

LC Paper No.PWSC128/98-99
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Ref : CB1/F/2/2

**Public Works Subcommittee of the Finance Committee
of the Legislative Council**

**Minutes of the sixteenth meeting
held at the Legislative Council Chamber
on Wednesday, 12 May 1999, at 10:45 am**

Members present :

Hon HO Sai-chu, JP (Chairman)
Dr Hon Raymond HO Chung-tai, JP (Deputy Chairman)
Hon Kenneth TING Woo-shou, JP
Hon James TIEN Pei-chun, JP
Hon Cyd HO Sau-lan
Hon Edward HO Sing-tin, JP
Hon Albert HO Chun-yan
Hon LEE Wing-tat
Hon Eric LI Ka-cheung, JP
Hon Fred LI Wah-ming
Hon James TO Kun-sun
Hon CHEUNG Man-kwong
Hon Ambrose CHEUNG Wing-sum, JP
Hon Christine LOH
Hon CHAN Yuen-han
Hon CHAN Kam-lam
Dr Hon LEONG Che-hung, JP
Hon Gary CHENG Kai-nam
Hon SIN Chung-kai
Hon WONG Yung-kan
Hon LAU Kong-wah
Hon Mrs Miriam LAU Kin-yee, JP
Hon Emily LAU Wai-hing, JP
Hon Andrew CHENG Kar-foo
Hon SZETO Wah
Hon Timothy FOK Tsun-ting, JP
Hon TAM Yiu-chung, JP
Dr Hon TANG Siu-tong, JP

Member attending :

Hon CHOY So-yuk

Member absent :

Hon Margaret NG

Public officers attending :

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| Mr James HERD | Deputy Secretary for the Treasury (3) |
| Mr Patrick LAU, JP | Secretary for Planning, Environment and Lands |
| Mr H S KWONG, JP | Secretary for Works |
| Mr M J STOKOE, JP | Deputy Director of Environmental Protection |
| Mr K C KWONG, JP | Secretary for Information Technology and Broadcasting |
| Ms Eva CHENG | Deputy Secretary for Information Technology and Broadcasting |
| Mr Y C LO, JP | Director of Territory Development |
| Mr Albert CHENG | Chief Assistant Secretary for Works (Programme Management) |
| Mr C W KWAN | Chief Engineer (Hong Kong), Transport Department |
| Mr K S LEUNG, JP | Director of Highways |
| Mr C K MAK | Principal Government Engineer/Railway Development, Highways Department |
| Mr Davey CHUNG | Principal Assistant Secretary for Transport (4) |
| Mr K S CHAN | Principal Environmental Protection Officer (Noise Management & Policy Group), Environmental Protection Department |
| Mr Roy TANG | Principal Assistant Secretary for Transport (3) |

Clerk in attendance:

Ms LEUNG Siu-kum Chief Assistant Secretary (1)2

Staff in attendance:

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| Miss Polly YEUNG | Assistant Secretary General 1 |
| Ms Anita SIT | Senior Assistant Secretary (1)8 |

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PUBLIC WORKS PROGRAMME**New Items - Upgrading of projects to Category A****Head 707 - New Towns and Urban Area Development****PWSC(1999-2000)13 653CL Engineering infrastructure for
Cyberport Development at Telegraph
Bay**

2. Members noted that this item had been discussed at the joint panel meeting of the Panel on Information Technology and Broadcasting (ITB) and the Panel on Planning, Lands and Works on 29 April 1999 and at a special meeting of the ITB Panel on 5 May 1999. In response to Dr LEONG Che-hung's enquiry on whether members of the Panels had come to any consensus on the Cyberport project, Mr SIN Chung-kai, Chairman of ITB Panel, confirmed that members of the Panels had not reached any consensus or had any collective views on the subject at the meetings.

3. Mr Edward HO declared interest that he was a director of a firm which had submitted an architectural consultancy proposal to the Pacific Century Group (PCG) on the Cyberport project. He said that although pending its formal agreement with the Government, PCG had not confirmed the appointment of his firm as the consultant architect for the project, he had decided not to participate in the discussion and the voting on this item to avoid any possible conflict of interests.

