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**Panel on Planning, Lands and Works
and Panel on Financial Affairs**

**Minutes of joint meeting
held on Tuesday, 24 May 2005, at 2:30 pm
in the Chamber of the Legislative Council Building**

Members present : Members of the Panel on Planning, Lands and Works

Hon LAU Wong-fat, GBS, JP (Chairman)
Hon Patrick LAU Sau-shing, SBS, JP (Deputy Chairman)
Ir Dr Hon Raymond HO Chung-tai, S.B.St.J., JP
* Hon James TO Kun-sun
Hon CHOY So-yuk
* Hon Abraham SHEK Lai-him, JP
Hon Albert CHAN Wai-yip
Hon LEE Wing-tat
Hon LI Kwok-ying, MH
Hon Alan LEONG Kah-kit, SC
Hon CHEUNG Hok-ming, SBS, JP

Members of the Panel on Financial Affairs

Hon Bernard CHAN, JP (Chairman)
Hon James TIEN Pei-chun, GBS, JP
Hon Albert HO Chun-yan
Dr Hon David LI Kwok-po, GBS, JP
Hon CHAN Kam-lam, JP
Hon Emily LAU Wai-hing, JP
Hon Jeffrey LAM Kin-fung, SBS, JP
Hon CHIM Pui-chung

(* Also members of the Panel on Financial Affairs)

Members absent : Members of the Panel on Planning, Lands and Works

Hon WONG Yung-kan, JP
Hon Timothy FOK Tsun-ting, GBS, JP
Hon Daniel LAM Wai-keung, BBS, JP

Members of the Panel on Financial Affairs

Hon Ronny TONG Ka-wah, SC (Deputy Chairman)
Hon LEE Cheuk-yan
Hon SIN Chung-kai, JP
Hon Andrew LEUNG Kwan-yuen, SBS, JP
Hon WONG Ting-kwong, BBS
Hon Albert Jinghan CHENG
Hon TAM Heung-man

(* Also members of the Panel on Financial Affairs)

Public officers attending : Mr Thomas TSO
Deputy Secretary for Housing, Planning and Lands
(Planning & Lands) 1

Mr John Stanley CORRIGALL
Deputy Director of Lands (General)

Mr Martin Mckenzie GLASS
Deputy Secretary for Financial Services and the Treasury
(Treasury) 2

Mr Patrick HO Chung-kei
Deputy Secretary for the Environment, Transport and Works
(Transport) 4

Mr Howard LEE Tat-chi
Principal Assistant Secretary for Economic Development
and Labour (Economic Development) A3

Clerk in attendance : Miss Odelia LEUNG
Chief Council Secretary (1)4

Staff in attendance : Ms Bernice WONG
Assistant Legal Adviser 1

Ms Sarah YUEN
Senior Council Secretary (1)6

Ms Christina SHIU
Legislative Assistant

Action

I. Election of Chairman

Mr LAU Wong-fat informed members that Hon Bernard CHAN would be late for the meeting. Members agreed that Mr LAU be the Chairman for the joint meeting.

II. Land grant policy and its impact on Government revenue

(LC Paper No. CB(1)1395/04-05(01) -- Information paper provided by the Administration on “Management of Government investment incomes: The Administration’s response to issues on the land grant policy”

LC Paper No. CB(1)1589/04-05(01) -- Background brief on “Land grant policy and its impact on Government revenue” prepared by the Legislative Council Secretariat)

Direct land grants

2. Mr Abraham SHEK Lai-him opined that the policy of subsidizing commercially operated infrastructural projects in the form of land, such as the two railway corporations for railway property developments and the granting of the large piece of land on the Airport Island to the Airport Authority (AA), no longer suited the present day circumstances. Mr Albert CHAN Wai-yip shared his views, and expressed concern that the land grant policy as exhibited by the grant of land for the development of the Hong Kong Disneyland and the Cyberport was arbitrary. He considered that land subsidy in the form of land grant was undesirable because the actual amount of subsidy could not be ascertained. The arrangement also lacked transparency and accountability to facilitate effective public scrutiny. They called upon the Administration to review and replace land subsidy by land grant with direct capital injection where appropriate as in the case of the Tseung Kwan O Line to facilitate monitoring by the Legislative Council (LegCo).

3. In response, the Deputy Secretary for Financial Services and the Treasury (Treasury) 2 (DS/FS&T(T)2) explained that the granting of land to the two railway corporations if necessary to close any funding gap of rail projects had been found beneficial in enabling the two corporations to build and operate railways with reasonable returns and serve the travelling public. The sustainability of railways built and operated commercially would in turn effect the roll-out of railways for Hong Kong with minimal Government participation and costs. Apart from the above financial benefits, the above rail and property model also had the operational benefit of optimizing the interface between the railway part and property part of a rail project. This was because, on the basis that it would automatically be involved in the property developments along the stations of its railway projects, the railway corporation concerned would willingly provide the property enabling works needed when it constructed its railways. He and the Deputy Secretary for Housing, Planning and Lands (Planning & Lands)1 (DS/HPL(P&L)1) further pointed out that the two railway corporations were paying full market premium for their property development sites. Were the present financing model of railway development not adopted and direct capital injection was made by the Government, higher cost would be incurred. The Deputy Secretary for the Environment, Transport and Works (Transport) 4 (DS/ETW(T)4) added that if the above-station sites were to be sold separately for property development, additional costs would likely be incurred because of the issues and extra efforts required to address the interface between the property development works and the railway operation.

