

DISCOVERY BAY CITY OWNERS' COMMITTEE
Minutes of Meeting No. 4 2020/21 Held on 15 September 2021
7:30pm at MPH, Discovery Bay Office Centre

Members Present:

Mr. Kent Rossiter	(KR)	Chairman, COC & La Costa VOC
Ms. Amy Yung	(AY)	Chairlady, Beach VOC
Mr. Tim Conti	(TC)	Vice-Chairman (Acting), Midvale VOC
Mr. Murray Stuart Craig	(MSG)	Chairman, Neo Horizon VOC
Mr. David Cashel	(DC)	Vice-Chairman, Parkridge VOC
Mr. Kenneth Bradley	(KB)	Chairman, Parkvale VOC
Mr. Alan MacDonald	(AM)	Vice-Chairman, Peninsula VOC
Ms. Maggie Chan	(MC)	Chairlady, DB Plaza VOC
(Rep. of Shum Wan Marine Co. Ltd)		(joined at 8:40pm)
Mr. Peter Whalley	(PW)	Chairman, Siena One VOC
(Rep. of Emsworth Associated Limited)		
Dr. Francis Chiu	(FC)	Chairman, Siena Two B VOC
		(joined at 8:45pm)
Mr. Christian Chasset	(CC)	Chairman, Amalfi VOC
(Rep. of Le Francais Moderne Ltd)		(joined at 8:30pm)
Mr. Edwin Rainbow	(ER)	Chairman, Hillgrove VOC
Mr. Chow Wah Lun Warren	(WC)	Vice-Chairman, Chianti VOC
Mr. Samson Li	(SL)	Chairman, Phase 17 VOC
(Rep. of Emerald Property Limited)		
Ms. Sara Lai	(SLA)	Representative, Registered Owner
Ms. Beatrice Lee	(BL)	Representative, Registered Owner
Mr. Mike Li	(ELC)	Representative, Clubs
		(joined at 8:30pm)
Ms. Joanna Kan	(AL)	Representative, Hotel
		(joined at 8:30pm)
Mr. Ernest Lee	(EL)	Assistant Director, DBSML
Mr. F.K. Wong	(FKW)	Chief Manager, Estate, DBSML

Apologies

Mr. Ben Dalgleish	(BD)	Chairman, Headland VOC
(Rep. of Sasia Investment Ltd)		
Mr. James Merritt	(JM)	Vice-Chairman, La Vista VOC
Mrs. Baby Hefti	(BH)	Chairlady, Peninsula VOC
(Rep. of Asia Sky Far East Limited)		
Ms. Vivien Lau	(VL)	Chairlady, Greenvale VOC
(Rep. of Favour International Limited)		

In Attendance:

Mr. G.H. Koo	(GHK)	Senior Manager, Estate, DBSML
Mr. W.S. Yau	(WSY)	Senior Manager, Contract Management and Works, DBSML
Mr. Andrew Burns	(AB)	Owner, Headland Village
Mr. Aldous Ng	(AN)	Chief Executive Officer, CU Coding Limited
Ms. Janis Leung	(JL)	Account Manager, CU Coding Limited
Ms. Kit Wu	(KW)	Marketing Executive, CU Coding Limited

Secretary:

