

Country and Marine Parks Board (CMPB)
Confirmed Minutes of the 47th Meeting

Date : 24 May 2011 (Tuesday) File Ref.: AF CPA 01/1/0
Time : 2:30 p.m.
Venue : Room 701, Agriculture, Fisheries and Conservation Department (AFCD)
Headquarters

ATTENDANCE

Chairman

Prof. Nora TAM Fung-ye, J.P.

Members

Dr. Gary Ades

Prof. CHU Lee-man

Ms. Betty HO Siu-fong

Ms. HUI Mei-sheung, Tennessy, J.P.

Mr. LEUNG Wing-hang

Mr. LI Yiu-ban, B.B.S., J.P.

Dr. LO Wing-lok, J.P.

Hon. WONG Yung-kan, S.B.S., J.P.

Dr. YAU Wing-kwong

Dr. LEUNG Siu-fai, J.P. Director of Agriculture, Fisheries and Conservation
(Acting)

Mr. Wilson SO Ying-leung Assistant Director of Planning (New Territories)

Mr. W L LEUNG Assistant Director of Water Supplies/Development
(Acting)

Ms. Karen CHAN Pui-yee Assistant Director of Lands (Estate Management)

Secretary

Mr. Patrick TSANG Assistant Secretary (Boards)1, AFCD

IN ATTENDANCE

Agriculture, Fisheries and Conservation Department (AFCD)

Mr. Joseph SHAM Assistant Director (Country and Marine Parks)

Mr. LEUNG Chi-hong Senior Country Parks Officer/North-west

Ms. NGAR Yuen-ngor Senior Country Parks Officer/South-east

Mr. Edmond LAM Yui-fong Senior Country Parks Officer/Ranger Services

Mr. Alan CHAN Lai-koon Senior Marine Parks Officer

Mr. Franco NG Kwok-yan Country Parks Officer/Special Duties

Dr. YEUNG Ka-ming Senior Geopark Officer

Mr. Simon CHAN Kin-fung Senior Conservation Officer (Biodiversity)
(for Agenda Item III only)

Home Affairs Department (HAD)

Mrs. Ann HO Chief Executive Officer (2)1

Leisure and Cultural Services Department (LCSD)

Mr. CHEUNG Koon-lam Chief Leisure Manager (Management)

For Agenda Item III only

Environmental Protection Department (EPD)

Mr. Elvis AU, J.P. Assistant Director (Nature Conservation & Infrastructure Planning)

ABSENT WITH APOLOGIES

Ms. Jasminia Kristine CHEUNG

Prof. Paul LAM Kwan-sing, J.P.

Dr. LAW Chi-kwong, S.B.S., J.P.

Dr. Eric LI Shing-foon

Mr. Young NG Chun-yeong

Mr. Donald CHOY Chi-mun Assistant Director of Leisure and Cultural Services (Leisure Services)³

Mr. CHUNG Siu-man Assistant Director of Marine (Port Control)

Mr. Andrew TSANG Yue-tung, J.P. Assistant Director of Home Affairs (2)

(The meeting would be proceeded to the closed-door session in which public attendance was not allowed.)

OPENING REMARKS BY THE CHAIRMAN

87/11 The Chairman welcomed everyone to the meeting, in particular Mr. Elvis AU, J.P., Assistant Director (Nature Conservation & Infrastructure Planning) of Environmental Protection Department, Mr. W L LEUNG, Assistant Director/Development (Acting) of Water Supplies Department, and Mr. Simon CHAN Kin-fung, Senior Conservation Officer (Biodiversity) of Agriculture, Fisheries and Conservation Department, who were attending the meeting for the first time. She also informed members that Dr. LEUNG Siu-fai, J.P., Deputy Director of Agriculture, Fisheries and Conservation, was doubling up as Director of Agriculture, Fisheries and Conservation while Mr. Alan WONG Chi-kong, J.P. was on duty visit.

88/11 The Chairman informed members that, as an established practice, to facilitate the taking of meeting minutes, sound recording would be made during the meeting. The audio records would be destroyed after the meeting minutes were confirmed.

AGENDA ITEMS

I. Confirmation of Minutes of the Last Meeting held on 28 January 2011 (Closed-door Session)

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(End of the discussion under the closed-door session. The meeting was opened for public attendance.)

