

LEGISLATIVE COUNCIL

MINUTES

No. 30

Minutes of the meeting held on Wednesday 2 June 2004 at 2:30 pm

Members present:

President

The Hon Mrs Rita FAN HSU Lai-tai, GBS, JP

The Hon Kenneth TING Woo-shou, JP

The Hon James TIEN Pei-chun, GBS, JP

Dr the Hon David CHU Yu-lin, JP

The Hon Cyd HO Sau-lan

The Hon Albert HO Chun-yan

Ir Dr the Hon Raymond HO Chung-tai, JP

The Hon LEE Cheuk-yan

The Hon Martin LEE Chu-ming, SC, JP

Dr the Hon Eric LI Ka-cheung, GBS, JP

Dr the Hon David LI Kwok-po, GBS, JP

The Hon Fred LI Wah-ming, JP

Dr the Hon LUI Ming-wah, JP

The Hon Margaret NG

The Hon Mrs Selina CHOW LIANG Shuk-yee, GBS, JP

The Hon James TO Kun-sun

The Hon CHEUNG Man-kwong

The Hon Bernard CHAN, JP

The Hon CHAN Kam-lam, JP

The Hon Mrs Sophie LEUNG LAU Yau-fun, SBS, JP

The Hon LEUNG Yiu-chung

The Hon SIN Chung-kai

The Hon Andrew WONG Wang-fat, JP

Dr the Hon Philip WONG Yu-hong, GBS

The Hon WONG Yung-kan

The Hon Jasper TSANG Yok-sing, GBS, JP

Dr the Hon YEUNG Sum

The Hon LAU Chin-shek, JP

The Hon LAU Kong-wah, JP

The Hon LAU Wong-fat, GBS, JP

The Hon Miriam LAU Kin-yee, JP

The Hon Ambrose LAU Hon-chuen, GBS, JP

The Hon Emily LAU Wai-hing, JP

The Hon CHOY So-yuk

The Hon Andrew CHENG Kar-foo

The Hon SZETO Wah

The Hon Timothy FOK Tsun-ting, SBS, JP

Dr the Hon LAW Chi-kwong, JP

The Hon TAM Yiu-chung, GBS, JP

Dr the Hon TANG Siu-tong, JP

The Hon Abraham SHEK Lai-him, JP

The Hon LI Fung-ying, JP

The Hon Tommy CHEUNG Yu-yan, JP

The Hon Michael MAK Kwok-fung

The Hon Albert CHAN Wai-yip

The Hon LEUNG Fu-wah, MH, JP

Dr the Hon LO Wing-lok, JP

The Hon WONG Sing-chi

The Hon Frederick FUNG Kin-kee

The Hon LAU Ping-cheung

The Hon Audrey EU Yuet-mee, SC, JP

Members absent:

The Hon NG Leung-sing, JP

The Hon HUI Cheung-ching, JP

The Hon CHAN Kwok-keung, JP

The Hon CHAN Yuen-han, JP

The Hon Howard YOUNG, SBS, JP

The Hon YEUNG Yiu-chung, BBS

The Hon Henry WU King-cheong, BBS, JP

The Hon IP Kwok-him, JP

The Hon MA Fung-kwok, JP

Public officers attending:

The Hon Michael SUEN Ming-yeung, GBS, JP
Secretary for Housing, Planning and Lands

Dr the Hon YEOH Eng-kiong, JP
Secretary for Health, Welfare and Food

The Hon Joseph WONG Wing-ping, GBS, JP
Secretary for the Civil Service

Dr the Hon Patrick HO Chi-ping, JP
Secretary for Home Affairs

The Hon Stephen IP Shu-kwan, GBS, JP
Secretary for Economic Development and Labour

Dr the Hon Sarah LIAO Sau-tung, JP
Secretary for the Environment, Transport and Works

The Hon Frederick MA Si-hang, JP
Secretary for Financial Services and the Treasury

The Hon Ambrose LEE Siu-kwong, IDSM, JP
Secretary for Security

Clerks in attendance:

Mr Ricky FUNG Choi-cheung, JP, Secretary General

Ms Pauline NG Man-wah, Assistant Secretary General (1)

Mr Ray CHAN Yum-mou, Assistant Secretary General (3)

Tabling of Papers

The following papers were laid on the table pursuant to Rule 21(2) of the Rules of Procedure:

