purchase the maximum number of anti-epidemic kits at \$50 each and the remaining funds would not be used. Option 2, purchase the maximum number of kits at a unit price of \$50 each and use the remaining money to purchase the maximum number of handrubs, and the unit price of which cannot be higher than \$16.

210. Mr Michael YUNG pointed out that the previous assumption was to procure the anti-epidemic kits at the unit price quoted by YHCL and now it was only necessary to vote on whether or not to use the balance to procure the handrubs.

211. The Chairman decided to vote on the proposal put forward by Mr Jimmy SHAM.

212. Mr Chris MAK proposed an open ballot, which was supported by 5 members present.

213. The Chairman announced that the option to procure the maximum number of anti-epidemic kits at a unit price of \$50 each and to use the balance to procure the maximum number of handrubs at a unit price not higher than the \$16 quoted, was passed with 20 votes in favour, 15 votes against, 1 abstention and 2 members not casting a vote.

Members in favour (20):

Mr YAU Man-chun, Mr SHEK William, Mr NG Kam-hung, Mr Jimmy SHAM, Mr LI Sai-hung, Mr CHEUNG Hing-wa, Mr HUI Yui-yu, Mr Billy CHAN, Mr CHAN Wan-tung, Mr CHAN Nok-hang, Mr LO Yuet-chau, Mr TSANG Kit, Mr CHING Cheung-ying, Mr WONG Ho-fung, Mr George WONG, Mr YEUNG Sze-kin, Mr Ricardo LIAO, Mr CHIU Chu-pong, Mr LO Tak-ming, Mr WAI Hing-cheung.

Member against (15):

Ms NG Ting-lam, Mr Felix CHOW, Mr Michael YUNG, Mr HUI Lap-san, Mr CHAN Pui-ming, Ms LUK Tsz-tung, Mr MAK Tsz-kin, Mr Chris MAK, Ms WONG Man-huen, Mr YIP Wing, Mr LUI Kai-wing, Mr CHENG Chung-hang, Mr CHENG Tsuk-man, Mr Johnny CHUNG, Mr SIN Cheuk-nam.

Member abstaining (1):

Mr Raymond LI

Members not casting a vote (2):

Mr TING Tsz-yuen, Mr Wilson LI.

214. The Chairman said that the WG would take follow-up actions regarding the procurement and would then refer the matter to the HEC for its decision.

215. The Chairman concluded the agenda item.

Discussion on the Provision of \$2 million Earmarked for the Procurement of Epidemic Prevention Supplies and Environmental Hygiene Promotion in the Next Financial Year

216. The Chairman said it had just been decided that the HEC would continue to work with the co-organiser in the procurement of anti-epidemic supplies and to use the remaining funds for the procurement of handrub. As masks had to be included in the entire programme of activities, it would be necessary to decide whether to request the FGAC to earmark funds for the procurement of masks in the next financial year. He asked the Secretariat or the STDO, whether the HEC could request the FGAC to allocate funds for the procurement of anti-epidemic supplies in the next financial year, and whether this would need to be indicated in the document for the meeting on 17 March.

217. Mr Sebastian WONG responded that as the HEC had just resolved to use up the \$1.38 million earmarked in the last financial year for Activity 1, if the HEC passed the motion to request the FGAC to earmark the funding for the next financial year, it would be subject to the approval of the FGAC or the STDC, depending on the funding amount.

218. Mr David HO, Executive Officer I (District Council)1 of the STDO responded that it was understood that members intended to introduce new items for the procurement of masks in the next financial year and that the HEC would need to consider the amount of earmarked funding. The FGAC would recommend a tentative budget ceiling to the STDC for approval at the meeting. If members were able to decide on the amount at this meeting, it would be referred to the FGAC for a resolution on whether or not to approve the earmarked amount, which would be put under the expenditure head 4 of the HEC for approval by the STDC.

219. Mr WONG Ho-fung said that members agreed that the procurement for anti-epidemic supplies should continue, but he opined that the proportion of masks and handrub should be adjusted. He asked whether a decision would be made after the FGAC had discussed the budget for the next financial year, instead of earmarking \$2 million directly for the purpose.