II. Matters Arising

(a) Progress Report on the Phase III Redevelopment of HKFYG Jockey Club Sai Kung Outdoor Training Camp (Para. 61/11)

91/11 Mr. LEUNG Chi-hong reported that the Country and Marine Parks Authority (the Authority) informed Sai Kung District Lands Office that the Authority had no objection to HKFYG’s project on 7 February 2011. Lands Department approved HKFYG’s application for short-term tenancy of the extended portion of the Camp in District Lands Conference on 17 February 2011.

III. Review of the Criteria for Designating Country Parks and Proposed Measures for Protecting Country Park Enclaves (Working Paper: WP/CMPB/6/2011)

92/11 Mr. Joseph SHAM briefed members on Working Paper WP/CMPB/6/2011. Mr. LEUNG Chi-hong elaborated the flow diagrams in Annexes 1 and 2 of the Paper respectively.

93/11 Mr. Elvis AU, J.P. supplemented that the Management Agreement (MA) schemes for Long Valley and Fung Yuen had been proven to be a successful modus operandi to bring non-profit making organizations and land owners together to conserve private land since its operation in 2005. In this regard, the Administration had decided to extend the MA scheme to cover private land in country park enclaves and in country parks.

94/11 Mr. LI Yiu-ban declared that he was an indigenous New Territories resident and

lived in Wong Chuk Yeung Village which was one of the 23 country park enclaves covered by outline zoning plans (OZPs). He also owned some lots of ancestral farmland which had been designated as part of country parks since 1970s.

95/11 A member gave an account of the historical background of the 77 country park enclaves and the pockets of private land within designated country park areas. He pointed out that indigenous villagers were very unwilling to have their private lots designated as country parks because they envisaged that it would be very difficult for them to develop small houses there. On the other hand, villagers did not have strong reservation on covering their lots by OZPs because specific uses of their lots could be worked out. As regards the MA scheme, he suggested that the Authority could enter into long-term leases with the land owners and manage the land because villagers had more confidence in the Government. He supplemented that many private lots had the potential to be developed as recreational facilities, such as campsites, because they were flat and near water as well as villages.

96/11 Hon. WONG Yung-kan, S.B.S., J.P. declared that he was an adviser of Heung Yee Kuk.

97/11 A member remarked that the interests of indigenous villagers should be addressed before their lots were proposed to be incorporated into country parks. Besides, he suggested that rural committees concerned could serve as a communication channel between the Administration and land owners of the 77 country park enclaves.

(Hon. WONG Yung-kan, S.B.S., J.P. left the meeting at this juncture.)

98/11 A member supported the updated principles and criteria as set out at Annex 2. As regards accessibility of the site (para. 5.2 (a) of the Paper refers), she cited Sai Wan incident that development could still be proceeded in a site even there were no existing paved roads or marine access to the site. As regards immediate development threats (para. 5.2 (b) refers), she said that it was difficult to know in advance any such threat which could occur suddenly and it would be too late to take any remedial actions then. She advised that it should be cautious about making reference to these two factors to accord priority to protect enclaves subject to development threats. She remarked that social consensus should be reached on the proposal that the Administration entered into long-term leases with land owners for private land in country parks and in country park enclaves. She remarked that although conservation value of some country park enclaves would not be high, she strongly supported to extend the MA scheme to these enclaves so that other traditional values of local villages could be preserved.

99/11 A member remarked that he supported to safeguard property rights of land owners of private lots in country parks and in country park enclaves on the principles of equity and fairness and he also supported conservation of the lots. He pointed out that if private lots were

to be incorporated as part of country parks, their market value would certainly change and nobody would have an intention to purchase them. Besides, land owners were not likely to undertake conservation activities though their lots had been designated as part of country parks. He said that a lot of elderly land owners were not eligible for Comprehensive Social Security Assistance or public housing because of their land ownership. Hence, Heung Yee Kuk and 11 green groups had proposed to set up a conservation fund to handle private lots in areas of high ecological value in 2005, so that land owners could reap the value of their lots on a fair and impartial basis while the Administration and green groups could undertake conservation of the lots on a right and proper basis. He welcomed the Administration to extend the MA Scheme to cover private land in country park enclaves and in country parks as the first step. Meanwhile, the Administration should deliberate long-term conservation measures, including land resumption, land lease or land exchange.

