

立法會
Legislative Council

LC Paper No. CB(2) 99/05-06

Ref : CB2/H/5/04

House Committee of the Legislative Council

**Minutes of the 1st meeting
held in the Legislative Council Chamber
at 2:30 pm on Friday, 14 October 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, SBS, 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 CHAN Kam-lam, SBS, JP
Hon Mrs Sophie LEUNG LAU Yau-fun, SBS, JP
Hon LEUNG Yiu-chung
Hon SIN Chung-kai, JP
Dr Hon Philip WONG Yu-hong, GBS
Hon Jasper TSANG Yok-sing, GBS, JP
Hon Howard YOUNG, SBS, JP
Dr Hon YEUNG Sum
Hon LAU Chin-shek, JP
Hon LAU Kong-wah, JP
Hon LAU Wong-fat, GBM, GBS, JP
Hon Emily LAU Wai-hing, JP
Hon CHOY So-yuk, JP
Hon Andrew CHENG Kar-foo
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 WONG Kwok-hing, MH
Hon LEE Wing-tat
Dr Hon Joseph LEE Kok-long
Hon Daniel LAM Wai-keung, BBS, JP
Hon Jeffrey LAM Kin-fung, SBS, JP
Hon MA Lik, GBS, JP
Hon Andrew LEUNG Kwan-yuen, 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 WONG Ting-kwong, BBS
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
Hon Bernard CHAN, JP
Hon WONG Yung-kan, JP
Hon Timothy FOK Tsun-ting, GBS, JP
Hon TAM Yiu-chung, GBS, JP
Hon LI Kwok-ying, MH

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 Kathleen LAU	Chief Public Information Officer
Mr Andy LAU	Chief Council Secretary (1)1
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
Miss Kitty CHENG	Assistant Legal Adviser 5
Miss Lolita SHEK	Senior Council Secretary (2)7

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I. Confirmation of the minutes of the 35th meeting held on 7 October 2005
(*LC Paper No. CB(2) 2713/04-05*)

The minutes were confirmed.

II. Matters arising

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

Embargo arrangement for Government documents

2. The Chairman said that at her meeting with CS on 10 October 2005, CS had pointed out that probably because of a breakdown in communication, some Members had disclosed to the media the contents of the Administration's Report on Public Consultation on the Development of West Kowloon Cultural District provided for the special meeting of the House Committee on 7 October 2005, despite the Administration's request for embargoing the Report until 2:30 pm that afternoon. CS had urged that care be taken to prevent this from happening again in future.

3. The Chairman further said that she had suggested that the Director of Administration and the Legislative Council (LegCo) Secretariat should consider whether it was necessary to revise the wording of the embargo message.

4. The Chairman added that Mr LEE Wing-tat had sent her a copy of his letter to CS regarding his disclosure to the media of the contents of the papers for the special meeting. She had also just received a copy of CS's reply, and both letters were tabled at the meeting.

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5. Mr LEE Wing-tat said that according to past practice, the Administration should brief LegCo Members on important announcements or decisions at the earliest opportunity, after they had been approved by the Executive Council (ExCo). In this particular case, although the proposed way forward for the development of the West Kowloon Cultural District (WKCD) had been approved by ExCo on 4 October 2005, the Administration had not provided any papers to Members until the afternoon of 7 October 2005, and there was no explanation for the delay. The Administration had also requested that the papers be embargoed until 2:30 pm that day. Mr LEE considered such an arrangement unacceptable and not conducive to establishing a good relationship between the Legislature and the Executive.

6. Mr LEE pointed out that while the Administration had requested Members not to disclose the contents of the papers before the special meeting, there had already been wide media coverage on the Administration's new proposal on the WKCD project as early as 22 September 2005. Mr LEE said that although CS had denied that he had provided advance information to the media, he believed that the information had been provided by sources within the Administration, as the media reports were accurate down to the smallest detail.

7. Mr LEE said that the disclosure by the media of information relating to important matters, such as the development of the WKCD project and the Fifth Report of the Constitutional Development Task Force, on which the Government had yet to brief Members, was highly unsatisfactory. Mr LEE added that he understood the embargo message clearly. He and Mr Albert HO had deliberately disclosed the contents of the papers to the media before 2:30 pm on 7 October 2005 as a protest against the Administration providing information to the media, ahead of briefing Members.

8. Dr KWOK Ka-ki said that the Administration should explain how such important and confidential information could have been leaked to the media. Dr KWOK added that the Administration should investigate the incidents and take disciplinary action against any officials who had disclosed the information.

9. Mr Martin LEE said that the Administration should not have embargoed the papers when their contents had already been widely reported by the media. Mr LEE added that the embargo arrangement had put Members in a difficult position, as they had to answer questions from the media.

10. Mr CHEUNG Man-kwong said that Members belonging to the Democratic Party (DP) had respected and would continue to respect the embargo arrangement, as long as the Administration provided information on important matters and issues to Members at the earliest opportunity. However, if the Administration disclosed such information to the media before briefing

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Members, Members belonging to DP would not respect the embargo arrangement. Mr CHEUNG added that the Administration should learn a lesson from this incident and, in future, refrain from disclosing important information to the media before briefing Members.