<u>Subsidiary Legislation / Instruments</u>	<u>L.N. No.</u>
1. Probation of Offenders (Approved Institution) (Consolidation) (Amendment) Order 2004 (gazetted on 21.5.2004)	100/2004
2. Deposit Protection Scheme Ordinance (7 of 2004) (Commencement) Notice 2004 (gazetted on 21.5.2004)	101/2004
3. Fixed Penalty (Criminal Proceedings) (Amendment) Regulation 2004 (gazetted on 28.5.2004)	103/2004
4. Declaration of Change of Titles (Civil Engineering Department, Territory Development Department, Director of Civil Engineering and Director of Territory Development) Notice 2004 (gazetted on 28.5.2004)	104/2004
5. Legal Tender Notes Issue Ordinance (Amendment of Schedule) Notice 2004 (gazetted on 28.5.2004)	105/2004

Other Papers

No.89 - Audited Statement of Accounts of the Director of Social Welfare Incorporated together with the Director of Audit's Report for the year ended 31 March 2003 (published on 27.5.2004)

Special Report of the Select Committee to inquire into the handling of the Severe Acute Respiratory Syndrome outbreak by the Government and the Hospital Authority – Disclosure of Information (published on 31.5.2004)

Questions

1. Hon James TO asked Question 1.

The Secretary for Financial Services and the Treasury replied.

Six Members asked supplementaries. The Secretary for Financial Services and the Treasury and the Secretary for Economic Development and Labour replied.

2. Hon CHEUNG Man-kwong asked Question 2.

The Secretary for Health, Welfare and Food replied.

Seven Members asked supplementaries and the Secretary for Health, Welfare and Food replied.

3. Hon Martin LEE asked Question 3.

The Secretary for Housing, Planning and Lands replied.

Six Members asked supplementaries and the Secretary for Housing, Planning and Lands replied.

4. Dr Hon YEUNG Sum asked Question 4.

The Secretary for the Environment, Transport and Works replied.

Six Members asked supplementaries and the Secretary for the Environment, Transport and Works replied.

5. Hon Albert HO asked Question 5.

The Secretary for Home Affairs replied.

Five Members asked supplementaries and the Secretary for Home Affairs replied.

6. Hon Audrey EU asked Question 6.

The Secretary for Home Affairs replied.

Three Members asked supplementaries and the Secretary for Home Affairs replied.

Hon Martin LEE asked a supplementary.

Hon TSANG Yok-sing raised a point of order on whether it was appropriate for Hon Martin LEE to make an allegation about the Democratic Alliance for Betterment of Hong Kong in his supplementary.

The President ruled that Hon Martin LEE should revise his supplementary.

Hon Martin revised his supplementary and the Secretary for Home Affairs replied.

Another Member asked a supplementary and the Secretary for Home Affairs replied.

Written replies to Questions 7 to 20 were tabled for Members' information.

Motions

Proposed resolution under the Mutual Legal Assistance in Criminal Matters Ordinance

1. Mutual Legal Assistance in Criminal Matters (Ukraine) Order

The Secretary for Security moved the following motion and addressed the Council:

Resolved that the Mutual Legal Assistance in Criminal Matters (Ukraine) Order, made by the Chief Executive in Council on 9 December 2003, be approved.

Question on the motion proposed.

Hon James TO, Chairman of the Subcommittee on Mutual Legal Assistance in Criminal Matters (Ukraine) Order and Mutual Legal Assistance in Criminal Matters (Singapore) Order, spoke on the motion.

Question on the motion put and agreed to.

2. Mutual Legal Assistance in Criminal Matters (Singapore) Order

The Secretary for Security moved the following motion and addressed the Council:

Resolved that the Mutual Legal Assistance in Criminal Matters (Singapore) Order, made by the Chief Executive in Council on 9 December 2003, be approved.

Question on the motion proposed, put and agreed to.

Members' Motions

Urging the Government to defend freedom of the press and freedom of speech

Hon Albert CHAN moved the following motion and addressed the Council:

That, as hosts of personal-view programmes have recently successively told the media that they are under pressure, and individual hosts have even taken themselves off the air, this Council expresses grave concern about this and is worried that freedom of the press and freedom of speech in Hong Kong are at stake; this Council urges the Government to take measures to defend such freedoms.