100/11 In response to members' views, Dr. LEUNG Siu-fai, J.P. highlighted that the mere existence of private land would not be automatically taken as a determining factor for exclusion from the boundary of a country park and other factors would also need to be taken into account. He said that if the Board had no strong views on the updated principles and criteria, the Authority would carefully consider whether each of the 54 enclaves would be suitable for either designation as part of a country park according to the updated criteria or to be protected by including the area into an OZP under the Town Planning Ordinance (TPO). In assessing the situation of the 54 enclaves, the Authority would take account of conservation value, landscape value, existing uses, local villagers' concerns and measures to address these concerns. After deliberation, it would consult the Board on proposed measures to protect the enclaves according to the priority accorded to the enclaves. He remarked that if the Authority proposed to incorporate the enclave as part of a country park under the Country Parks Ordinance (CPO), sufficient time should be allowed for stakeholders to lodge their views or objections to the Board. And the Board would direct the Authority to take appropriate actions after hearing the views or objections. As regards the extension of the MA Scheme to cover private land in country park enclaves and in country parks, he explained that the Scheme would provide financial incentives to private land owners, in particular the elderly, to undertake conservation activities within their land so that it would be conducive to enhancing the overall conservation and scenic value of the country parks.

101/11 Dr. LEUNG Siu-fai, J.P. clarified that after designation of an enclave as part of a country park, the uses of private land in the enclave that were permitted under existing land leases would not be affected under the CPO. He said that whenever the Authority was of the opinion that any proposed use of any private land by the occupier within a country park would substantially reduce the enjoyment and amenities of the country park, the occupier might be

prohibited from proceeding with the proposed use. Any aggrieved occupiers might object and if overruled, could seek compensation according to procedures prescribed under the CPO.

102/11 The Chairman remarked that country park enclaves were a legacy of history. As the enclaves were facing increasing development pressure, they should be tackled step by step with appropriate principles and measures. Otherwise the development in the enclaves would degrade the integrity and landscape quality of the country parks as a whole. She concurred with Dr. LEUNG's views that priority should be accorded to tackle the 54 enclaves. Based on the members' views on the updated principles and criteria, the Authority would, in conjunction with departments concerned, accord priority to the enclaves and work out the most appropriate measures to protect the enclaves on the principles of equity and fairness so that a win-win situation could be achieved. The Authority would submit the proposed measures for each enclave to the Board for deliberation in accordance with the priority.

103/11 Mr. Joseph SHAM replied to a member's enquiry that legal advice of the Government Counsel had been sought on the updated principles and criteria. The Government Counsel was of the view that the rights laid down in Basic Law, including the right of private ownership of land, would not be affected by the updated principles and criteria provided that certain conditions are met.

104/11 In reply to a member's enquiries, Dr. LEUNG Siu-fai, J.P. pointed out that the Authority did not underestimate the difficulty and enduring process to designate an enclave as part of a country park, and the Board would be involved in the process. As regards country park enclaves which were subject to imminent development threat, he said that including the enclaves into Development Permission Area (DPA) plans would serve as an immediate measure to protect the areas from incompatible development. He supplemented that there were various legislative provisions that could be enacted to curb eco-vandalism in country park enclaves.

105/11 In response to a member's enquiries, Dr. LEUNG Siu-fai, J.P. said that the Authority had formulated the updated principles and criteria by making reference to relevant literature and criteria of other countries and modifying them for local conditions. He pointed out that the Authority had endeavoured to formulate the updated principles and criteria as specific as possible so as to enable the Board to assess the enclaves on a case-by-case basis. He said that the Authority would conduct detailed investigation to assess the suitability of a site to be incorporated as part of a country park in accordance with the updated principles and criteria. The Board would be provided with the assessment results of the site for consideration when being consulted.

106/11 The member proposed that an objective assessment method, for example, a weighted scoring system, might be designed for the updated principles and criteria.

107/11 The Chairman was of the view that the updated principles and criteria should also have due consideration on the impacts of developments in country park enclaves on conservation value and landscape value of surrounding country parks though conservation value of the enclaves might not be significant.

108/11 Mr. Joseph SHAM replied to a member's enquiry that AFCD had increased manpower to patrol country park enclaves, in particular those enclaves where there were immediate unauthorized developments.

