

立法會
Legislative Council

LC Paper No. CB(2) 764/04-05

Ref : CB2/H/5/04

House Committee of the Legislative Council

**Minutes of the 14th meeting
held in the Legislative Council Chamber
at 2:30 pm on Friday, 21 January 2005**

Members present :

Hon Miriam LAU Kin-ye, GBS, JP (Chairman)
Hon Fred LI Wah-ming, JP (Deputy Chairman)
Hon James TIEN Pei-chun, GBS, JP
Hon Albert HO Chun-yan
Ir Dr Hon Raymond HO Chung-tai, S.B.St.J., JP
Hon LEE Cheuk-yan
Hon Martin LEE Chu-ming, SC, JP
Dr Hon LUI Ming-wah, JP
Hon Margaret NG
Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP
Hon James TO Kun-sun
Hon CHEUNG Man-kwong
Hon CHAN Yuen-han, JP
Hon Bernard CHAN, JP
Hon CHAN Kam-lam, JP
Hon Mrs Sophie LEUNG LAU Yau-fun, SBS, JP
Hon LEUNG Yiu-chung
Hon SIN Chung-kai, JP
Hon WONG Yung-kan, JP
Hon Jasper TSANG Yok-sing, GBS, JP
Dr Hon YEUNG Sum
Hon LAU Chin-shek, JP
Hon LAU Kong-wah, JP
Hon Emily LAU Wai-hing, JP
Hon CHOY So-yuk
Hon Andrew CHENG Kar-foo
Hon Timothy FOK Tsun-ting, GBS, JP
Hon Abraham SHEK Lai-him, JP
Hon LI Fung-ying, BBS, JP
Hon Tommy CHEUNG Yu-yan, JP

Hon Albert CHAN Wai-yip
Hon Frederick FUNG Kin-kee, JP
Hon Audrey EU Yuet-mee, SC, JP
Hon Vincent FANG Kang, JP
Hon LEE Wing-tat
Hon LI Kwok-ying, MH
Hon Daniel LAM Wai-keung, BBS, JP
Hon Jeffrey LAM Kin-fung, SBS, JP
Hon Alan LEONG Kah-kit, SC
Hon LEUNG Kwok-hung
Dr Hon KWOK Ka-ki
Dr Hon Fernando CHEUNG Chiu-hung
Hon CHEUNG Hok-ming, SBS, JP
Hon Ronny TONG Ka-wah, SC
Hon CHIM Pui-chung
Hon Patrick LAU Sau-shing, SBS, JP
Hon Albert Jinghan CHENG
Hon KWONG Chi-kin
Hon TAM Heung-man

Members absent :

Dr Hon David LI Kwok-po, GBS, JP
Dr Hon Philip WONG Yu-hong, GBS
Hon Howard YOUNG, SBS, JP
Hon LAU Wong-fat, GBS, JP
Hon TAM Yiu-chung, GBS, JP
Hon WONG Kwok-hing, MH
Dr Hon Joseph LEE Kok-long
Hon MA Lik, JP
Hon Andrew LEUNG Kwan-yuen, SBS, JP
Hon WONG Ting-kwong, BBS

Clerk in attendance :

Mrs Justina LAM Clerk to the House Committee

Staff in attendance :

Mr Ricky C C FUNG, JP	Secretary General
Mr Jimmy MA, JP	Legal Adviser
Ms Pauline NG	Assistant Secretary General 1

Mr Ray CHAN	Assistant Secretary General 3
Mr LEE Yu-sung	Senior Assistant Legal Adviser 1
Mr Arthur CHEUNG	Senior Assistant Legal Adviser 2
Mrs Vivian KAM	Principal Council Secretary (Complaints)
Miss Salumi CHAN	Chief Council Secretary (1)5
Mrs Constance LI	Chief Council Secretary (2)5
Mrs Betty LEUNG	Chief Council Secretary (3)1
Miss Anita HO	Assistant Legal Adviser 2
Ms Connie FUNG	Assistant Legal Adviser 3
Miss Kitty CHENG	Assistant Legal Adviser 5
Ms Emily PANG	Senior Public Information Officer 2
Miss Lolita SHEK	Senior Council Secretary (2)7

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I. Confirmation of the minutes of the 13th meeting held on 14 January 2005
(LC Paper No. CB(2) 690/04-05)

The minutes were confirmed.