Observers:Susan Ho
Peter CrushOwner, Peninsula
Owner, Parkvale

	<p>The Meeting was declared duly convened with sufficient members to form a quorum.</p> <p>Simultaneous translation from Chinese to English was available at this meeting. Four members, the representatives from Siena Two B, DB Plaza, Chianti and Hotel, have expressed their preference for speaking in Chinese tonight.</p>	
1	<p>Apologies</p> <p>Apologies were received from Mr. Ben Dalgleish from Headland, and Mr. James Merritt from La Vista Mrs. Baby Hefti from Peninsula, who sent Mr. Alan MacDonald to represent her. Mr. Tim Conti, the Acting Vice-Chairman of Midvale will represent the Acting Chairman Mr. Felix Zeller. Mr. David Cashel, the Vice-Chairman of Parkridge will represent the village's Chairman Mr. Darren Barton.</p> <p>Before the meeting was opened KB asked for a moment to say a few words, acknowledging members' varying opinions of AY, KB would ask that the whole COC to acknowledge the work she has done for many individuals in DB and also for DB itself, and thanked her for this contribution.</p>	19:30
2	<p>Former COC member Mr. Andrew Burns invited to elaborate on issues raised in his email exchange with Mr. F.K. Wong concerning the City Budget 2020/21</p> <p>The Chairman welcomed AB to the meeting. He advised that 45 minutes had been set aside for his presentation and Q&A session. AB is a former COC member and has lived in DB since 1988.</p> <p>At the outset, AB highlighted several important contributions that he had made on behalf of DB Owners since he had left the COC. Thanks to his efforts, Lands Department ("LandsD") had recognised that the Public Recreational Facilities ("PRF") at DB could not concurrently be (a) licensed to the Manager for use by the Owners (requiring the Owners to pay for maintenance of the PRF) and (b) opened to the public as stipulated in the Government land lease. AB had raised this point earlier with CM, but CM took no action. Prior to granting "consent to assign" to HKR for the Amalfi development, LandsD required that HKR provide an Undertaking to the Government and LandsD that any licence that may exist for the PRF be terminated, and that HKR undertake to be fully responsible for the maintenance of the PRF for the remaining term of the lease. AB estimated that his action had saved the Owners more than \$50 million since the Undertaking was issued nine years previously.</p> <p>Further, at the time of the public consultation on Master Plan 7.0, AB had made a presentation to the COC on the implications of the proposal.</p>	19:38