109/11 Mr. SHAM explained that it would be difficult to quantify various criteria and then compare them directly on the same basis because they were of different nature. Hence, there would be difficulties in working out a scoring system at the moment. He supplemented that the Chairman's views had been considered in Annex 2 II D "Land use compatibility".

110/11 A member generally supported the updated principles and criteria. He expressed concerns that there was a surge in applications for small house development and building rights were granted for sites even though there was no access to them. These would encourage eco-vandalism. He was of the view the most sensitive areas should be designated as DPAs as soon as possible.

111/11 In response to the member's concerns, a member cited that applications for development of about 20 small houses in To Kwa Peng were approved. She advised that the Administration should consider how to tackle potential applications for small house development in Old Schedule agricultural lots within country park enclaves.

112/11 The Chairman remarked that a three-pronged approach should be adopted to resolve the issue of country park enclaves; hence, she fully agreed to the three protection measures proposed in the Paper.

113/11 A member enquired about whether there was room to fine-tune the updated principles and criteria. She was of the view that the updated principles and criteria were likely to be open to disputes in the future. As property rights of land owners were affected to different degree under individual protection measure, she suggested that the criteria should be further elaborated so that land owners had a clearer picture of the relationship between the criteria used and the protection measure proposed for their lots.

114/11 A member shared his hiking experience in So Lo Pun, Yi O and Shui Mong Tin. He agreed that protection measures of country park enclaves should be pursued for hikers' interests while property rights of land owners should be safeguarded as well.

115/11 In response to the Chairman's enquiry about statutory planning procedures to handle applications for small house development in country park enclaves, Mr. Wilson SO said that the 2010 Policy Address had highlighted the need to protect the 54 enclaves either by incorporating them as part of country parks or covering them by statutory towns plans, so as to meet conservation and social development needs. The preparation of statutory town plans for country park enclaves would involve two major steps. First, DPA plan would be prepared. Apart from some uses like agricultural permitted under the DPA plan, other uses including small house development would require planning permission from the Town Planning Board (TPB).

116/11 Mr SO pointed out that before the gazettal of a DPA plan, indigenous villagers living in a recognized village within an enclave had the rights to submit applications for small house development directly to relevant District Lands Officer under prevailing Small House Policy. After the gazettal of a DPA plan, villagers would also need to comply with the provision of the plan and obtain TPB's approval for small house development if it fell within the "Unspecified Use" area. He supplemented that Planning Department had received applications for small house development in To Kwa Peng and was processing these applications before submitting them to TPB.

117/11 Mr SO explained that the draft DPA plan would be gazetted for public inspection and any representations and comments received, including those from villagers and green groups, would be submitted to the TPB for consideration. The TPB would consider the representations and comments in a hearing, and made a decision taking all relevant planning considerations into account. The draft plan would then be submitted to the CE in Council for approval. As a second step in the making of statutory town plans, the DPA plan would be replaced by a statutory Outline Zoning Plan in 3 years' time. During the 3-year period, apart from processing the representations to the draft DPA plan, Planning Department would also need to work out specific land uses taking into account relevant factors like existing villages, geographical attributes, natural landscape, physical environment and development potential of the area. Relevant stakeholders, including rural committees, District Councils and concerned parties would be consulted, during the preparation process.

118/11 A member expressed that two issues should be resolved at first, namely, whether the 54 enclaves should be incorporated as part of country parks and whether they could be incorporated. He said that in many of the 54 enclaves there were existing villages which could be covered by V zone. The villagers recognized that if their villages had been covered by V zone, they only needed to submit applications for small house development to Lands Department. This was a more convenient way for them to submit their applications since an extensive consultation had been conducted in the zoning process. He pointed out that if any

villages covered by V zone were incorporated as part of country parks, affected villagers would intuitively think that they had lost the right to develop small houses as their applications would be required to go through more rigorous and enduring vetting processes of relevant government departments and the Board. He believed that affected villagers were likely to challenge the designation of their lots as part of country parks, possibly through judicial review. He advised that the Board should deliberate whether the designation of the 54 enclaves as country parks should be pursued and could be pursued, since the designation would irritate the villagers and increase social instability. Besides, it would convey a bad message to the society if the Board was not able to proceed the designation for even one enclave. He considered that the extension of the MA Scheme to cover country park enclaves should help encourage villagers to maintain the status quo of their villages as well as undertake conservation activities in their lots.