II. Matters arising

Report by the Chairman on her meeting with the Chief Secretary for Administration (CS)

(Director of Administration's letter dated 13 January 2005 on "Proposed Grouping of Policy Areas for the Debate on the Motion of Thanks in respect of the Chief Executive's 2005 Policy Address" issued vide LC Paper No. CB(2) 652/04-05 dated 13 January 2005)

Debate on Motion of Thanks

2. The Chairman said that she had informed CS that the House Committee considered "Effective Governance" the most important and should be debated first. CS had responded that the Administration also considered "Effective Governance" the most important and therefore a fitting finale to the debate. CS had requested Members to reconsider their proposal to change the order of the debate themes, as the Secretary for Justice (SJ) and the Financial Secretary (FS) would not be in Hong Kong on 26 and 27 January 2005 respectively.

3. Mr SIN Chung-kai said that Members belonging to the Democratic Party (DP) regretted that some Principal Officials could not make themselves available for the three-day debate on the Motion of Thanks. Mr SIN pointed out that as the dates of the debate had been set many months ago, the Principal Officials concerned should have made better arrangements for their commitments for the three days. Mr SIN added that the order of the debate

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themes should follow that agreed at the last meeting of the House Committee on 14 January 2005.

4. Mr LEUNG Kwok-hung asked whether SJ and FS were aware of the dates of the debate. The Chairman said that the dates of the debate were proposed by the Administration. She believed that SJ and FS were aware of the dates of the debate, which were also shown on the schedule of Legislative Council (LegCo) meetings for the current session.

5. Mr LAU Kong-wah said that while it was not easy to say which debate theme was the most important, it was important for the Principal Officials concerned to be present at the debate sessions on the policy areas within their respective portfolios. Mr LAU further said that the Administration's proposed order of the debate themes should be adopted, if the Principal Officials could attend the relevant debate sessions.

6. Ms Emily LAU and Mr Ronny TONG said that the House Committee should adhere to the decision made at the last meeting. Ms Emily LAU further said that the Administration's response gave the impression that it had meant to inform and not consult Members on the order of the debate themes, and that the order could not be changed as SJ and FS had already scheduled overseas duty visits for the three days. Ms LAU added that having attended last year's debate and a few meetings with the Chief Executive (CE), she did not think that the Administration considered "Effective Governance" the most important.

7. Mr Fred LI said that it was the practice for the dates of the debate on the Motion of Thanks to be decided well in advance of the delivery of the Policy Address, and for the Administration to propose the order of the debate themes and the grouping of policy areas the day after the delivery of the Policy Address. The House Committee would then discuss the Administration's proposal, and Members could suggest changes to the proposal. Mr LI added that the House Committee should convey Members' regret and disappointment to CS.

8. Mr Martin LEE said that SJ and FS should not have planned overseas duty visits for the three days. He considered it a neglect of duty if SJ and FS did not attend the debate sessions relevant to their policy portfolios.

9. Mr LEE further said that "Effective Governance" should be debated first as it was fundamental to the formulation and implementation of all government policies. Mr LEE added that in the debate on the 2003 Policy Address, the theme of "Vibrant Economy" was considered the most important and was debated first.

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10. Mrs Selina CHOW said that the Administration was not trying to prevent Members from changing the order of the debate themes, but was hoping to explain that SJ and FS would have to be represented by other public officers, if the order of the debate themes was to be changed at such a late stage. Mrs CHOW further said that it was for Members to decide whether they wished to adhere to their decision made at the last meeting.