	<p>Among the concerns that he raised was the fact that there was no accurate, public record of the allocation of undivided shares at Discovery Bay in accordance with the categories of undivided shares listed at page 7 of the DMC. When neither the COC nor CM took any follow-up action, he made the same presentation to LandsD. As a result of his intervention, LandsD required that HKR produce the “HKR Certificate on Undivided Shares of Discovery Bay City”. AB circulated a copy of this Certificate to members, noting that it contained a wealth of information.</p> <p>AB presented a series of slides covering the allocation of Undivided Shares to several developments prior to Siena One (Beach, Parkvale and La Costa) and from Siena One onwards (Siena One, Poggibonsi and Il Picco). He asked members to consider why, starting with the Siena One Sub-DMC, the size of the Village Retained Area was cut so dramatically compared to earlier sub-DMCs. Why Management Units were allocated to Village Retained Area for the first time at Siena One. Further, why Village Common Area was assigned to the Manager starting with Siena One?</p> <p>He pointed out that the DMC does not permit Management Units to be allocated to outdoor areas such as Village Retained Area. The pre-Siena One sub-DMCs had properly followed the DMC. So, how could Management Units suddenly be allocated to outdoor areas at Siena One? In AB’s exchange with FKW, CM had claimed that it was due to a revision to the LACO guidelines that govern the issue of new DMCs and sub-DMCs.</p> <p>AB said that guidelines are just that – guidelines. They cannot override an existing DMC. He asked members to consider the role of Section 34G of the Building Management Ordinance (BMO). The BMO is a statutory instrument, and <u>can</u> override an existing DMC. In fact, Section 34G falls under Part VI of the BMO, where it is explicitly stated that, if there is any inconsistency between a DMC and Part VI of the BMO, the latter shall prevail.</p> <p>AB next presented a series of slides breaking down Section 34G of the BMO in order to set out its import clearly. The Section requires that an owner of an undivided share shall contribute to the management expenses relating to that share as if he had purchased the share subject to the DMC. The effective date of this requirement was 8 May 1993. All Retained Area, Common Area and Car Park Undivided Shares listed in the HKR Certificate on Undivided Shares of Discovery Bay City for all villages prior to Siena One are owned by HKR. Under Section 34G, HKR is required to contribute to the management expenses of all of these villages in accordance with its shareholding, starting from 8 May 1993.</p> <p>AB drew from the DB Audited Accounts (2019-20) to show the financial impact on Beach (HKR should have paid 54.23% of expenses, or \$5,279,971), Parkvale (58.89%, \$7,735,111) and La Costa (52.62%, \$4,181,127) villages for 2019-20 if Section 34G is applied.</p> <p>AB advised that, while the HKR Certificate on Undivided Shares of Discovery Bay City was helpful, it was incomplete. It only covered Undivided Shares that had been allocated in sub-DMCs. It did not cover most commercial developments, the City licensed areas, the PRF, the roads and passageways, etc.</p>	
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	<p>He further advised that the number of Undivided Shares available to HKR to allocate to new developments is limited. For an accurate count of the number of Undivided Shares remaining for HKR to allocate to new developments, we need to know the allocation to all City areas.</p> <p>AB presented a series of slides covering different City areas to show why HKR faced a potential shortfall, if Section 34G of the BMO was applied. In fact, it was even possible that HKR may not have had sufficient Undivided Shares available to allocate to villages built after Neo Horizon.</p> <p>AB highlighted that CM always claims that the BMO does not apply to sub-DMCs, citing the “Rightop” case. However, that case only dealt with Schedules VII and VIII of the BMO. As he had pointed out earlier, Section 34G of the BMO was incorporated into the Principal DMC on 8 May 1993, and it applied to all Undivided Shares defined at page 7 of the DMC, whether they were allocated in a sub-DMC or not.</p> <p>Further, since management expenses follow shares, in addition to the clear duty that HKR had to contribute to the management expenses of all villages according to the undivided shares that it owned in each village, HKR also had a duty to contribute to the management expenses of the City based on the City areas that it owned.</p> <p>HKR had several possible remedies to mitigate its possible future financial liabilities: a) designate the area held by HKR in the pre-Siena One villages as Village Common Area under the terms of the Principal DMC; b) convert roads and passageways to City Common Area; and c) assign these Common Area Undivided Shares to the Manager.</p> <p>If no action is taken, Lands Department could exercise its power under the Land Grant to suspend approval of any new development on the Lot.</p> <p>But HKR has possible ways to mitigate the downside. The current LACO guidelines are LACO 79, which contain a clause allowing certain flexibility on allocation of undivided shares to some areas such as parking spaces, gardens, flat roofs, etc. Thus, HKR could possibly enter into a new sub-DMC over certain parts of the lot that would reduce its obligation to allocate Undivided Shares on the same basis as Residential Development. Legislation could be another way to address the unintended consequences of Section 34G, by amending the BMO.</p> <p>AB talked about the duties of the COC including but not limited to representing the Owners in all dealings with the Manager; causing records to be kept and made available to the Owners; undertaking duties assigned by the Manager; making resolutions that are binding on the Owners; appointing a new Manager in case the existing Manager is wound up; performing various duties under the BMO and providing input in Government consultations.</p> <p>AB concluded that the COC had substantive real power. It is not a mere consultative body, as CM has claimed. He expressed his hope that the COC would do its duty to represent the Owners and play a key role in finding a solution, and that resolution of these issues would not be left to close-door discussions between HKR and LandsD.</p>	
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	<p>COC members can only be held liable for matters that fall within their duties. They cannot be liable for acts of the Manager. In addition, they can only be held liable if they knowingly and wilfully ignore their duties and the Owners suffer harm as a result.</p> <p>He believed the Manager had no authority under the Principal DMC to incur expenses, including legal expenses, for and on behalf of the COC. The COC is an independent body, and needs access to independent legal advice in order to perform its duty to represent the Owners. Members can point to the professional, independent legal advice if any claims of wilful negligence are made against them. AB highlighted that the DMC provided an avenue for the COC to recover any “out of pocket” expenses it incurred in the performance of its duties, including the procurement of legal advice.</p> <p>After his presentation, PW asked what remedy AB was expecting: a significant financial settlement, or just let HKR reassign those shares it retained in villages in a correct way? AB replied that shares should have been properly allocated almost 30 years ago, and now there should at least be some compensation for those 30 years of neglect. His major concern was that HKR should address the consequences of past neglect. For example, if the Retained Area is converted to Common Area, it would provide an opportunity to bring slope management into line with current standards before the area is assigned to the Manager.</p> <p>AB would like every COC member to work in a cooperative way with HKR to resolve the issues.</p> <p>Mr. Chairman asked if, in AB’s view, any new villages would potentially have to pay an increased share compared with the old villages in case of any shake up. AB did not see any implication for new villages, as the number of undivided shares allocated to each village would not change.</p> <p>AY thought members should have the responsibility and duty to report what they had learned at this meeting to their respective villages, otherwise they might be held wilfully negligent. She added that the COC should make everything clear and comply with the Principal Deed and also the BMO.</p> <p>DC asked that since HKR held majority votes in the COC, would individual members who refused to take any follow-up only be held liable for wilful negligent. AB responded that the decision was collective so the whole COC would be liable.</p> <p>KB suggested the COC prioritise the items requiring legal advice and identify the specific support it needs. AY proposed setting up a working group on this matter because there was a lot of information involved.</p> <p>There were no more questions from Members, AB was excused at 8:40pm.</p>	
6.1	<p>Application for Subsidy Scheme for Encouraging Early Deployment of 5G Offered by Office of The Communication Authority (OFCA) in Discovery Bay</p>	21:00