4. Mr Ambrose CHEUNG stated that he was a consultant of Woo, Kwan, Lee & Lo Solicitors & Notaries, the legal representatives of PCG, but he did not consider that this connection constituted a direct or indirect pecuniary interest in the Cyberport project.

5. Referring to press reports that he might have a pecuniary interest in the Cyberport project, Mr Eric LI said that he was an independent non-executive director of several listed companies, but not of any of the group of ten property development companies (the Group) which had put forward an alternative proposal to Government on the Cyberport. He informed the Subcommittee that he only received honoraria for these directorships and he did not consider that he had any direct or indirect pecuniary interest in the Cyberport project. He further clarified that he had already registered an interest regarding these directorships with the Legislative Council Secretariat.

6. Miss Emily LAU said that according to what she gathered from recent press releases issued by the Group, these companies were prepared to take up both the information technology (IT) portion and the residential portion of the Cyberport project on terms no less favourable than those being offered by PCG. She therefore

asked whether the Administration would consider putting the Cyberport project to public auction/tender at this stage. In reply, the Secretary for Information Technology and Broadcasting (SITB) read from the Group's press release of 10 May 1999 the following statement: "Urging the Government to put the residential part of the project up for public tender and to protect any downside risk to the Government, it had made a commitment by underwriting a "minimum" reserve price of HK\$8 billion on the assumption that some 4.2 million square feet of gross residential area would be available for sale by public auction". SITB said that from the statement, it was quite clear that the Group was only interested in the residential part of the Cyberport project. He also confirmed that up to 11 May 1999, the Administration had not received any formal proposal from the Group expressing their preparedness to implement the IT part of the project.

7. In response to Miss LAU's query about the reasons why the Administration considered PCG a leading IT company capable of implementing the Cyberport project successfully, SITB said that as PCG had entered into a joint venture named Pacific Convergence Corporation with Intel Corporation to develop interactive digital information services in the Asia-Pacific region, the Administration was confident of the company's standing as a leading IT firm.

8. Mr LEE Wing-tat said that Members of the Democratic Party (DP) supported the idea of building a Cyberport in Hong Kong, but could not accept that the development right for the Cyberport would be awarded without going through an open tendering process. Members of DP also could not accept that the need for speedy implementation of the project should justify a departure from the long held principle of open and fair competition, which was one of the keys to Hong Kong's prosperity and success. He further stated that despite the Administration's assurance that they had conducted consultations with relevant parties, it was clear that the consultation process was confused and unfair. To ensure fairness, he suggested that the present funding proposal be deferred for three months, during which period the Cyberport project should be put to open tender/public auction so that the best candidate for implementing the project could be selected through an open and competitive process.

9. In response, SITB stressed that Hong Kong must move fast in providing an environment conducive to the development of IT and information services (IS) in order to secure "first-mover" advantages. Going through the tendering procedures would delay the project by one year or so which would disadvantage Hong Kong amidst the keen competition in the region and rapid developments in IT. He also pointed out that the announcement of the Cyberport project had successfully put Hong Kong on the global IT/IS map. Up to the present, 10 leading IT companies had signed letters of intent to become anchor tenants of the Cyberport and another 30 IT companies had registered interest as prospective tenants. The Government's Overseas Economic and Trade Offices and the Financial Secretary during his overseas visits had received very positive feedback on the Cyberport project from overseas investors. Against these developments, SITB advised that delay of the

Cyberport project by one year or so might jeopardize the success of the project since those companies which had registered interest might withdraw their plans for establishing IT/IS offices in Hong Kong.

10. Mr LEE Wing-tat said that according to some leading IT companies, deferring the Cyberport project for three months or so would not significantly affect investors' interests, and that it was feasible to complete the tendering procedures in three months, if the Administration would not adhere to its bureaucratic procedures. In response, SITB stated his disagreement with Mr LEE's comment.

11. In this connection, Mr CHEUNG Man-kwong suggested that the proposed infrastructure works for the Cyberport be implemented as scheduled through public tendering instead of by entrustment to PCG, and meanwhile, the Administration would conduct a tendering exercise for the Cyberport project. In response, SITB said that the overall planning and other preparatory work for the Cyberport development also had to be taken forward urgently. Mr CHEUNG then asked whether the Administration would consider withholding the project for six months to allow time for a public tendering exercise if the present proposal was rejected by this Subcommittee. S/ITB reiterated that putting the project to public tender at this stage would delay the project for at least one year which would seriously jeopardize the chance of success for the project.