4. Messrs Abraham SHEK and Albert CHAN remained of the view that it was unfair to continue to subsidize the Mass Transit Railway Corporation Limited (MTRCL) in the form of land after its listing in October 2000 because in this way, taxpayers' money was indirectly used to benefit MTRCL's shareholders. In response, DS/FS&T(T)2 advised that the Administration was prepared to examine different options of financing railway projects but as yet found no reason to rule out the grant of above-station property development rights, which was intended to bring to the shareholders of non-commercial projects commercial returns commensurate with the risks involved. In his view, such grants represented less of a subsidy than a capital grant. DS/ETW(T)4 supplemented that views similar to those of Messrs SHEK and CHAN had been raised and debated during scrutiny of the MTR Bill on privatization of MTRC in 2000. The majority view of LegCo Members then was that, in recognition of the benefits of co-ordinated development of the railway part and property part of railway projects, the rail and property model should continue and the majority of LegCo Members voted against the Committee Stage Amendment to the MTR Bill to exclude property development right in the franchise of MTRC. The Prospectus which was published for the listing of MTRC carried relevant statements on the application of the rail and property model to MTRC after privatisation.

5. Mr Abraham SHEK was unconvinced. In his view, as in the case of the Jubilee Garden on top of the Fo Tan Rail Station, the site concerned could have been sold for private housing development to generate revenues for the

Government, so that the Government could in turn directly fund the railway development concerned. He also queried whether profits generated from the property developments of the two railway corporations had ever been used to subsidize train fares. In response, DS/FS&T(T)2 reiterated the benefits of relying on the railway corporations to build the foundation works of the property developments on rail stations. He however assured members that in planning future rail projects, all possible funding alternatives that were appropriate would be considered.

6. Mr Patrick LAU Sau-shing enquired about the criteria for direct land grants to approved bodies for the purpose of meeting specific policy objectives. In reply, DS/HPL(P&L)1 emphasized that the criteria were set according to relevant policies approved by the Chief Executive in Council. According to the criteria, land was only disposed of by way of private treaty grant under certain circumstances or for special types of land use, such as educational institutions, religious institutions or public utilities, with positive policy support from the relevant policy bureaux. In these cases, the premium charged varied from nominal premium (as in the case of non-profit making schools) to concessionary premium (as in the case of stand-alone religious facilities) to full market premium (as in the case of public utility companies).

7. Mr James TIEN Pei-chun said that Members of the Liberal Party were of the view that individual bureaux should bid for direct funding to implement their policy initiatives instead of seeking land subsidy for the purpose because the revenues generated from sale of the sites concerned through public auction or public tender might more than suffice to cover funding for their policy initiatives. He also opined that to achieve better regulation of the property market, the disposal of land should rest with the Secretary for Housing, Planning and Lands (SHPL) and not several bureaux in the form of direct land grants.

8. In response, DS/FS&T(T)2 repeated the points mentioned in paragraph 3 above, and maintained that the arrangement of direct land grant to service providers for the related purposes was necessary and appropriate. DS/HPL(P&L)1 also stressed that SHPL could effectively monitor land and flat supply from all sources. For example, the Housing, Planning and Lands Bureau (HPLB) had reached a consensus with the two railway corporations on the timetable for the disposal of railway property developments. Since they and the Urban Renewal Authority would regularly report to HPLB on their plans of housing development, SHPL was fully informed of flat supply from these sources.

Determination of premium

9. Mr Abraham SHEK sought to know how the Administration assessed the value of a site granted to subsidize a commercially operated infrastructural project, such as the railway projects. In reply, the Deputy Director of Lands (General) (DD of L(G)) explained that the land granted to the two railway corporations for property development was assessed on the open market value of the site

disregarding the future presence of the new railway line. Mr SHEK and Mr Albert CHAN doubted whether this was the case, having regard that the railway corporations could make huge profits from their property developments. DS/FS&T(T)2 emphasized that the premium paid was at full market value as assessed by the Lands Department (Lands D).