	<p>Mr. Chairman agreed to discuss the original item 6.1 first because it involved another guest speaker. CM had invited three guests from CU Coding Limited, the project coordinator of the Government Subsidy Scheme for Encouraging Early Deployment of 5G technologies and their applications. Attending were Mr. Aldous Ng, the Chief Executive Officer of CU Coding Limited, Ms. Janis Leung, Account Manager, and Ms. Kit Wu, Marketing Executive. The company introduced the concepts of 5G technology, Artificial Intelligence (AI), and the subsidy scheme that was approved by OFCA for DB.</p> <p>EL mentioned that CM successfully applied for the subject Subsidy Scheme offered by OFCA which is an incentive-based program on a first-come-first-served principle aiming to encourage people and corporations in Hong Kong to adopt 5G technology as early as possible. CU Coding Limited is a company founded by professors from The Chinese University of Hong Kong, and has a strong connection with the Hong Kong Science and Technology Park in terms of academic study of technology. Thus, CM has engaged CU Coding Limited as a project coordinator to apply for the subsidy which, in the opinion of CM, would benefit DB as a whole.</p> <p>According to AN, 5G was launched in Hong Kong last year and its application combined with the Internet of Things (IoT) and AI in smart cities which is called AIoT, and enables smart surveillance. OFCA's Scheme, which was opened for application last year and will remain open until next year, has so far seen an approved 105 projects in 15 categories, with a hundred more to be approved in the remaining period. Each project is subsidised within 6 months (4 to 6 months) from the application subject to 50% of the actual project cost and a cap of HKD\$500,000.</p> <p>Over the past 12 months, there were 7 burglary cases reported in DB for which CCTV links over these remote areas were all lost. To overcome this situation, AN suggested applying the AIoT technology which leverages 5G CCTV capability to protect the community by equipping it with long-range cameras along the coast area. These cameras are monitored by AI to detect any abnormal access to DB and send real-time notifications to the Security Office in case of any abnormality. The objectives are to ensure better security in DB through the delivery of instant notifications to management staff and to strengthen DB's surveillance system by wireless technology. There are also other community issues that could be addressed by AIoT solutions such as traffic management.</p> <p>AN said DB has applied for the subsidy for one project which requires 4 months to complete starting from September this year to next January. OFCA would basically subsidise 3 items included in the proposal, i.e hardware, software and subscription services. In responding to MSG's query about extra infrastructure, AN answered that no extra infrastructure except 5G availability in DB would be needed for carrying out the project. MSG would like to know if there would be additional antennas in place, or if the process for approval of antennas has been changed, since 5G stations were not allowed by the Neo Horizon VOC. He would like CM to confirm in writing that the telecom equipment on Neo Horizon is not for 5G communications. As far as AN knew, the 5G</p>	
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	<p>signal in the targeted Coastline area would be good enough for this programme.</p> <p>CC understood that, for developing 5G technology, more antennas and more power would be required. AN replied that only mobile phone-like SIM cards are required in the application of the proposed project which would be installed into the cameras. PW asked if there was any 5G access in DB. GHK said according to the service providers and CU Coding's assessment, 5G is already available in the commercial area and Parkridge in DB. It is also available in water facilities and the water plant. In support of 5G, WC stated that it is able to fix problems that 4G cannot fix such as the issue of interruption.</p> <p>FKW reminded members to refer to the proposal which defined 5G as a coastline safety net for DB as a whole and pointed out that it has nothing to do with Neo Horizon and Midvale at this moment. He added that CM would proceed with the proposal by tendering and that contractors who want to submit the tender should see if there is any difficulty in receiving 5G signals in the targeted locations.</p> <p>EL supplemented that 5G is applied not only to mobile phones but also to many other aspects to enhance corporate efficiency. A review on 5G reception capability might be conducted later. He believed 5G reception in general for the project area is bound to the application of technology. So CM would go through the tender exercise and make recommendations to the COC.</p>	
3	<p>Confirmation of Minutes of Previous Meeting (No. 3 – 2020/2021)</p> <p>The draft was sent to all members for comments on 25 August 2021 and CM received comments from AY and ER. The final version was sent to all members on 8 September 2021 and no further comment was received. The post-meeting notes were attached to the final version of minutes.</p> <p>The minutes were proposed by ER, seconded by MC and signed by Mr. Chairman.</p>	21:10
4	COC Sub-Committees / Working Groups of 2020/2021 Update	
4.1	<p>Finance Sub-Committee</p> <p>As shown in the FSC meeting minutes, many items discussed were also covered in this meeting agenda. As the road usage charge was not increased this year, FC mentioned many members thought it should be raised in line with inflation, so the Sub-committee will follow up on this issue in the coming meetings.</p>	21:15
4.2	<p>Security Liaison Group</p> <p>FC reported that the police had a meeting with the Group on 29 July 2021 at which they presented the latest crime figures and also the actions they had taken. There were 2 burglary cases in July with no property loss and no attempted burglary cases were recorded in August. The police have put extra manpower into patrolling and carrying out operations, and so has the security company, FH Security, with no extra costs incurred.</p>	21:20