12. Miss Christine LOH and Mr Ambrose CHEUNG considered that the information available so far was insufficient to enable them to take a position on the proposed Cyberport development and on the Administration's decision of awarding the development right for the ancillary residential development to PCG. They suggested that the present proposal be deferred for two to three weeks and in the meantime, the ITB Panel should invite academics, the IT sector and other concerned parties to discuss the subject with Members. In response, SITB said that at the relevant Panel meetings and in the information papers provided to Panel members, the Administration had already explained in detail the background and reasons for implementing the Cyberport project as presently proposed. He therefore requested members to endorse the present proposal to enable early implementation of the project.

13. Mr James TIEN said that Members of the Liberal Party (LP) were in support of the Cyberport concept and concurred that timing was critical for its successful implementation. Members of LP however considered that the process through which the Administration had come to a decision to award the development right of the Cyberport to PCG was unprecedented and questioned whether a precedent had been set for future development projects. He specifically asked whether, upon receipt of a development proposal from a private company which the Administration considered worth pursuing, the Administration would pursue the project through private negotiations and agreement with the company concerned without going through public tendering procedures.

14 Mr Eric LI said that he supported the Cyberport project in principle, and appreciated that timing was critical for the project. He however had reservation on the process through which the Administration had arrived at a decision to award the development right to PCG. He also pointed out that the present proposal was primarily concerned with the infrastructure works for the Cyberport, yet the Administration had presented it in such a way that members were also required to approve the entrustment arrangement of the infrastructure works. He considered this unfair to members. He stated that as long as the project could be implemented in a way beneficial to the community at large, he was not too concerned about which company was awarded the development right. However, he was deeply concerned that the terms of the current and future agreements between the Government and PCG might place the Government in a disadvantaged position and the project might not be implemented as planned by the Government. Pointing out that the Legislative Council had no statutory power over the disposal of land and other non-financial agreements with private entities, he urged the Administration to make clear its policy on awarding development rights through private negotiations and to establish a proper mechanism under which the Administration would be made accountable to the Legislative Council in the relevant decision-making process. As regards the Cyberport project, he asked the Administration to maintain a dialogue with Members with particular regard to the terms agreed and to be agreed with the developer company, even if the present proposal on infrastructure works was approved.

15. Mr CHENG Kai-nam also expressed concern at the process through which the Administration arrived at the decision to award the development rights for both the IT and the residential development of the Cyberport project to PCG. He urged the Administration to account for the decision to the public and to make clear whether the aforesaid decision-making process would set a precedent for future cases.

16. In response to members' queries and comments, SITB acknowledged that the decision-making process on the Cyberport was not common. On this occasion, the Administration considered that the Cyberport was an infrastructure facility urgently required for Hong Kong. After sounding out the IT sector and having ascertained that PCG was a leading IT company possessing the necessary expertise in the IT field, the Administration decided that the Cyberport project should be pursued at full speed in co-operation with PCG. He further advised that while he envisaged that the way in which the development right for the Cyberport was awarded would be adopted only very rarely, he could not pre-empt the Administration adopting a similar approach in future projects. In view of the deep concerns of Members and the public on this occasion, the Administration would draw up and make known policy guidelines for future projects similar to the Cyberport, including those initiated by private companies. He added that these guidelines would mainly be principles rather than detailed procedures as the circumstances of each project would be different. In reply to Mr James TIEN's enquiry on when the policy guidelines would be released, SITB said that he could

not confirm the timetable at this stage. As regards the mechanism through which Members could participate in the decision-making process on land disposal matters, he said that while it was not an established practice to involve Members on every occasion of land disposal, the Administration would consult Members on such disposal when appropriate.