220. Mr Wilson LI pointed out that masks were currently out of stock and he agreed to purchase masks.

221. The views of Mr Jimmy SHAM were summarised below:

- (a) referring to the \$2 million earmarked in the last term which would otherwise be returned to the Treasury, he said that members would like to use the funding for purchasing anti-epidemic supplies. While the provision for procurement of epidemic prevention supplies could not be fully utilised because of capacity constraints, he considered that future development should not be affected by the provision in the previous year, pointing out that the working groups under the 6 committees had incurred expenditure and should be considered in a holistic manner in the context of the overall work plan;
- (b) he considered that while the shortage of masks was only the current situation, production lines were already being set up around the world and in the territory, the shortage of masks might not necessarily persist, and it would take time to invite co-organisers, and the epidemic might have subsided by the time the procurement process was completed; and

- (c) he opined that it should be left to the STDC to decide on the financial planning for the coming year before the corresponding sums were used for the procurement of anti-epidemic supplies.

222. Mr CHING Cheung-ying said that as the resources of the last term were not utilised as much as possible, the work was still pending. The epidemic situation in the coming months was not optimistic, and it was estimated that many community activities would not be held as scheduled. He suggested that a sum of \$2 million be earmarked for epidemic prevention and control, and the amount could be adjusted later if it was not used.

223. The views of Mr Michael YUNG were summarised below:

- (a) as the development of the epidemic could not be predicted, he suggested that no more than \$1 million be set aside for the anti-epidemic uses, subject to further redeployment if necessary; and
- (b) with a 10.8% over-commitment in the budget, he was worried that if too much resources were devoted to anti-epidemic uses, it would not be possible to devote resources to projects that needed them.

224. The views of Mr Raymond LI were summarised below:

- (a) he opined that the current financial position of the procurement of epidemic prevention supplies should be reviewed before making a decision; and
- (b) as \$2 million had been earmarked for the procurement of epidemic prevention supplies and publicity activities by the previous term of the STDC, there was no need to do the same in the next financial year, and he opined that this should be considered in the context of the overall financial planning. He enquired whether there was any surplus in the current budget and if not, whether funding should be redeployed from other activities. He said that relevant information would be required to determine the amount to be earmarked.

225. The views of the Chairman were summarised below:

- (a) according to the information provided by the Secretariat, \$3.67 million would be allocated to the working groups under the committees of the STDC in the coming year;
- (b) as there was concern that funding application would have to be made in the next financial year if epidemic prevention activities were rejected, this agenda item was added; and
- (c) subject to members' views, \$2 million should be earmarked for anti-epidemic uses so that the FGAC and STDC could set aside the funding. If the fundings were not fully utilised, they could be redeployed. He asked if any member had any objection to the arrangement.

226. The HEC unanimously agreed to request the FGAC and the STDC to earmark \$2 million in the next financial year for the procurement of anti-epidemic supplies and promotion of environmental hygiene.

227. The Chairman expressed that a provisional motion from Mr HUI Lap-san had been received in the morning and it would be handled at present.

228. Mr HUI Lap-san moved the following provisional motion.

“In view of the fact that Yee Health Company Limited (YHCL) stated that it was unable to provide relevant anti-epidemic supplies to the STDC after signing the contract, it failed to fulfil its promise.

This has seriously affected the health and well-being of all Sha Tin residents, and also resulted in the loss of nearly \$2 million of the funding earmarked for the previous term of the STDC.

Based on past incidents on Shatin to Central Link as a reference, Leighton Contractors was banned from bidding for 15 months for a breach of contract.

In view of this, if the anti-epidemic supplies are not provided before the deadline on 17 March, YHCL should take full responsibility and would not be allowed to participate in any of the STDC’s activities within 2 years, nor to undertake any of the STDC’s community activities (e.g. community anti-epidemic activities).”

Mr CHENG Chung-hang, Mr SIN Cheuk-nam, Mr Johnny CHUNG, Mr Chris MAK, Mr YEUNG Sze-kin, Mr Ricardo LIAO seconded the motion.

229. Mr CHAN Nok-hang accepted that organisations could not apply for funding to organise STDC activities, but opined that Members should not be restricted from co-organising community activities with any other organisations.