11. The Chairman clarified that the House Committee had discussed the Administration's proposal at the earliest opportunity, i.e. the day after the Director of Administration had provided the proposal on the order of the debate themes and grouping of policy areas. The Chairman added that the Administration's proposal was only for Members' consideration, and the final decision rested with the House Committee.

12. Dr YEUNG Sum stressed that the Administration should not have assumed that Members would not propose any changes to its proposal. It was Members' right to make changes and Members should not give up such a right.

13. Mr Albert CHAN said that the Principal Officials concerned should have reserved the three days for the debate on the Motion of Thanks. It was disrespectful to LegCo if some of them decided to go on overseas visits, instead of attending the debate sessions on the policy areas within their respective portfolios.

14. Mr LEUNG Kwok-hung said that under Articles 62 and 64 of the Basic Law, the Government was accountable to LegCo and Principal Officials had the duty to attend Council meetings.

15. Mr Ronny TONG said that the House Committee should request SJ and FS to make their best efforts to attend the relevant debate sessions.

16. In reply to Mr James TO, Assistant Secretary General 3 said that the Administration informed the LegCo Secretariat of the dates of the debate on the Motion of Thanks at the end of the last term.

17. Mr James TO said that the Principal Officials concerned should have reserved all the three days for the debate. They should not have assumed that the order of the debate themes would not be changed.

18. Mr SIN Chung-kai reiterated that Members should adhere to their decision made at the last meeting on the order of the debate themes. Mr SIN added that SJ and FS could send representatives to go on the overseas visits.

19. Mr LAU Kong-wah said that he did not have strong views on the order of the debate themes.

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20. The Chairman proposed that she would convey to CS Members' dissatisfaction and disappointment that while the dates of the debate on the Motion of Thanks had been set a long time ago, certain Principal Officials, such as SJ and FS, could not attend the debate. Members agreed.

21. The Chairman informed Members that the unfinished business on the Agenda of the Council meeting on 19 January 2005 would be dealt with at the Council meeting commencing on 26 January 2005. The debate on the Motion of Thanks would commence after the items on questions, bills and government motions had been dealt with. The Chairman further informed Members that she would move a procedural motion at the commencement of the Council meeting to suspend Rules 23(2) and 24(3) of the Rules of Procedure, to enable more than 20 questions to be asked and three Members to ask more than two questions at the meeting.

22. The Chairman added that the duration of the Council meeting would have to be extended, as follows –

- (a) 26 January 2005 (Wednesday) – from 2:30 pm to around 10:30 pm;
- (b) 27 and 28 January 2005 (Thursday and Friday) – from 9:00 am to around 10:00 pm; and
- (c) any unfinished business would have to be dealt with on 29 January 2005 (Saturday) or 31 January 2005 (Monday), from 9:00 am.

23. The Chairman invited Members' views on whether the Council meeting should continue on 29 or 31 January 2005 to deal with any unfinished business.

24. Mr Ronny TONG said that the meeting should continue in the afternoon of 31 January 2005. Ir Dr Raymond HO said that Members belonging to The Alliance concurred with Mr TONG.

25. The Chairman reminded Members that the Panel on Planning, Lands and Works had scheduled a meeting for the afternoon of 31 January 2005 to receive views from deputations on the West Kowloon Cultural District (WKCD) project.

26. Dr KWOK Ka-ki said that as only one closed door meeting would be held on 29 January 2005, while three Panel meetings had been scheduled for 31 January 2005, the Council meeting should continue on Saturday to minimise disruption. Mr James TIEN and Ms LI Fung-ying expressed similar views.

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Mr SIN Chung-kai said that Members belonging to DP also considered that the meeting should continue on 29 January 2005.

27. The Chairman put the question that any unfinished business should be dealt with on 29 January 2005 from 9:00 am to vote. The outcome of the vote was that 22 Members voted in favour of the question, and nine Members voted against the question.