119/11 In response to the member's view, the Chairman clarified that the Authority did not propose to designate all the 54 enclaves as part of country parks. Besides, members should not have a wrong impression that the enclaves must be designated as part of country parks whenever it was considered necessary to protect them from unauthorized developments or eco-vandalism. She pointed out that the Board would formulate the criteria for designating country parks at first and work out the most appropriate protection measures for the enclaves on a case-by-case basis later.

120/11 Mr. Elvis AU, J.P. concurred with the Chairman's remarks. He advised that members' views on the updated principles and criteria and on the protection measures would facilitate AFCD to assess the situation of enclaves on a case-by-case basis.

121/11 A member said that members understood that not all of the 54 enclaves would be incorporated into country parks after endorsement of the Paper and the enclaves would be examined on a case-by-case basis. Apart from the three protection measures, he enquired whether additional measures would be considered by the Administration.

122/11 In response to the member's enquiry, the Chairman said that she supported the proposal that the government leased agricultural land and hired professional farmers to manage the land under the MA scheme.

123/11 A member said that local villagers knew that village houses could not be built in the land outside the boundary of village development areas under OZPs. He proposed that the Authority should lease the land for conservation, agricultural land rehabilitation or recreational uses, if villagers were not willing to manage or cultivate their farmland. The Authority might sublet the land to green groups or organic farming farmers. He believed that most villagers, in particular overseas villagers, would welcome the proposal as villagers had more confidence in the government.

124/11 Dr. LEUNG Siu-fai, J.P. informed members that the Authority presented the measures for protecting country park enclaves in the Paper according to the Administration's policy that land resumption was not the appropriate option for nature conservation. He said that the society was of the view that the Administration should tighten up existing land control measures to protect country park enclaves since Sai Wan incident. He remarked that the tightening measures comprised designation as country park (para. 4.1 (a) refers) and designation as DPA and then OZP under the TPO (para. 4.1 (b) refers). Apart from the two measures, the PPP pilot scheme, MA scheme and members' suggestions could be considered as complementary measures. He pointed out that the two measures and the complementary measures were not mutually exclusive. He highlighted that the Paper would be a directive document for AFCD's future actions if the Board endorsed the Paper in principle. The Authority would take account of members' views when it assessed the situation of individual enclaves in details and devised the most appropriate measures.

125/11 Mr. Elvis AU, J.P. replied to a member's enquiries that the Environmental Protection Department took members' views on the MA Scheme into account and would review the details of the Scheme with the Environment and Conservation Fund (ECF).

126/11 After thorough discussion, the Chairman concluded that members endorsed the Paper in principle to tighten up land management and enhance conservation of country park enclaves. She remarked that the Authority should fine-tune the updated principles and criteria and consider members' views on unclear or omitted points in the Paper. She advised that apart from conservation, it should not deprive the land owners of their property rights in respect of the principles of equity and fairness. She highlighted that villagers' concerns should be resolved so as not to bring any litigations which would obstruct the Board to tackle the issue of country park enclaves and also jeopardize social stability.

(Mr. Elvis AU, J.P. and Mr. Simon CHAN Kin-fung left the meeting at this juncture.)

IV. Summary Report of Country Parks Committee (CPC) (Working Paper: WP/CMPB/7/2011)

127/11 Ms. Betty HO Siu-fong, Chairman of the Country Parks Committee, presented Working Paper WP/CMPB/7/2011. The Report summarized issues discussed at the CPC meeting held on 19 April 2011, including application for conducting a forest research project at Tai Po Kau Nature Reserve, summary of development proposals within country parks from 1 October 2010 to 31 March 2011, Country and Marine Parks Authority Progress Report on Country Parks and Ground investigation works in country parks. Members noted the Report.

**V. Summary Report of Public Relations Committee (PRC)
(Working Paper: WP/CMPB/8/2011)**

128/11 Dr. LO Wing-lok, J.P., Chairman of the Public Relations Committee, presented the Working Paper WP/CMPB/8/2011. The Report summarized issues discussed at the PRC meeting held on 11 February 2011, including Publicity and Media Coverage, Community Tree Planting Scheme, Country Park Reporters Scheme, Hong Kong Marine Wonders – Paper-cutting Competition and the Country and Marine Parks Authority Progress Report. Members noted the Report.

