

LEGISLATIVE COUNCIL

MINUTES

No. 22

Minutes of the meeting held on Wednesday 16 March 2005 at 2:30 pm

Members present:

President

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

The Hon James TIEN Pei-chun, GBS, JP

The Hon Albert HO Chun-yan

Ir Dr the Hon Raymond HO Chung-tai, S.B.St.J., JP

The Hon LEE Cheuk-yan

The Hon Martin LEE Chu-ming, SC, 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 CHAN Yuen-han, JP

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, JP
Dr the Hon Philip WONG Yu-hong, GBS
The Hon WONG Yung-kan, JP
The Hon Jasper TSANG Yok-sing, GBS, JP
The Hon Howard YOUNG, SBS, 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, GBS, JP
The Hon Emily LAU Wai-hing, JP
The Hon CHOY So-yuk
The Hon Andrew CHENG Kar-foo
The Hon Timothy FOK Tsun-ting, GBS, JP
The Hon TAM Yiu-chung, GBS, JP
The Hon Abraham SHEK Lai-him, JP
The Hon LI Fung-ying, BBS, JP
The Hon Tommy CHEUNG Yu-yan, JP
The Hon Albert CHAN Wai-yip
The Hon Frederick FUNG Kin-kee, JP
The Hon Audrey EU Yuet-mee, SC, JP
The Hon Vincent FANG Kang, JP
The Hon WONG Kwok-hing, MH
The Hon LEE Wing-tat
The Hon LI Kwok-ying, MH
Dr the Hon Joseph LEE Kok-long

The Daniel LAM Wai-keung, BBS, JP
The Hon Jeffrey LAM Kin-fung, SBS, JP
The Hon MA Lik, JP
The Hon Andrew LEUNG Kwan-yuen, SBS, JP
The Hon Alan LEONG Kah-kit, SC
The Hon LEUNG Kwok-hung
Dr the Hon KWOK Ka-ki
Dr the Hon Fernando CHEUNG Chiu-hung
The Hon CHEUNG Hok-ming, SBS, JP
The Hon WONG Ting-kwong, BBS
The Hon Ronny TONG Ka-wah, SC
The Hon CHIM Pui-chung
The Hon Patrick LAU Sau-shing, SBS, JP
The Hon Albert Jinghan CHENG
The Hon KWONG Chi-kin
The Hon TAM Heung-man

Public officers attending:

The Hon Donald TSANG Yam-kuen, GBM, JP
The Chief Secretary for Administration

The Hon Henry TANG Ying-yen, GBS, JP
The Financial Secretary

The Hon Elsie LEUNG Oi-sie, GBM, JP
The Secretary for Justice

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

Prof the Hon Arthur LI Kwok-cheung, GBS, JP
Secretary for Education and Manpower

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 Stephen LAM Sui-lung, JP
Secretary for Constitutional Affairs

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

The Hon John TSANG Chun-wah, JP
Secretary for Commerce, Industry and Technology

Dr the Hon York CHOW Yat-ngok, SBS, JP
Secretary for Health, Welfare and Food

Prof LAU Siu-kai, JP
Head, Central Policy Unit

Clerks in attendance:

Mr Ricky FUNG Choi-cheung, JP, Secretary General

Mrs Justina LAM CHENG Bo-ling, Assistant Secretary General (2)

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. Admission and Registration (Amendment) Rules 2005 (gazetted on 11.3.2005)	28/2005
2. Legal Practitioners (Fees) (Amendment) Rules 2005 (gazetted on 11.3.2005)	29/2005
3. Notaries Public (Disciplinary Tribunal Proceedings) Rules (gazetted on 11.3.2005)	30/2005
4. Notaries Public (Grounds for Refusal to Issue Practising Certificate) Rules (gazetted on 11.3.2005)	31/2005
5. Notaries Public (Practising Certificate) Rules (gazetted on 11.3.2005)	32/2005
6. Notaries Public (Examinations) Rules (gazetted on 11.3.2005)	33/2005
7. Notaries Public (Practice) Rules (gazetted on 11.3.2005)	34/2005
8. Notaries Public (Qualifications for Appointment) Rules (gazetted on 11.3.2005)	35/2005

Other Papers

No.68	-	Vocational Training Council Annual Report 2003-2004 (published on 9.3.2005)
No.69	-	Audited Statement of Accounts of the Hong Kong Rotary Club Students' Loan Fund together with the Director of Audit's Report for the year ended 31 August 2004 (published on 11.3.2005)
No.70	-	Audited Statement of Accounts of the Sing Tao Foundation Students' Loan Fund together with the Director of Audit's Report for the year ended 31 August 2004 (published on 11.3.2005)
No.71	-	Hong Kong Council for Academic Accreditation

- Annual Report 2003-2004 (published on 11.3.2005)
- No.72 - The Lord Wilson Heritage Trust
Annual Report 2003-2004 (published on 15.3.2005)
- No.73 AIDS Trust Fund 2003-2004 Annual Accounts together
with the Director of Audit's Report (published on
15.3.2005)
- No.74 - Estimates
for the year ending 31 March 2006
Volume IA - General Revenue Account
Volume IB - General Revenue Account
(published on 16.3.2005)
- No. 75 - Estimates
for the year ending 31 March 2006
Volume II - Fund Accounts
(published on 16.3.2005)

Questions

Written replies to Questions 1 to 20 were tabled for Members' information.

Bills

First Reading

Appropriation Bill 2005

The Bill was read the first time and ordered to be set down for Second Reading pursuant to Rule 53(3) of the Rules of Procedure.

Second Reading

Appropriation Bill 2005

The Financial Secretary moved the Second Reading and addressed the Council.