	<p>In terms of the new security contractor's performance, FC presented that there was no shortage of manpower in July and August, and that as a result of the burglaries, the security company had provided 159 extra guards in DB, which is equivalent to 4.48 extra guards per day, with no extra costs. In addition, training was provided to frontline staff, including CPR and AED courses. Furthermore, the police took action to combat the issue of electric mobility devices (EMDs), and arrested 2 people who will be fined for using such devices. The police also held activities in DB to educate residents not to use EMDs as they are dangerous and illegal.</p> <p>PW inquired if it is possible for CM to call the police when there are actually some electric mobility devices parked in DB. GHK said CM would coordinate some critical management to control this illegal parking situation.</p> <p>KB said the control of the devices in DB was pathetic as he continued to see many people riding such devices at all times in all areas of DB and had experienced several close calls.</p> <p>Regarding damage to property he considered that the situation was actually worse since there had been 3 cases in Parkvale which the owners did not report to the Police. More should be done to encourage reporting.</p>	
4.3	<p>Senior Citizen Working Group</p> <p>According to MC's presentation, the Group held a meeting on 9 September 2021. Questionnaires will be distributed to each village in DB to gather information about senior citizens and their needs. The Group has amended the questionnaire to incorporate questions asking if elders require any special help or are in long-term need of electrical equipment so as to provide more assistance to them. And unlike the previous questionnaire, this questionnaire is designed with a colourful layout with the aim of encouraging residents to complete and return it to us. The Group targets elders who are not willing to go out for a long time and who live alone in DB. MC also appealed to VOC chairs to encourage needy residents to fill in the questionnaire so that the Group could arrange volunteers to pay visits to them or offer other kinds of support to address their needs. It was hoped to present the final version of the questionnaire at the next COC meeting.</p> <p>AY mentioned there was no report for the Sports and Leisure Sub-Committee as no meeting was held. The items discussed 6 months ago were related to extending the opening hours of the courts in Siena for the public.</p>	21:30
5	Matters Arising from Previous Meeting	
5.1	<p>Update on Automated External Defibrillators (AED) in DB</p> <p>GHK would like to seek members' approval for purchasing one AED for each village. WC asked for clarification on who will be authorised to use the AED and if any training is required before use. GHK replied that FH Security would provide monthly AED training to all frontline staff including security officers and CM staff so people who receive training and obtain a certificate can operate the AED. Also, CM had consulted safety professionals engaged by HKR about the use of AEDs in DB. WC</p>	21:40