17. Mr SIN Chung-kai said that the IT sector was in support of the Cyberport project and he himself welcomed the idea. He acknowledged that upon the announcement of the Cyberport project, much attention of the global IT sector had been drawn to Hong Kong. He however had strong reservation over the way the Administration had pursued the project which indeed had caused wide concerns and controversy and had adversely affected the Government's reputation in upholding the principle of open and fair competition. Notwithstanding, the IT sector considered it important to proceed with the Cyberport project as timely implementation of the project was very important for Hong Kong's long-term development. He therefore would vote for the item but would urge the Administration not to abandon the principle of open and fair competition. He requested and SITB agreed to keep Members updated of the progress of the project at the ITB Panel.

Admin.

18. In response to Mr James TO's query on whether it was necessary to award the development rights for both the IT part and the residential part of the Cyberport to the same private company, SITB said that the intention was to generate revenue from the residential part to finance the IT part of the Cyberport. Besides, if these two parts of the project were to be implemented by different developers, interface problems would likely arise which in turn would cause delay to the project.

19. Mr LEE Wing-tat and Miss Emily LAU commented that SITB had failed to account for the decision on the award of development rights to PCG despite members' repeated queries on this. They considered that on this occasion, the Administration had departed from the principle of open and fair competition. Miss Emily LAU further suggested that the ITB Panel convene an urgent meeting to provide an opportunity for the aforesaid group of ten property development companies to state their views on this subject, and the special Panel meeting should in any event be held before the Finance Committee meeting on 21 May 1999 to consider the present proposal.

20. Mr CHAN Kam-lam said that Members of the Democratic Alliance for the Betterment of Hong Kong (DAB) were in support of the project on account of its importance to the restructuring of the Hong Kong economy. Members of DAB considered that while the Administration should maintain a dialogue with various parties concerned, implementation of the Cyberport project should not be deferred.

21. On the reasons for entrusting part of the proposed infrastructure works at an estimated cost of \$795.0 million (at December 1998 prices) to PCG on a lump sum basis, SITB explained that for infrastructure works which would be carried out

concurrently and within the same site boundary of the project works of a private development, it was a common practice for Government to entrust the infrastructure works to the developer concerned to avoid interface problems and to facilitate more efficient works programming. The Chief Assistant Secretary for Works (Programme Management) added that the same entrustment arrangement had also been adopted in other projects such as the Container Terminal 9 and the River Trade Terminal in Tuen Mun.

22. On the concern about whether the cost estimates for the entrusted works were reasonable, the Director of Territory Development (DTD) advised that the estimates had been carefully calculated and scrutinized by all the bureaux and departments concerned. Having examined the individual cost items in detail, the Administration considered the estimates reasonable. He confirmed that as the proposed entrusted works to PCG would be executed on a lump sum basis, the Government would not reimburse nor recover from the developer any sums different to the actual costs incurred.

23. As to how the Administration would monitor the entrusted infrastructure works, DTD advised that the Administration would engage an independent checking engineer (ICE) to ensure that the design and construction works would comply with Government's requirements. The details of the ICE's duties and the mechanism through which the Administration would monitor his employment and performance had already been outlined in the discussion paper. The fees of \$4.0 million for the ICE had also been included in the project estimates.

24. Miss CHAN Yuen-han said that Members of the Hong Kong Federation of Trade Unions were in support of the Cyberport project. She was however concerned about whether the Government's policies on and implementation of technology transfer and manpower training could tie in with the project and meet its objectives. In response, SITB said that the Cyberport project was a major initiative of Government's Digital 21 Information Technology Strategy. He confirmed that providing education and training in IT was a major concern of Government's education and IT policies, and the Information Technology and Broadcasting Bureau would maintain close liaison with the Education and Manpower Bureau in this regard. He further advised that while the Administration would appeal to multi-national and overseas IT companies to set up offices in the Cyberport, it would also encourage local firms to make use of the Cyberport facilities. He trusted that given the favourable environment provided by the Cyberport, there would be ample opportunities for the development of local IT talents.

25. Miss CHAN further commented that apparently, the Administration had no clear policy to facilitate technology transfer through the Cyberport project. Dr Raymond HO echoed Miss CHAN's concern and enquired whether the Administration would consider including conditions relating to technology transfer in future tenancy agreements of the Cyberport. In reply, SITB advised that imposition of conditions requiring tenants to employ a certain number of local

workers might be considered too stringent by prospective tenants. He felt that tenants should be given the freedom to decide their mode of operation, and this kind of obligations were neither preferable nor necessary. He also pointed out that multi-national and overseas IT companies would employ local IT professionals and technicians to work in their offices at the Cyberport based on their business considerations.