While Hon Albert CHAN was addressing the Council, the President left the chair at 4:46 pm temporarily and the President's Deputy, Hon Miriam LAU, took the chair.

Question on Hon Albert CHAN's motion proposed.

The President's Deputy stated that Hon LAU Kong-wah would move an amendment to the motion and that Hon Andrew CHENG and Hon Tommy CHEUNG would each move an amendment to Hon LAU Kong-wah's amendment. In accordance with the Rules of Procedure, the motion, the amendment and the amendments to the amendment would be debated together in a joint debate.

Hon LAU Kong-wah moved the following amendment to Hon Albert CHAN's motion and addressed the Council:

To delete "this Council expresses grave concern about this and is" after "individual hosts have even taken themselves off the air," and substitute with "and some members of the public are"; to delete ";" after "at stake" and substitute with ","; to add "expresses grave concern about this and" after "this Council"; to add "expeditiously find out the truth of these incidents and" after "urges the Government to"; and to add "to keep ensuring that members of the media are free from threats of violence, so as" after "take measures".

Question on Hon LAU Kong-wah's amendment to Hon Albert CHAN's motion proposed.

Hon Andrew CHENG and Hon Tommy CHEUNG spoke on the motion and the amendments.

14 Members and Hon Abraham SHEK spoke on the motion and the amendments.

At 6:52 pm, while Hon Abraham SHEK was speaking, the President resumed the chair.

Another five Members spoke on the motion and the amendments.

Hon Albert CHAN spoke on the amendments.

While Hon Albert CHAN was speaking, Hon TSANG Yok-sing pointed out that Hon Albert CHAN had in his speech mentioned Members who had not spoken in the debate, including himself. As such,

he sought the President's permission for him to respond after Mr CHAN had spoken.

The President stated that in line with the normal practice, she would allow Members who had not spoken to speak on any new points raised by other Members, or to respond where their names had been mentioned by other Members.

Hon Albert CHAN continued to speak on the amendments.

Hon TSANG Yok-sing spoke in response to Hon Albert CHAN's speech.

Hon Albert HO, who had not spoken earlier, sought the President's permission for him to speak on some points raised by Hon TSANG Yok-sing.

The President suspended the meeting at 7:40 pm.

The Council resumed at 8:15 pm.

The President stated that in a joint debate on a motion and its amendments, when the mover of the motion was invited to speak on the amendments, it was the practice for him to speak on the contents on the amendments only. However, on this occasion, Hon Albert CHAN, the mover of the motion, had deviated from the practice when speaking on the amendment and had mentioned other Member's name. As such, she had allowed Hon TSANG Yok-sing to respond. Yet Mr TSANG's speech had prompted Hon Albert HO's request to speak. The President ruled that Hon Albert HO might speak this time, as the Rules of Procedure did not prohibit Members from speaking in such circumstances. However, she urged Members to respect the Council's established practice so as to ensure the smooth conduct of debates.

Hon Albert HO spoke in response to Hon TSANG Yok-sing's speech.

Hon CHAN Kam-lam, who had not spoken, spoke in response to Hon Albert HO's speech.

The Secretary for Security and the Secretary for Home Affairs spoke on the motion and the amendments.

Hon Andrew CHENG moved the following amendment to Hon LAU Kong-wah's amendment:

To delete "some members of" after "off the air, and"; to add "at large" after "the public"; to delete "keep ensuring" after "take measures to" and substitute with "ensure"; to add "and their families" after "members of the media"; and to add "harassment and" after "are free from".

Question on Hon Andrew CHENG's amendment to Hon LAU Kong-wah's amendment proposed and put.

Hon Andrew CHENG claimed a division. The President then ordered the Council to divide under Rule 47(1) of the Rules of Procedure.

The President announced that among the Members returned by functional constituencies, 20 were present, 18 were in favour of the amendment and two abstained; while among the Members returned by geographical constituencies through direct elections and by the Election Committee, 26 were present, 17 were in favour of the amendment and eight abstained. (Voting record in the Appendix.) Since the question was agreed by a majority of each of the two groups of Members present, she declared that Hon Andrew CHENG's amendment was agreed.