	<p>asked if additional manpower would be needed for providing urgent AED service and also the costs.</p> <p>FKW stated that, after consulting with the local Fire Station, it was not necessary to have a license to operate AEDs, so in emergency cases, anyone can use the AED. Taking the example in Hillgrove where residents can use the AED, KB asked what the liability coverage would be. FKW stressed that there was no liability as to the emergency use of AEDs by DB staff or residents. KB was concerned about the disagreement with the insurance company in terms of the liability issue and would like CM to clarify it before procurement. FKW said this could be addressed in the COC Paper after tendering. And if villages require more than one AED for example, Member might come back to CM in 2 to 3 weeks for processing the request.</p> <p>ER believed the AED is easy to operate as it guides people through the process. DC shared the same view that the AED is totally automatic and only requires three steps to use.</p> <p>Mr. Chairman asked if any members object the purchase of AEDs for villages. PW thought that one AED per village was insufficient due to the large area of some of the villages as well as the presence of high-rises. He felt that specific proposals should be developed for each village to be approved by the VOCs. He suggested CM should also purchase AEDs for residents as well, and try to maximise the order and the coverage. WC recommended purchasing mobile AEDs instead of fixed ones since emergencies may occur somewhere without a fixed AED. GHK commented that he could help purchase additional AEDs and also the mobile model.</p> <p>AM supported this acquisition of AEDs for villages. There was no objection to this motion with Mr. Chairman's agreement. Villages that want to purchase more devices could contact GHK.</p>	
5.2	<p>Updates on Legality and Feasibility of Holding COC Virtual Meeting</p> <p>TC reported that the questions would be reframed shortly for lawyers' opinions. .</p>	21:55
5.3	<p>Liabilities of COC Members (COC Paper No. 678/21)</p> <p>FKW summarised that the legal advice on the primary function of the COC is to give advice to the manager with no authority to direct the manager on how to manage the City as the manager shall have full and unrestricted authority to do all such acts necessary for the proper management of the city. Thus, the COC shall have no duty to manage the City. Based on this conclusion, wilful negligence of the COC may not be the case. Talking about the small claims court ruling on the management fee mentioned by a COC member in the last meeting, FKW referred to the ruling and believed that the calculation and collection of management fees were the duty of the manager and not individual VOC's. So, the claimant's request for personal reimbursement of funds spent was defeated as he had no duty on this issue.</p> <p>ER thought it was rather an opinion than a ruling and disagreed that the COC was free from any liability of wilful negligence. He suggested</p>	22:00

	<p>keeping this item in the agenda as it would be a significant subject until the COC is satisfied members are free from any liability. Mr. Chairman asked about what the next action for this item would be if it were to be kept on future COC meeting agendas. ER replied that further research and study would be required.</p> <p>TC believed the COC shall have a certain kind of duty. DC said conflict of interest was more important than wilful negligence to him as there were different parties involved in the COC such as owners' representatives, HKR, Clubs, etc.</p> <p>KB commented that, the further things go down the legal process on this, the closer we get to the demise of the COC. Mr. Chairman raised the example of one member feeling "frozen" between contributing and not wanting to contribute for fear of liability on their decision-making. FC mentioned he had tried to persuade many Chinese residents to take part in the VOCs and eventually in the COC but language is a barrier. He hoped that the ethnicity make-up of the COC could be more balanced in the future. KB agreed with FC, saying that the COC meeting should continue to provide simultaneous translation and select agenda items carefully. WC proposed to have a two-way interpretation in the next meeting, not just from Chinese to English, so as to encourage more people to contribute to the community and enhance better communication.</p>	
5.4	<p>Terms of Reference for Infrastructure Sub-committee (ISC) and Appointment of Convenor (COC Paper No. 679/21)</p> <p>FKW reported that the Sub-committee has been established to prioritise the infrastructure facilities in DB to be upgraded and replaced. After the prioritisation is set, a project working group (PWG) would be formed to handle the proposed improvements of those facilities. The Sub-committee would review the level of the City Reserve Fund with the FSC. Since there was no further comment from members, FKW presumed these terms of reference were adopted.</p> <p>Just like other sub-committees, the convenor of the Sub-committee should also be a COC member, to which there was no objection to appoint CM as the convenor. WSY asked members to nominate up to one representative from each of their villages to join the Sub-committee and let EH know the nominations by mid-October if the village wished to participate in the ISC. Hopefully the first meeting of this Sub-committee would be held in early November. And CM planned to recruit a manager to coordinate and support the Sub-committee's affairs who was expected to be on board in December.</p>	22:10
6	Items for Discussion	
6.2	<p>Update on the Pilot Scheme of Free Food Waste Collection by Environmental Protection Department (EPD)</p> <p>According to FKW, CM had invited the EPD to have a site visit on 2 September based on the results after CM modified the application. CM had increased the number of collection points to almost 30 points. It was anticipated 1,000kg of food waste would be collected per day under the pilot scheme. The cost was estimated to be about \$36,000 a month</p>	22:15