26. Mr James TO cautioned that it might not be realistic to place too high an expectation on the Cyberport with regard to technology transfer and the grooming of local IT talents though these objectives might be incidental to the project. He said that it might be more realistic to focus the development of IT talents in local tertiary institutions.

27. Mr CHAN Kam-lam expressed concern on whether the surrounding road networks would have sufficient capacity to cope with the traffic demand of the Cyberport development. The Deputy secretary for Information Technology and Broadcasting advised that during the initial two years of construction, construction materials would be transported to Telegraph Bay by barges and thus the impact on road traffic would be limited during this period. As regards the overall transport network for the development, the Chief Engineer (Hong Kong), Transport Department, advised that a number of road improvement projects for the Western and Southern districts including the construction of a flyover linking Western Harbour Crossing and Rumsey Street Flyover in Central and the road improvement and traffic management projects in Kennedy Town had already been completed. Other improvement projects in the Pokfulam area were in progress and would be completed before the opening of the first phase of the Cyberport. According to the relevant traffic impact assessment study, after the completion of these road projects, the capacity of the surrounding road networks would be sufficient to cope with the additional traffic demand generated by the Cyberport development. He also pointed out that as the Cyberport would consist of both commercial and residential developments, the volume of traffic from and to the Cyberport would be fairly evenly distributed during the day, thus reducing the pressure on one-way traffic flow.

28. In reply to Dr Raymond HO's enquiry about the sewage treatment facilities for the Cyberport development, DTD advised that the proposed sewage treatment plant at Telegraph Bay and the 300 metres long submarine outfall would provide sewage treatment for the Cyberport development before the commissioning of the Strategic Sewage Disposal Scheme (SSDS) Stages III & IV scheduled for 2007/08. The sewage treatment plant would provide standard preliminary sewage treatment as well as chemical treatment and disinfection and these treatment processes would ensure that sewage discharged to the sea waters would meet the established standards. He confirmed that the standard of treatment of these facilities was equivalent to the standard of option 1 of SSDS II introduced at a joint Panel meeting on 5 February 1999. Addressing Dr HO's concern about the consequences of a delay in the SSDS III/IV, DTD advised that this would not cause serious

problems as the aforesaid facilities had a design capacity to cope with the demand of the Cyberport development for at least 10 years.

29. In reply to Dr HO's enquiry about the provision of noise mitigation measures at an estimated cost of \$73 million, DTD referred to the drawing enclosed with the paper and advised that noise barriers and low noise road surfacing would be provided at roads D1 and D2. As to whether alternative mitigation measures like tree planting which were aesthetically more desirable than noise barriers had been explored, DTD advised that due to adjacent steep slopes and the short distance between the roads and the buildings, noise barriers would be the most effective noise abatement measure.

30. The item was put to vote. 14 members voted for the item, 10 voted against and 1 abstained. Mr Ambrose CHEUNG was present but did not cast a vote.

For:

Mr Kenneth TING Woo-shou
 Dr Raymond HO Chung-tai
 Mr CHAN Kam-lam
 Mr CHENG Kai-nam
 Mr WONG Yung-kan
 Mrs Miriam LAU Kin-yee
 Mr TAM Yiu-chung
 (14 members)

Mr James TIEN Pei-chun
 Miss CHAN Yuen-han
 Dr LEONG Che-hung
 Mr SIN Chung-kai
 Mr LAU Kong-wah
 Mr Timothy FOK Tsun-ting
 Dr TANG Siu-tong

Against:

Miss Cyd HO Sau-lan
 Mr LEE Wing-tat
 Mr James TO Kun-sun
 Miss Christine LOH
 Mr Andrew CHENG Kar-foo
 (10 members)

Mr Albert HO Chun-yan
 Mr Fred LI Wah-ming
 Mr CHEUNG Man-kwong
 Miss Emily LAU Wai-hing
 Mr SZETO Wah

Abstention:

Mr Eric LI Ka-cheung
 (1 member)

31. The item was endorsed by the Subcommittee.

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