Hon Miriam LAU rose to move the following motion without notice:

That in the event of further divisions in relation to the motion or amendments thereto on urging the Government to defend freedom of the press and freedom of speech, the Council do proceed to each of such divisions after the division bell has been rung for one minute.

Question on the motion proposed, put and agreed to.

The President stated that as Hon Andrew CHENG's amendment had been agreed, she granted leave for Hon Tommy CHEUNG to revise the terms of his amendment and explain them to the Council.

Hon Tommy CHEUNG moved the following revised amendment to Hon LAU Kong-wah's amendment as amended by Hon Andrew CHENG and explained the revised terms of his amendment to the Council:

To add "and to smooth out the public's worries" after "threats of violence".

Question on Hon Tommy CHEUNG's amendment to Hon LAU Kong-wah's amendment as amended by Hon Andrew CHENG proposed, put and agreed to.

Question on Hon LAU Kong-wah's amendment as amended by Hon Andrew CHENG and Hon Tommy CHEUNG to Hon Albert CHAN's motion put and agreed to.

Hon Albert CHAN replied.

With the President's permission, Hon CHAN Kam-lam elucidated on a point he had made earlier which had been misunderstood by Hon Albert CHAN.

Hon CHEUNG Man-kwong sought elucidation on the remarks made by Hon CHAN Kam-lam and Hon CHAN Kam-lam, with the President's permission, elucidated.

Question on Hon Albert CHAN's motion as amended by Hon LAU Kong Wah, Hon Andrew CHENG and Hon Tommy CHEUNG put and agreed to.

Safeguarding the rights and benefits of public servants and staff of outsourced government services

Hon LEUNG Fu-wah moved the following motion and addressed the Council:

That, as the largest employer in Hong Kong, the Government of the Special Administrative Region should set an example of a good employer to ensure that all employees of the Government and subvented organizations as well as contract staff of outsourced government services are under reasonable labour protection; to this end, this Council urges the Government to:

- (a) strictly enforce the requirements of the Basic Law concerning protection of the rights and benefits of public servants;
- (b) safeguard the rights and benefits of public servants newly recruited after 1 June 2000 in accordance with the principles of fair and reasonable treatment;
- (c) draw up a reasonable and appropriate public servants establishment;
- (d) enhance the protection for contract staff employed on non-civil service contract terms and staff of subvented organizations in regard to their posts, pay and benefits; and
- (e) strictly monitor government contractors to ensure that they adopt the average wages of similar trades published in the Census and Statistics Department's Quarterly Report of Wages and Payroll Statistics as the standard of minimum allowable wage for non-skilled workers involved in outsourced government services, and fully enforce this requirement.

Question on Hon LEUNG Fu-wah's motion proposed.

The President stated that Hon Andrew CHENG would move an amendment to the motion. In accordance with the Rules of Procedure, the motion and the amendment would be debated together in a joint debate.

Hon Andrew CHENG moved the following amendment to Hon LEUNG Fu-wah's motion and addressed the Council:

To add "and to extend it to the outsourced services contracts of public organizations and public corporations" after "and fully enforce this requirement".

Question on Hon Andrew CHENG's amendment to Hon LEUNG Fu-wah's motion proposed.

Five Members spoke on the motion and the amendment.

Hon Michael MAK declared his interest as an employee of the Hospital Authority and spoke on the motion and the amendment.

Another three Members spoke on the motion and the amendment.

Hon LEUNG Fu-wah spoke on the amendment.

The Secretary for the Civil Service and the Secretary for Financial Services and the Treasury spoke on the motion and the amendment.

Question on Hon Andrew CHENG's amendment to Hon LEUNG Fu-wah's motion put and agreed to.

Hon LEUNG Fu-wah replied.

Question on Hon LEUNG Fu-wah's motion as amended by Hon Andrew CHENG put and agreed to.

Next Meeting

The President declared that the next meeting of the Council would be held on 9 June 2004 at 2:30 pm.

The Council was adjourned at 10:47 pm.