230. Mr CHIU Chu-pong opined that it was reasonable for organisations to be restricted from applying for funding for STDC activities because they could not provide sufficient supplies for the activities, but there should not be any restriction on other Members on co-organising STDC activities with any organisations. He proposed deleting “nor to undertake any of the STDC’s community activities (e.g. community anti-epidemic activities)”.

231. Mr NG Kam-hung opined that it would be procedurally incorrect and unfair not to bundle the 2 issues. Moreover, he did not think that the incident was related to the Leighton incident.

232. The views of Mr Michael YUNG were summarised below:

- (a) with reference to the Shatin to Central Link (SCL) incident and adopting the same logic, he opined that it was reasonable to prohibit YHCL from applying for STDC activities; however, the motion that the organisation could not take up activities organised by Members was non-binding. The HEC would make its own decision on whether or not to co-operate with the organisation in organising community activities based on the performance of the organisation in this event. He opined

that the bundled requirement that the organisations could not take up the activities organised by Members would be trespassing into other people's pastures; and

- (b) he opined that the mover of the motion should first examine the motion to ascertain whether the grounds put forward were consistent with the penalty.

233. The views of Mr Jimmy SHAM were summarised below:

- (a) the vote just taken amended the agreement with the organisation, and the fourth paragraph of the motion therefore appeared odd, and he proposed to amend it;
- (b) he opined that it was not possible to move a motion to ban organisations from applying to hold STDC activities, but could only move a motion for the STDC not to consider the applications from relevant organisations;
- (c) he opined that all Members were elected and could not bind other Members; and
- (d) he proposed to amend "in view of this, YHCL had failed to honor its undertakings in the tender and would be held fully responsible and its application for participation in any STDC activities would not be considered by the STDC for a period of 2 years" and delete the remaining part.

234. The views of Mr CHING Cheung-ying were summarised below:

- (a) he indicated that the motion was not appropriate or beneficial to the STDC, in particular because a 15-month tender ban on organisations could easily lead to litigation and controversy; and
- (b) the organisations had also discussed the problems and difficulties encountered during activities with the HEC. He found it difficult to accept a motion that banned organisations from applying, cooperating with and providing services for individual Members.

235. The Chairman summed up members' views and pointed out that there were problems with the loss of earmarked funds and the exclusion of Members from community activities, and the prohibition of organisations from tendering would also give rise to legal proceedings. He asked Mr HUI Lap-san whether he would consider changing the wording.

236. Mr HUI Lap-san accepted members' suggestion and amended the provisional motion.

237. Mr NG Kam-hung asked the Secretariat whether the provisional motion was feasible.

238. The Chairman pointed out that Mr HUI Lap-san said the motion would be amended to recommend the STDO not to consider relevant organisations for 2 years.

239. Mr HUI Lap-san accepted members' suggestion and amended the provisional motion as follows:

“In view of the fact that Yee Health Company Limited (YHCL) stated that it was unable to provide relevant anti-epidemic supplies to the STDC after signing the contract, it failed to fulfil its promise.

This has seriously affected the health and well-being of all Sha Tin residents, and also resulted in the loss of nearly \$2 million of the funding earmarked for the previous term of the STDC.

Based on past incidents on Shatin to Central Link as a reference, Leighton Contractors was banned from bidding for 15 months for a breach of contract.

In view of this, if the anti-epidemic supplies approved at the meeting on 3 March are not provided before the deadline on 17 March, YHCL should be held fully responsible and it was suggested that this incident be taken as a reference if the STDC receives any further applications from this company within 2 years.”

Mr CHENG Chung-hang, Mr SIN Cheuk-nam, Mr Johnny CHUNG, Mr Chris MAK, Mr YEUNG Sze-kin, Mr Ricardo LIAO seconded the motion.

240. The Chairman asked members whether they agreed to approve the provisional motion in paragraph 239.

241. The Chairman announced that as some members objected, the voting procedure would now proceed.

242. The Chairman announced that the provisional motion in paragraph 239 was passed with 6 votes in favour, 2 votes against, 11 abstentions and 5 members not casting a vote.

243. The Chairman declared that the meeting was closed.

Date of Next Meeting

244. The next meeting was scheduled to be held at 2:30 pm on 5 May 2020 (Tuesday).

245. The meeting was adjourned at 4:30 pm.

Sha Tin District Council Secretariat
STDC 13/15/40

April 2020