	<p>including the current service charge for the food decomposer. Members were advised to discuss those listed locations of collection points with their villages and give advice to CM. Other miscellaneous expenses including the purchase of collection bins as well as promotional and educational fees, amount to \$70,000.</p> <p>KB thought joining this pilot scheme would incur at least half a million HK dollars a year. And the municipal solid waste scheme which came into operation two years ago would also have some sort of cost implications. FKW clarified that the pilot scheme would replace the current food waste collection service in DB which already costs DB \$15,000 a month. Because of the replacement and an increase of collection points and capacity, the new service charges are adjusted to \$36,000 per month including collection charges for 2 food decomposers. The total increase of the amount for a year would be around \$260,000 only.</p> <p>FC suggested to stop using food decomposers to reduce costs because it was unlikely that the government would stop treating food waste in the future. FKW reminded members that according to the COC paper, it had already entered into a 3-year maintenance contract for decomposers with the contractor. Besides, under the pilot scheme, the government would dispatch trucks to DB to collect 1,000 kg of food waste per day and transport it to O.PARK, the cost of which would be absorbed by the EPD. Therefore, this government portion of the pilot scheme is free of charge.</p> <p>FKW mentioned CM had made a presentation on this scheme before submitting the application, so this time was just an update. But KB disagreed with FKW, stating that the PowerPoint presentation was never an agreement and no cost implication was mentioned and that at least it should be put to a vote. Mr. Chairman then asked if there were any objections from other COC members to this scheme and the answer was no except the objection of KB.</p>	
6.3	<p>The Judgement and Execution Taken by City Management About the Nuisance Cases of DB Resident Units (COC Paper No. 680/21)</p> <p>Given the nuisance case that happened in WC's village, WC was advised by CM to use his village's Reserve Fund to address this issue between two feuding residents. However, there was also some concern that the Reserve Fund was contributed by all owners of the village and as such it should not be used to pay to solve an individual owner's matter, such as fees for taking legal action. WC would also like CM to clarify whether it has the authority/ability to define nuisance alone if there were just personal feelings without substantial evidence, and whether CM has the enforcement power according to the DMC.</p> <p>Regarding the authority of CM to take actions including legal proceedings against any owner who causes nuisance, FKW referred to a clause under the Sub-DMC that "<i>Each owner shall maintain in good repair and condition that part of the Buildings or Villages owned by him to the satisfaction of the Manager and in such manner as to avoid any loss, damage, nuisance or annoyance to the Owners or occupier of any other part or parts of the Building or Village</i>", and concluded that each owner could not create nuisance. And according to Clause 32 on P. 22</p>	22:30