(Mrs Rita FAN HSU Lai-tai)
President

Council Chamber
Hong Kong

投票 VOTE: 1
 日期 DATE: 02/06/2004
 時間 TIME: 08:57:20 下午

動議 MOTION: 鄭家富議員就劉江華議員對陳偉業議員的「促請政府捍衛新聞及言論自由」議案所提修正案，作出的修正案
 HON ANDREW CHENG'S AMENDMENT TO HON LAU KONG-WAH'S AMENDMENT TO HON ALBERT CHAN'S MOTION ON "URGING THE GOVERNMENT TO DEFEND FREEDOM OF THE PRESS AND FREEDOM OF SPEECH"

動議人 MOVED BY: 鄭家富 Andrew CHENG

	功能團體 Functional Constituencies	地方選區及選舉委員會 Geographical Constituencies & Election Committee	最後結果 Final Result
出席 Present	20	26	
投票 Vote	20	25	
贊成 Yes	18	17	
反對 No	0	0	
棄權 Abstain	2	8	
結果 Result	通過 Passed	通過 Passed	通過 Passed

個別表決如下 THE INDIVIDUAL VOTES WERE AS FOLLOWS:

議員 MEMBER	投票 VOTE	議員 MEMBER	投票 VOTE
功能團體 Functional Constituencies		地方選區 Geographical Constituencies	
丁午壽 Kenneth TING		何秀蘭 Cyd HO	贊成 YES
田北俊 James TIEN	贊成 YES	何俊仁 Albert HO	贊成 YES
何鍾泰 Dr Raymond HO		李卓人 LEE Cheuk-yan	贊成 YES
李家祥 Dr Eric LI	贊成 YES	李柱銘 Martin LEE	贊成 YES
李國寶 Dr David LI		李華明 Fred LI	贊成 YES
呂明華 Dr LUI Ming-wah	贊成 YES	涂謹申 James TO	贊成 YES
吳靄儀 Margaret NG	贊成 YES	陳婉嫻 CHAN Yuen-han	
周梁淑怡 Mrs Selina CHOW	贊成 YES	陳鑑林 CHAN Kam-lam	棄權 ABSTAIN
張文光 CHEUNG Man-kwong	贊成 YES	梁耀忠 LEUNG Yiu-chung	贊成 YES
許長青 HUI Cheung-ching		黃宏發 Andrew WONG	贊成 YES
陳國強 CHAN Kwok-keung		曾鈺成 TSANG Yok-sing	棄權 ABSTAIN
陳智思 Bernard CHAN	贊成 YES	楊森 Dr YEUNG Sum	贊成 YES
梁劉柔芬 Mrs Sophie LEUNG	贊成 YES	劉千石 LAU Chin-shek	贊成 YES
單仲偕 SIN Chung-kai	贊成 YES	劉江華 LAU Kong-wah	棄權 ABSTAIN
黃宜弘 Dr Philip WONG		劉慧卿 Emily LAU	贊成 YES
黃容根 WONG Yung-kan	棄權 ABSTAIN	蔡素玉 CHOY So-yuk	棄權 ABSTAIN
楊孝華 Howard YOUNG		鄭家富 Andrew CHENG	贊成 YES
劉皇發 LAU Wong-fat	贊成 YES	司徒華 SZETO Wah	贊成 YES
劉健儀 Miriam LAU	贊成 YES	譚耀宗 TAM Yiu-chung	棄權 ABSTAIN
霍震霆 Timothy FOK		鄧兆棠 Dr TANG Siu-tong	棄權 ABSTAIN
羅致光 Dr LAW Chi-kwong	贊成 YES	陳偉業 Albert CHAN	贊成 YES
石禮謙 Abraham SHEK	贊成 YES	黃成智 WONG Sing-chi	贊成 YES
李鳳英 LI Fung-ying	贊成 YES	馮檢基 Frederick FUNG	贊成 YES
胡經昌 Henry WU		余若薇 Audrey EU	贊成 YES
張宇人 Tommy CHEUNG	贊成 YES		
麥國風 Michael MAK	贊成 YES	選舉委員會 Election Committee	
梁富華 LEUNG Fu-wah	棄權 ABSTAIN	范徐麗泰 Mrs Rita FAN	出席 PRESENT
勞永樂 Dr LO Wing-lok	贊成 YES	朱幼麟 Dr David CHU	棄權 ABSTAIN
葉國謙 IP Kwok-him		吳亮星 NG Leung-sing	
劉炳章 LAU Ping-cheung	贊成 YES	楊耀忠 YEUNG Yiu-chung	
		劉漢銓 Ambrose LAU	棄權 ABSTAIN
		馬逢國 MA Fung kwok	

秘書 CLERK