Question on the Second Reading proposed. The President stated that in accordance with Rules 67 and 71 of the Rules of Procedure, the debate on the second reading of the Bill was adjourned and the Estimates were referred to the Finance Committee for examination before the debate on the Bill resumed.

Motions

Proposed resolution under the Public Finance Ordinance

The Secretary for Financial Services and the Treasury moved the motion in the Appendix and addressed the Council.

Question on the motion proposed, put and agreed to.

Members' Motions

Defending sovereignty over the Diaoyutai Islands

The Council continued to debate the motion on Defending sovereignty over the Diaoyutai Islands moved by Hon LEE Wing-tat at the last Council meeting.

Five Members spoke on the motion.

Hon LEE Wing-tat replied.

Question on the motion put and agreed to.

That this Council do now adjourn

As the Secretary for Constitutional Affairs, who was the Public Officer to attend and speak in the debate on this motion, was not in the Chamber, the President suspended the meeting at 4:37 pm.

The Council resumed at 4:40 pm.

Noting the absence of a quorum, the President directed the Clerk to summon Members to the meeting. A quorum was then present.

Hon LEE Wing-tat moved the following motion under Rule 16(4) of the Rules of Procedure and addressed the Council:

That this Council do now adjourn for the purpose of enabling Members to debate the following issue: All the constitutional and legal issues arising from the office of the Chief Executive having become vacant, and related policies, measures and arrangements.

Question on the motion proposed.

Three Members and Hon LAU Chin-shek spoke on the motion.

While Hon LAU Chin-shek was speaking, the President left the chair at 5:34 pm temporarily and the President's Deputy, Hon Miriam LAU, took the chair.

Another eight Members and Dr Hon YEUNG Sum spoke on the motion.

At 7:20 pm, while Dr Hon YEUNG Sum was speaking, the President resumed the chair.

Four other Members and Hon Albert CHAN spoke on the motion.

While Hon Albert CHAN was speaking, Hon TAM Yiu-chung raised a point of order on whether Hon Albert CHAN had made an offensive remark about him in his speech.

The President ruled that Hon Albert CHAN's remark about Hon TAM Yiu-chung was offensive and he should therefore withdraw that remark.

Instead of withdrawing the remark, Hon Albert CHAN sought the President's permission for him to explain why he had made such a remark. The President suspended the meeting at 8:26 pm.

The Council resumed at 8:37 pm.

Noting the absence of a quorum, the President directed the Clerk to summon Members to the meeting. A quorum was then present.

The President stated that she had held a discussion with Hon Albert CHAN in her office, and Hon Albert CHAN had indicated that he would not withdraw the remark. She then asked Hon Albert CHAN again whether he would withdraw the remark. Hon Albert CHAN said he would not. The President then ordered him

to withdraw immediately from the Council for the remainder of the meeting.

11 more Members and the Secretary for Constitutional Affairs spoke on the motion.

Next Meeting

After adjourning the meeting at 11:01 pm, the President declared that the next meeting of the Council would be held on 6 April 2005 at 11:00 am.

(Mrs Rita FAN HSU Lai-tai)
President

Council Chamber
Hong Kong

PUBLIC FINANCE ORDINANCE

RESOLUTION

(Under section 7(1) of the Public Finance
Ordinance (Cap. 2))

RESOLVED that -

1. Authority is hereby given for a sum not exceeding \$56,857,786,000 to be charged on the general revenue for expenditure on the services of the Government in respect of the financial year commencing on 1 April 2005.
2. Subject to this Resolution, the sum so charged may be expended against the heads of expenditure as shown in the Estimates of Expenditure 2005-06 laid before the Legislative Council on 16 March 2005 or, where the Estimates are changed under the provisions of the Public Finance Ordinance (Cap. 2) as applied by section 7(2) of that Ordinance, as shown in the Estimates as so changed.
3. Expenditure in respect of any head of expenditure shall not exceed the aggregate of the amounts authorized by paragraph 4 to be expended in respect of the subheads in that head of expenditure.

4. Expenditure in respect of each subhead in a head of expenditure shall not exceed -
- (a) in the case of an Operating Account Recurrent subhead of expenditure, an amount equivalent to -
 - (i) except where the subhead is listed in the Schedule to this Resolution, 20% of the provision shown in the Estimates in respect of that subhead;
 - (ii) where the subhead is listed in the Schedule to this Resolution, the percentage of the provision shown in the Estimates in respect of that subhead that is specified in the Schedule in relation to that subhead; and
 - (b) in the case of an Operating Account Non-Recurrent subhead of expenditure or Capital Account subhead of expenditure, an amount equivalent to 100% of the provision shown in the Estimates in respect of that subhead,
- or such other amount, not exceeding an amount equivalent to 100% of the provision shown in the Estimates in respect of that subhead, as may in any case be approved by the Financial Secretary.

SCHEDULE

[para. 4]

	Head of Expenditure		Subhead	Percentage of provision shown in Estimates
28	Civil Aviation Department	170	Airport insurance	100
46	General Expenses of the Civil Service	013	Personal allowances	40
59	Government Logistics Department	225	Traffic accident victims assistance scheme - levies	100
90	Labour Department	280	Contribution to the Occupational Safety and Health Council	30
		295	Contribution to the Occupational Deafness Compensation Board	30
92	Department of Justice	234	Court costs	35
106	Miscellaneous Services	163	Write-offs	50
		192	Refunds of revenue	100
		284	Compensation	30
120	Pensions	021	Ex gratia pensions, awards and allowances	50
		026	Employees' compensation, injury, incapacity and death related payments and expenses	50
170	Social Welfare Department	176	Criminal and law enforcement injuries compensation	60
		177	Emergency relief	100

179	Comprehensive social security assistance scheme	25
180	Social security allowance scheme	25
187	Agents' commission and expenses	100