28. The Chairman said that she would inform the President of Members' preference.

III. Business arising from previous Council meetings

Legal Service Division report on subsidiary legislation gazetted on 14 January 2005 and tabled in Council on 19 January 2005

(LC Paper No. LS 30/04-05)

29. The Legal Adviser said that a total of five items of subsidiary legislation were gazetted on 14 January 2005 and tabled in Council on 19 January 2005.

30. The Legal Adviser explained that the Merchant Shipping (Prevention of Pollution by Sewage) Regulation was to give effect to Annex IV to the International Convention for the Prevention of Pollution from Ships 73/78 relating to the prevention of pollution by sewage from ships.

31. The Legal Adviser further explained that the Merchant Shipping (Prevention and Control of Pollution) (Fees) Regulation specified the charges for the provision of survey services and issuance of International Sewage Pollution Prevention Certificates.

32. The Legal Adviser said that the Panel on Economic Services had been consulted on the introduction of the two Regulations, and the Panel was generally in support of the Administration's proposal.

33. The Legal Adviser added that the Legal Service Division was still scrutinising the two Regulations and would make a further report to the House Committee if necessary.

34. The Chairman said that as the deadline for amending the two Regulations was 2 February 2005, she would give notice to extend the scrutiny period of the two Regulations to 9 March 2005. Members agreed.

35. Members did not raise any queries on the five items of subsidiary legislation.

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36. The Chairman reminded Members that the deadline for amending these five items of subsidiary legislation was 2 February 2005, or 9 March 2005 if extended by resolution.

IV. Business for the Council meeting on 2 February 2005

(a) Questions

(LC Paper No. CB(3) 312/04-05)

37. The Chairman informed Members that 20 questions (six oral and 14 written) had been scheduled for the Council meeting on 2 February 2005.

(b) Bills - First Reading and moving of Second Reading

38. The Chairman said that no notice had been received yet.

(c) Government motion

39. The Chairman said that no notice had been received yet.

(d) Members' motions

(i) Motion to be moved by Hon CHEUNG Man-kwong

40. The Chairman said that the subject of the motion to be moved by Mr CHEUNG Man-kwong was "Monitoring the post-retirement employment of the Chief Executive, principal officials under the accountability system and civil servants at directorate level with private-sector organizations", and the wording of the motion had been circulated to Members.

(ii) Motion to be moved by Hon Emily LAU Wai-hing

41. The Chairman said that the subject of the motion to be moved by Ms Emily LAU was "Opposing collusion between business and the Government and transfer of benefits", and the wording of the motion had been circulated to Members.

42. The Chairman reminded Members that the deadline for giving notice of amendments, if any, to the motions was Wednesday, 26 January 2005.

V. Reports of Bills Committees and subcommittees

(a) Report of the Subcommittee on Employees' Compensation Ordinance (Amendment of Second Schedule) Order 2004 and Occupational Safety and Health Ordinance (Amendment of Schedule 2) Order 2004

(LC Paper No. CB(2) 703/04-05)

43. Mr LEE Cheuk-yan, Chairman of the Subcommittee, said that the Administration would move amendments to the two Orders at the Council meeting on 2 February 2005, including an amendment to section 2 of the Employees' Compensation Ordinance (Amendment of Second Schedule) Order 2004 to replace "remains" in the new item B12 with "uncooked remains", in response to the concern raised by Mr Tommy CHEUNG. Mr LEE added that the Subcommittee supported the Orders, subject to the amendments to be moved by the Administration.