11. Ms Margaret NG said that CS had repeatedly declined to attend the meetings of the Subcommittee on West Kowloon Cultural District Development, and to provide a response to the Subcommittee's Report on Phase I Study. Ms NG further said that while CS had not taken any action in respect of the disclosure of information on the WKCD project to the media before the ExCo meeting on 4 October 2005, he had blamed some Members for disclosing the same information to the media on 7 October 2005. Ms NG expressed concern that the Legislature and the Executive would not be able to respect each other and cooperate effectively.

12. Ms Emily LAU said that on many previous occasions, the Administration had undermined its own credibility by prematurely disclosing information on important matters to the media. Ms LAU pointed out that it had already been reported in the media for some time that the Fifth Report of the Constitutional Development Task Force would be released on 19 October 2005, but Members had yet to be informed of that date by the Administration. Ms LAU urged that the Administration should announce important decisions and policies formally, and not through leaking them to the media.

13. Dr YEUNG Sum expressed strong dissatisfaction that the Administration had disclosed information on its proposals on the WKCD project and constitutional reform to the media before briefing Members. Dr YEUNG added that the Administration was disrespectful to LegCo.

14. The Chairman said that she would remind CS at their next meeting that the Administration should brief Members and provide information to them on important matters and issues at the earliest opportunity, before the Administration briefed the media. She would also point out to CS that Members had, in the past, respected the embargo arrangement. This incident should not be taken to mean that Members would not, in future, respect any embargo arrangement for Government documents.

15. Dr YEUNG Sum said that the Chairman should also remind CS that in requesting Members to keep certain information confidential, the Administration should itself keep the information confidential. Ms Margaret NG added that the Administration should take action if such information had been disclosed prematurely by sources within the Administration.

III. Business arising from previous Council meetings

Legal Service Division report on subsidiary legislation gazetted on 7 October 2005 and tabled in Council on 12 October 2005

(LC Paper No. LS 1/05-06)

16. The Chairman said that a total of eight items of subsidiary legislation, including two Commencement Notices, were gazetted on 7 October 2005 and tabled in LegCo on 12 October 2005.

17. The Chairman further said that the Closed Area (Hong Kong Ministerial Conference of World Trade Organization) Order declared certain areas in Wanchai and Admiralty as delineated as “Land Closure” and “Sea Closure” on the map in the Schedule to L.N. 160 to be closed areas under the Public Order Ordinance (Cap. 245) during the period from 6:00 pm on 12 December 2005 to 5:00 am on 19 December 2005.

18. Mr James TO said that a subcommittee should be formed to examine the Order.

19. The Chairman proposed that a subcommittee be formed to study the Order. Members agreed. The following Members agreed to join: Ms Margaret NG, Mr James TO, Mr Howard YOUNG, Mr LAU Kong-wah, Ms Miriam LAU and Ms Emily LAU.

20. The Chairman reminded Members that the deadline for amending these items of subsidiary legislation was 9 November 2005, or 30 November 2005 if extended by resolution.

IV. Further business for the Council meeting on 19 October 2005

Members’ motions

Proposed resolution to be moved by Hon Jasper TSANG Yok-sing under Article 75 of the Basic Law of the Hong Kong Special Administrative Region of the People’s Republic of China

(Wording of the proposed resolution issued vide LC Paper No. CB(3) 30/05-06 dated 12 October 2005.)

21. The Chairman said that Mr Jasper TSANG, Chairman of the Committee on Rules of Procedure, would move a motion to amend the Rules of Procedure (RoP) relating to the voting rights of the Chairmen of Bills Committees and Panels and their subcommittees, as well as subcommittees on subsidiary legislation.

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22. The Chairman said that the proposed amendments had been agreed to by the House Committee at its meeting on 7 October 2005.

V. Business for the Council meeting of 26, 27 and 28 October 2005

(a) **Questions**

(LC Paper No. CB(3) 31/05-06)

23. The Chairman said that 20 written questions had been scheduled for the meeting.

(b) **Members' motion**

Motion of Thanks

(Director of Administration's letter dated 13 October 2005 on "Proposed Grouping of Policy Areas for the Debate on the Motion of Thanks in respect of the Chief Executive's Policy Address")

24. The Chairman said that as Chairman of the House Committee, she would move the Motion of Thanks at the Council meeting of 26 October 2005.

25. Members agreed to the grouping of policy areas proposed by the Administration.

VI. Reports of Bills Committees and subcommittees

(a) **Report of the Subcommittee to Study Tate's Cairn Tunnel Ordinance (Replacement of Schedule) Notice 2005 and Tai Lam Tunnel and Yuen Long Approach Road Ordinance (Replacement of Schedule 1) Notice 2005**

(LC Paper No. CB(1) 31/05-06)

26. Mr LAU Kong-wah, Chairman of the Subcommittee, said that in view of the limited power which LegCo could exercise in respect of the two Notices, the Subcommittee decided that it would not further discuss the two Notices. However, the Subcommittee recommended that the Panel on Transport should follow up the issues raised in paragraphs 32 and 33 of the report.