	<p>of the Principal DMC that <i>“To enforce the due observance and performance by the Owners or any person occupying any part of the City or Village through under or with the consent of any such Owner of the terms and conditions of this DMC and any Sub-DMC and the City or Village Rules made hereunder and to take action including the commencement and conduct of legal proceedings to enforce the due observance and performance thereof and/or to recover damages for any breach non-observance or non-performance thereof...”</i>, the Manager has the power to enforce the Sub-DMC.</p> <p>According to Para.31 of the judgement to LDBM 19/2015 made by the Lands Tribunal, <i>“‘Nuisance’ is defined as a condition or activity which unduly interferes with the use or enjoyment of land”</i>. In conclusion, CM has the right to take action according to the DMC and also the definition.</p> <p>For the third question, whether the cost incurred would charge to the City or Village, according to Clause 5 on P.28 of the Principal DMC that <i>“The Manager shall have the sole right to decide and allocate the expenditure mentioned in Clause 2 of this Section D as between Management Expenses of the City and Management Expenses of the Village...”</i>, FKW believed that since the nuisance was created and solely within the Village, so CM would use the Village Funds to pursue the case.</p> <p>WC argued that nuisance was criminal according to the laws of Hong Kong. In AM’s views, CM can take action against low-frequency volume, and claim back the costs from the person causing the nuisance. TC clarified that costs are awarded by a court – you do not have an automatic right to recoup your costs from the offender. You have to take the case all the way to trial, to judgement, seek an injunction, and at the same time request a costs order in your favour. Normally you would recover only two thirds of your costs. PW regarded it unnecessary for CM to resolve an individual case but rather let the police handle it. Mr. Chairman commented that there were many different opinions of nuisances among neighbours within DB and very difficult to come to agreement in some cases and CM could not resolve all of the neighbourly quarrels. WC advised that only the absolute owner or the occupier of the unit could bring action against the person under complaint. CM, being neither an owner nor an occupier, could not do so on behalf of the complainant. Any actions should be lodged by the complainant against the person under complaint. He considered the use of the Reserve Fund to address this issue as inappropriate. Besides, he suggested CM refer these kinds of cases to the Hong Kong Mediation Centre which offers free mediation services for building management because CM should act as a facilitator to provide assistance but not as an arbitrator.</p> <p>Citing the real court case between the MTR, the property management company and an owner, FKW said according to the DMC, CM has the authority to take action including legal proceedings against owners who do not comply with the DMC, just like in the case with the MTR, which shared the same role of the manager as CM. He added that only when both parties agree to resort to mediation could such mediation be useful. Besides, the Lands Tribunal may also have the power to order two parties for mediation and such order shall be legally binding. CM could help arrange mediation between two parties, however, based on FKW’s</p>	
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	<p>past experience, the owner causing nuisance usually does not agree to undergo mediation.</p> <p>AM said that if the nuisance had affected multiple owners' enjoyment of the property and CM should take action to address it. MSG stated that the duty of CM is to protect owners' interests, and in this case, CM should take whatever actions necessary within the scope of the DMC. In response, WC said if there were multiple owners complaining about the same issue, it would be suitable to allocate the management fund to solve it, but now the case involved just one owner who recorded the nuisance sound with no specific time and date, and that no other residents have claimed any irritation from the offending unit. And he worried that there may be more and more cases of this kind if CM set a precedent for using the public fund to deal with cases.</p> <p>To sum up, FKW said CM would follow up this case with actions it deemed necessary to rectify the situation. Mr. Chairman agreed to handle it case by case and pointed out that the actual resolution must be done at the village level. ER mentioned no doubt CM should manage the problem, but the funding must be approved by the VOC. KB commented that CM had already provided perfect answers to questions and would like Members not to raise village issues to the COC in future.</p>	
6.4	<p>Award of Consultancy Contract for Comprehensive Study on the Conditions of Pipework in Draw Off Tower and Detachment of the Extension from Obsolete Water Treatment Plant (COC Paper No. T1903/21)</p> <p>WSY reported that this was a retrospective approval for appointing a consultant to carry out a comprehensive study at a cost of \$25,000 given the deterioration of the draw off tower and also a large crack between the obsolete water treatment plant and its extended structures. The consultant would issue a report with recommendations on remedial work plus cost estimates, which would be submitted to the COC for discussion. The consultant also quoted for services at the pre-remedial work stage mainly for tendering and would supervise the work after awarding the contract, which would be considered by COC upon completion of the comprehensive study.</p> <p>No member objected the approval.</p>	23:00
6.5	<p>Duplication of the Alarm Monitoring System to Discovery Bay Office Centre</p> <p>WSY proposed duplicating the Alarm Monitoring System installed in the DB control centre in the DB office centre in case the control centre is closed because of any confirmed cases of COVID-19 among the control centre staff, so that the office could still monitor the alarms. It would cost around \$99,000. CM considered it as a capital expenditure and would spend the money for the installation.</p> <p>ER enquired how many chances that the control centre would be closed. CM had no idea but mentioned that close of building had happened in Tung Chung before.</p> <p>No member objected the proposal.</p>	23:05

7	CM Report Mr. Chairman suggested CM send the whole report to members by email due to time constraints. Members had no objection.	
8	AOB	
8.1	Scaffolding Work for Replacing Air-conditioning Units and Resulting Holes in External Walls Mr. Chairman said a resident was concerned about the holes that have appeared in the external walls of buildings resulting from scaffolding work related to air-conditioners and would like CM to address this problem. AM mentioned that there was a serious problem concerning the façade since lots of external walls were corrupted without proper maintenance for many years. And also, the treatment of the façade after completion of works has not been consistent in his village, which he considered a big issue that materially altered the appearance of the buildings. WSY said practically, the contractor could only use colour match sealant to repair those holes but that this wasn't aligned with the façade colour of the building. Owners needed to ask the contractor to do so. Mr. Chairman argued that it should not be the individual owners' responsibility to do the self-inspection and enforcement, and that it would be better to state clearly in the renovation application form for the work the contractor needs to do to specify that it is their responsibility to bring the façade of the building up to pre-repair conditions for any affected bolt-hole areas. AM commented that the management should check whether the contractor's work is satisfactory, ensuring the façade is consistent in colour and style, before it could get back the deposit.	
8.2	Date of Next Meeting - 24 Nov 2021 Mr. Chairman confirmed the next meeting will be convened on 24 November 2021. AB's presentation would be sent to all members for reference.	23:15
	Members were thanked for attending, and the meeting was closed at about 23:15.	