44. The Chairman reminded Members that the deadline for giving notice of amendments was 26 January 2005.

(b) Report of the Subcommittee on Telecommunications (Designation of Frequency Bands subject to Payment of Spectrum Utilization Fee) (Amendment) Order 2004, Telecommunications (Method for Determining Spectrum Utilization Fees) (Third Generation Mobile Services) (Amendment) Regulation 2004 and Telecommunications (Level of Spectrum Utilization Fees) (Second Generation Mobile Services) Regulation

(LC Paper No. CB(1) 744/04-05)

45. Mr SIN Chung-kai, Chairman of the Subcommittee, said that the Subcommittee did not object to the three items of subsidiary legislation, subject to the amendments to be moved by the Administration at the Council meeting on 2 February 2005.

46. The Chairman reminded Members that the deadline for giving notice of amendments was 26 January 2005.

VI. Position on Bills Committees/subcommittees

(LC Paper No. CB(2) 701/04-05)

47. The Chairman informed Members that there were seven Bills Committees and five subcommittees in action.

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48. The Chairman said that rule 21(h) of the House Rules stipulated that “the scrutiny of a bill should be conducted quickly and, whenever possible, be completed within three months of its commencement. Should there be the need for a Bills Committee to work beyond this period, the chairman should report to the House Committee for an extension of the period.”

49. Referring to the speaking notes of the chairmen concerned tabled at the meeting, the Chairman further said that the Bills Committees studying the following Bills would need to work beyond three months since their commencement –

- (a) Vocational Training Council (Amendment) Bill 2004;
- (b) Construction Industry Council (No. 2) Bill;
- (c) Bankruptcy (Amendment) Bill 2004;
- (d) Companies (Amendment) Bill 2004; and
- (e) Undesirable Medical Advertisements (Amendment) (No. 2) Bill 2004.

50. Members raised no objection to the extension of the scrutiny period of the five Bills.

VII. Invitation to the Chief Executive to attend a further Question and Answer Session before the debate on the Motion of Thanks

(Letter dated 17 January 2005 from Hon Ronny TONG Ka-wah to the Chairman of the House Committee (LC Paper No. CB(2) 705/04-05(01))

51. Mr Ronny TONG said that as many Members were not able to put questions to CE at the Question and Answer Session on 13 January 2005, CE should be invited to attend a further Question and Answer Session before the debate on the Motion of Thanks to be held at the Council meeting commencing on 26 January 2005. The Session should last one and a half hours to enable more Members to ask questions.

52. Mr TONG further said that the House Committee had earlier requested that each CE's Question and Answer Session should last one and a half hours, and such Sessions should be held once a month. As a reply from CE was still awaited, the Administration should be reminded of Members' requests.

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53. The Chairman clarified that according to the record of the LegCo Secretariat, a total of 20 Members had asked questions at the Question and Answer Session on 13 January 2005.

54. Mr James TIEN agreed that CE should be invited to attend a further Question and Answer Session to answer Members' questions on the Policy Address.

55. Dr YEUNG Sum expressed support for Mr TONG's proposal.

56. Mr Martin LEE said that the Administration should be reminded to provide a reply to the House Committee's earlier request relating to the frequency and duration of CE's Question and Answer Sessions.

57. The Chairman said that she would write to invite CE to attend another Question and Answer Session before the Council meeting commencing on 26 January 2005. She would also remind CS at their next meeting on Monday that a reply to the House Committee's earlier request was still awaited.

VIII. Proposal to set up a subcommittee under the House Committee to follow up the West Kowloon Cultural District project

(Letter dated 15 January 2005 from Hon Alan LEONG Kah-kit to the Chairman of the House Committee (LC Paper No. CB(2) 705/04-05(02))

58. Mr Alan LEONG said that Members should closely monitor the development of the WKCD project. As the project straddled the policy areas of culture and arts, planning and lands, environment and finance, a subcommittee should be set up under the House Committee to enable Members to follow up the project in a more efficient and transparent manner.

59. Mr LEE Wing-tat said that Members belonging to DP supported Mr LEONG's proposal. Given the scale of the WKCD project and the fact that it straddled the policy areas of more than two Panels, it should be followed up by a subcommittee under the House Committee. Mr LEE added that Mr LAU Wong-fat, Chairman of the Panel on Planning, Lands and Works, had told him that he had no objection to the setting up of a subcommittee under the House Committee to follow up the WKCD project.