27. Mr LAU further said that he would table the report of the Subcommittee at the Council meeting on 19 October 2005, and address the Council on the report. Mr LAU pointed out that while Members could address the Council on the Tate's Cairn Tunnel Ordinance (Replacement of Schedule) Notice 2005,

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they could not do so in respect of the Tai Lam Tunnel and Yuen Long Approach Road Ordinance (Replacement of Schedule 1) Notice 2005, as the Notice was not required to be tabled in Council. Mr LAU added that as some Members would like to speak on the toll adjustment issues of the two Tunnels, he had proposed to move a motion for adjournment under Rule 16(4) of RoP at the Council meeting on 19 October 2005, to enable Members to debate on the issues.

28. The Chairman said that Mr LAU's proposal would be dealt with under item VIII below.

(b) **Report of the Subcommittee on Proposed Resolution under Section 22 of the Tung Chung Cable Car Ordinance (Cap. 577)**
(LC Paper No. CB(1) 32/05-06)

29. The Chairman, in her capacity as the Chairman of the Subcommittee, said that in response to the Subcommittee's concerns, the MTR Corporation Limited had agreed to refine the drafting of certain provisions in the proposed Tung Chung Cable Car Bylaw. The Chairman added that the Subcommittee supported the proposed resolution and the Administration giving fresh notice to move the proposed resolution at the Council meeting on 2 November 2005.

VII. Position on Bills Committees/subcommittees
(LC Paper No. CB(2) 22/05-06)

30. The Chairman said that there were 15 Bills Committees and six subcommittees in action.

31. The Chairman added that the three Bills Committees referred to in items 13, 14 and 15 in List C would have to work beyond three months since their commencement.

32. Members did not raise objection to the extension of the scrutiny period of the three Bills.

VIII. Proposal from Hon LAU Kong-wah to move a motion for adjournment under Rule 16(4) at the Council meeting on 19 October 2005 for the purpose of enabling Members to debate the following issue: Toll adjustment issues of Tate's Cairn Tunnel and Route 3 (Country Park Section)
(Letter dated 10 October 2005 from Hon LAU Kong-wah to the Chairman of the House Committee (LC Paper No. CB(2) 25/05-06(01))

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33. Mr LAU Kong-wah requested the House Committee's support for his proposal to move a motion for adjournment under Rule 16(4) of RoP at the Council meeting on 19 October 2005, for the purpose of enabling Members to speak on the toll adjustment issues of Tate's Cairn Tunnel and Route 3 (Country Park Section). Mr LAU added that the wording of his motion was tabled at the meeting.

34. Mr Albert CHAN suggested that the motion be moved at a later meeting to allow more time for Members to prepare for the debate, given that there was no urgency in debating the issues on 19 October 2005.

35. Mr Andrew CHENG explained that the Subcommittee to Study Tate's Cairn Tunnel Ordinance (Replacement of Schedule) Notice 2005 and Tai Lam Tunnel and Yuen Long Approach Road Ordinance (Replacement of Schedule 1) Notice 2005 was surprised to learn that the Administration had found it impracticable to fulfil the three undertakings made by the then Secretary for Transport during the resumption of the Second Reading debate on the Tai Lam Tunnel and Yuen Long Approach Road Bill on 24 May 1995. Some members considered this a demonstration of the lack of credibility of the Government. Mr CHENG said that the motion for adjournment should be moved at a Council meeting before the Debate on the Motion of Thanks, so that Members could put across the message that Bureau Secretaries should not make undertakings in a casual manner.

36. Mr Albert HO concurred with Mr Andrew CHENG. Mr HO pointed out that the message was about the Government's credibility and effective governance. It should be conveyed to Bureau Secretaries on 19 October 2005 before the Debate on the Motion of Thanks.

37. Mr Abraham SHEK said that Members could convey the message to Bureau Secretaries during the Debate on the Motion of Thanks.

38. Mr LAU Kong-wah reiterated that he would address the Council on the Subcommittee's report on 19 October 2005. It was more appropriate for Members to debate the toll adjustment issues of Tate's Cairn Tunnel and Route 3 (Country Park Section) at the same Council meeting.

39. The Chairman said that under rule 13(a) of the House Rules, the House Committee could recommend more than two debates to be held at a Council meeting. The House Committee's support would also be required for the President's waiver of the seven days' notice for moving the proposed motion under Rule 16(4) of RoP.

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40. Members supported Mr LAU Kong-wah's proposal to move a motion for adjournment under Rule 16(4) of RoP at the Council meeting on 19 October 2005. Members also supported that the President's leave to waive the requisite notice period be sought.

41. The Chairman reminded Members that according to Rule 16(6) and (7) of RoP and rule 18(b) of the House Rules, the duration of a debate moved under Rule 16(4) was kept within one hour. Speeches by Members and replies by government officials would take up 45 and 15 minutes respectively.

IX. Any other business

42. There being no other business, the meeting ended at 3:04 pm.

Council Business Division 2
Legislative Council Secretariat
19 October 2005

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