10. Messrs Abraham SHEK and Albert CHAN opined that valuation of land granted by way of private treaty should be conducted fairly and openly to ensure there was no hidden subsidy. Mr Alan LEONG Kah-kit asked whether the Administration would consider making open the mechanism and criteria to show that land subsidy would not be made at the expense of public interests. In response, DS/HPL(P&L)1 stressed that the Government had already put in place established procedures to process land grant by private treaty and to assess the appropriate amount of land premium. The mechanism applied to railway and other development projects had all along been effective and well known to the real estate sector and developers. The Hong Kong Institute of Surveyors also found it acceptable. Furthermore, the amount of premium determined would be published on the website of Lands D to enhance transparency and accountability. DD of L(G) added that the assessment was done by qualified valuation surveyors.

Enforcement of lease conditions

11. Mr Albert CHAN pointed out that the Administration should ensure that the land granted to public corporations was put into effective use for the development of their core business. He quoted that AA was indirectly using taxpayers' money to make risky overseas investments. Mr James TIEN also expressed concern that the large piece of land on the Airport Island granted to AA was used for development of convention facilities, hotels and a golf course.

12. In response, the Principal Assistant Secretary for Economic Development and Labour (Economic Development) A3 explained that the grant of the Airport Island to AA had stemmed from the operational need to enable AA to make use of land at the airport flexibly to respond to rapidly changing needs of the airport. For example, the need to delineate land for airport cross-boundary coach service, whose significant growth had not been anticipated; the need to construct a tunnel for the automated people mover system across several sites to link up the passenger terminal building with a new pier for cross-boundary ferry service, etc. The proposed development of a temporary golf course at the airport was mainly intended to help improve the environment of the airport without the need for costly landscaping works on a site reserved for future development of airport facilities.

13. Mr Albert HO opined that should land be granted to private corporations for the purpose of meeting specific policy objectives, any part of the land which was not put to the specified uses for a certain period of time should be returned to the Government and put up for sale through open bidding. Ms Emily LAU shared his view, and asked for information on the number of private treaty sites which were not put to designated uses for a certain period of time, and on the progress of

the review on the enforcement of the cessation of user clause in private treaty grants.

14. In response, DS/HPL(P&L)1 confirmed that in the past three years, there had not been any case of re-entry by invoking the cessation of user clause. In fact, the leases of land granted by private treaty might not necessarily include user clause and cessation of user clause. The Administration was reviewing the situation to size up the problem, and aimed to complete the review as soon as practicable. Meanwhile, the Administration would take actions as appropriate to ensure effective use of land granted by private treaty.

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15. Noting the Administration's reply, Ms Emily LAU expressed concern about the non-inclusion of lease conditions which would enable the Government to resume the sites which were not put to the specified uses. She and Mr Abraham SHEK stressed the importance of effective public scrutiny of land subsidy for corporations like the AA, the two railway corporations and the Hong Kong Science Park because land was valuable resource. At Ms LAU's request for details on the status of land granted by private treaty, DS/HPL(P&L)1 agreed to provide the requested information but pointed out that time was required for preparing it. He assured members that the status of sites granted by way of private treaties would be followed up. However, those sites which were not put to their intended purposes would need to be handled according to the lease conditions. As to the site granted for school development in Ap Lei Chau highlighted by Ms LAU, DS/HPL(P&L)1 confirmed that the site had already been returned to the Government.

Other views and concerns

16. In response to Mr Alan LEONG on the proportion of land granted by way of private treaty, DS/HPL(P&L)1 pointed out that two-thirds of land was disposed of by way of private treaty grant but the majority was granted for public purposes such as public housing development and rail development. Land for private development was usually sold through public auction or public tender.

17. Mr Patrick LAU highlighted the protracted discussion on the financing of the South and West Hong Kong Island Lines, and sought to ascertain whether the deadlock was caused by disagreement on adoption of the rail and property model. In response, DS/ETW(T)4 reported that the above rail projects were being examined in conjunction with MTRCL and the relevant District Councils having regard to the demand and the merits of rail development vis-à-vis road development. The financing arrangement and details such as treatment of station properties had yet to be decided. In this regard, Mr LAU referred to members' views in paragraph 2 above, and urged the Administration to provide direct capital subvention instead of land subsidy for the South and West Hong Kong Island Lines. DS/ETW(T)4 said that at present relevant parties were still examining all available options.

18. At Mr Albert HO's request for an undertaking from the Administration that there would no longer be any subsidization in the form of land to purely private operations like the Cyberport, DS/HPL(P&L)1 pointed out that as stated on previous occasions, no land subsidy was involved in the Cyberport.

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19. Miss CHOY So-yuk pointed out that in some cases, only nominal or concessionary premium was charged on land which was granted for non-profit making purposes. However, the use of the land did not comply with the relevant lease condition in that the land was restricted to use by certain categories of persons. She also pointed out other cases such as that of the Sailors' and Soldiers' Home in which sites granted by way of private treaty were exchanged for another sites which were then sold to private developers for profits. She requested the Administration to provide information on land falling within these categories.

20. Summing up, members agreed to further discuss the subject upon receipt of the requested information from the Administration.

III. Any other business

21. There being no other business, the meeting ended at 3:40 pm.