60. Dr YEUNG Sum said that although some Members had earlier expressed concern about setting up too many subcommittees under the House Committee, he considered that such subcommittees should be set up if there was a need to do so. He expressed support for Mr LEONG's proposal.

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61. Mr Abraham SHEK said that Members belonging to The Alliance supported Mr LEONG's proposal.
62. Mr Timothy FOK said that the culture and sports sectors supported Mr LEONG's proposal.
63. Mr LAU Kong-wah supported Mr LEONG's proposal. Mr LAU said that the subcommittee, if formed, should give constructive views on the WKCD project.
64. Mrs Selina CHOW said that while Members belonging to the Liberal Party considered that the WKCD project should be followed up by the relevant Panels holding joint meetings, they had no strong views about Mr LEONG's proposal. They hoped that the setting up of subcommittees under the House Committee could be avoided as far as possible, as it would add pressure on Members' time and the work of the LegCo Secretariat.
65. The Chairman proposed that a subcommittee be set up under the House Committee to follow up the WKCD project. Members agreed. The following Members agreed to join: Mr James TIEN, Mr Albert HO, Ir Dr Raymond HO, Ms Margaret NG, Mrs Selina CHOW, Mr James TO, Mr CHAN Kam-lam, Miss CHOY So-yuk, Mr Timothy FOK, Mr Abraham SHEK, Mr Tommy CHEUNG, Mr LEE Wing-tat, Mr Alan LEONG, Mr Ronny TONG, Mr CHIM Pui-chung, Mr Patrick LAU (as advised by Mr Abraham SHEK) and Mr Albert CHENG.
66. The Chairman said that the Panel on Planning, Lands and Works would hold a meeting on 31 January 2005 to listen to the views of deputations on the WKCD project. She added that the project should not be followed up by the Panel and the subcommittee in parallel.
67. Mr Abraham SHEK and Mr James TIEN said that to avoid duplication of efforts and resources, the project should be followed up by the subcommittee under the House Committee, and not the Panel. Members agreed.
68. The Chairman said that the existing rules of the Council did not provide for the formation of a subcommittee under two or more Panels. However, Members could consider moving a motion in Council to enable a subcommittee to be set up under two or more Panels, if necessary.
69. Ms Margaret NG said that any committee system would evolve and develop over time. As there were more issues which straddled the policy areas of two or more Panels, it was necessary to set up more subcommittees under the House Committee to follow up these issues.

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70. Mr LEE Cheuk-yan said that Members should consider whether the Rules of Procedure and House Rules should be amended to allow a subcommittee to be set up under two or more Panels.

71. The Chairman proposed that the Committee on Rules of Procedure be requested to study the matter, and make recommendations for the House Committee's consideration in due course. Members agreed.

IX. Provision of Policy Address-related papers by the Administration

(Letter dated 17 January 2005 from Dr Hon Fernando CHEUNG Chiu-hung to the Chairman of the House Committee (LC Paper No. CB(2) 705/04-05(03))

72. Referring to his letter, Dr Fernando CHEUNG said that the Government had released certain information relating to the Policy Address to the media before it had been made available to Members.

73. Dr CHEUNG requested that all the Policy Address-related papers, including the Policy Address, Policy Agenda and papers for the policy briefings for the 18 Panels, should be provided at the same time by the Administration for distribution to Members, immediately after the delivery of the Policy Address by CE.

74. The Chairman informed Members that all policy bureaux had been able to provide papers for the policy briefings for the 18 Panels by 13 January 2005, i.e. the day after the delivery of the Policy Address. She would convey Members' request to CS at their next meeting. Members agreed.

X. Any other business

75. The Chairman reminded Members that a fire drill would be held immediately after the meeting.

76. There being no other business, the meeting ended at 3:32 pm.