**VI. Country and Marine Parks Authority Progress Report
(Working Paper: WP/CMPB/9/2011)**

129/11 Mr. Joseph SHAM presented Working Paper WP/CMPB/9/2011 on Country and Marine Parks Authority Progress Report for the period from 1 December 2010 to 31 March 2011. He highlighted that AFCD had enhanced its law enforcement against illegal entry of bicycle into country parks and 78 prosecution cases were handled. Members noted the Report.

VII. Any Other Business

(a) A Letter from Mr. Paul ZIMMERMAN

130/11 Mr. Edmond LAM briefed members on Mr. ZIMMERMAN's letter of 28 April 2011 to the Board and EPD's letter of 15 April 2011 to him, which were tabled in the meeting. He said that AFCD had received one application for using a helicopter landing site (HLS) and 48 applications for landing in country park areas outside HLSs for the past three years. All these applications were related to approved development projects in country parks under supervision of AFCD.

131/11 Mr. LAM continued to say that the Government Flying Service had been providing the "Sky Shout" service to arouse the public's attention on risks of hill fire in Ching Ming Festival, Chung Yeung Festival and fire seasons. He pointed out that AFCD had not received any complaints against illegal use, low-flying and noise pollution of helicopters in country parks from the public for the past three years.

132/11 Mr. LAM supplemented that Civil Aviation Department (CAD) had set up a direct hotline for handling complaints against aircraft noise in country parks. AFCD would relay such complaints to CAD for follow-up actions.

133/11 The Chairman advised a member that Mr. ZIMMERMAN's letter was addressed to the Board and so it was discussed in the meeting. She said that the Board considered that the issue was closely related to the operation and management of country parks and AFCD had taken sufficient measures. Hence, his letter would be referred to AFCD for reply.

[Post-meeting note: AFCD gave a reply letter to Mr. ZIMMERMAN on 8 July 2011.]

134/11 Mr. Edmond LAM answered a member's enquiry that AFCD would refer complaints against landing of helicopters in country park lands without permission of either AFCD or land owners to CAD for law enforcement under Civil Aviation Ordinance.

(b) Update on Hong Kong National Geopark becoming a Global Park

135/11 Dr. YEUNG Ka-ming informed members that the Nomination Document of application of Hong Kong National Geopark (HKNG) for membership of Global Geoparks Network (GGN) had been vetted and assessors from GGN would come to Hong Kong to validate the application.

136/11 Dr. YEUNG said that the application should be one of the first applications under the new GGN requirements trying to address GGN's latest concerns in three key areas, i.e., managing geoparks different from other protected areas; sustainable development of geoparks and brand building of GGN.

137/11 Dr. YEUNG advised members that the most challenging task was to demonstrate that HKNG was able to make contribution to GGN and was capable of maintaining HKNG's brand as global geopark to GGN assessors.

138/11 As regards the main preparation work of the nomination, Dr. YEUNG explained the strategies for sustainable development of geoheritage, geotourism and geo-education, including community involvement, establishment of geoheritage centres, implementation of Recommended Geopark Guides programme and promotion of geopark cuisine.

139/11 The Chairman appreciated that AFCD had put a lot of efforts into the nomination.

[Post-meeting note: Two Assessors of UNESCO visited Hong Kong National Geopark and related facilities for sustainable development of geotourism, geo-education and geoheritage in late July 2011. At the 10th European Geoparks Conference in Norway on 17 September 2011, GGN announced its acceptance of Hong Kong National Geopark's application for membership of the GGN. After joining the network, Hong Kong National Geopark was officially renamed as Hong Kong Global Geopark of China.]

(Dr. YEUNG Ka-ming left the meeting at this juncture.)

(c) Vote of Thanks by DFAC

140/11 Since this was the last meeting of the current term which would end on 31 August 2011, Dr. LEUNG Siu-fai, J.P., Director of Agriculture, Fisheries and Conservation (Acting), thanked the chairman and members for their enthusiastic support to the work of the Board. The Chairman also expressed her gratitude to members for their contribution to the Board.

VIII. Date of Next Meeting

141/11 The Chairman informed members that the date of next meeting was tentatively scheduled for September 2011.

142/11 The meeting was adjourned at 5:20 p.m.

– End –