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cleared with the Chairman)

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

**Minutes of the 13th meeting
held in Conference Room 1 of the Legislative Council Complex
on Wednesday, 21 May 2014, at 8:30 am**

Members present:

Ir Dr Hon LO Wai-kwok, BBS, MH, JP (Chairman)
Hon LEUNG Che-cheung, BBS, MH, JP (Deputy Chairman)
Hon James TO Kun-sun
Hon CHAN Kam-lam, SBS, JP
Hon Emily LAU Wai-hing, JP
Hon TAM Yiu-chung, GBS, JP
Hon WONG Kwok-hing, BBS, MH
Hon Cyd HO Sau-lan
Hon CHAN Hak-kan, JP
Hon CHAN Kin-por, BBS, JP
Hon IP Kwok-him, GBS, JP
Hon Alan LEONG Kah-kit, SC
Hon Albert CHAN Wai-yip
Hon Michael TIEN Puk-sun, BBS, JP
Hon James TIEN Pei-chun, GBS, JP
Hon Frankie YICK Chi-ming
Hon WU Chi-wai, MH
Hon Gary FAN Kwok-wai
Hon MA Fung-kwok, SBS, JP
Hon Charles Peter MOK
Hon CHAN Han-pan
Dr Hon Kenneth CHAN Ka-lok
Hon CHAN Yuen-han, SBS, JP
Hon Alice MAK Mei-kuen, JP

Staff in attendance:

Mr Jimmy Y T MA, JP	Legal Adviser
Mr Andy LAU	Assistant Secretary General 1
Ms Connie FUNG	Senior Assistant Legal Adviser 1
Mr Bonny LOO	Assistant Legal Adviser 3
Mr Fred PANG	Senior Council Secretary (1)8
Mr Frankie WOO	Senior Legislative Assistant (1)3
Ms Christy YAU	Legislative Assistant (1)7

Action

The Chairman advised that the Public Works Subcommittee ("PWSC") would continue to consider the funding proposals under the six agenda items carried over from the previous meeting on 13 May 2014. If the Subcommittee could not complete the discussion on these proposals, any unfinished items would be carried over to the next meeting scheduled for 9:00 am on 27 May 2014. The six funding proposals on the agenda involved a total funding allocation of \$22,470.3 million. If they were endorsed, the cumulative number of items approved by PWSC Subcommittee in the 2013-2014 session would be 22, while the total amount of funding approved would be \$59,083.8 million, of which \$55,332.9 million was related to capital works projects.

2. The Chairman advised that, according to the Administration, excluding the six items on the agenda for the meeting, it was anticipated that 24 more items, involving a proposed funding allocation of about \$25,230 million, would be submitted to PWSC for consideration in the current session.

3. The Chairman reminded members that in accordance with Rule 83A of the Rules of Procedure ("RoP") of the Legislative Council ("LegCo"), they should disclose the nature of any direct or indirect pecuniary interests relating to the funding proposals under discussion at the meeting before they spoke on the item. He also drew members' attention to Rule 84 of RoP on voting or withdrawal in case of direct pecuniary interest.

Head 705 – Civil Engineering
PWSC(2014-15)6 164DR Southeast New Territories landfill extension

PWSC(2014-15)7 177DR Development of integrated waste management facilities phase 1

4. The Chairman advised that the Subcommittee had completed the discussion on the funding proposals under agenda items 1 and 2, i.e. PWSC(2014-15)6 and PWSC(2014-15)7, at the meeting on 7 May 2014 and had commenced the process of voting on whether the proposed motions forwarded by members to the Chairman under Paragraph 32A of the PWSC Procedure ("32A") on agenda item 1 should be proceeded forthwith. The meeting would continue to consider such motions. The Chairman said that at the meetings on 16 April, 7 and 13 May 2014, Mr Gary FAN and Mr Albert CHAN had forwarded to him a total of 104 proposed motions, numbered 0001 to 0104. As regards proposed motions numbered 0001 to 0078, of which four were duplicates of other proposed motions and had been ruled out, all individual questions on whether a proposed motion should be proceeded forthwith had been voted down by a majority of members.

Return of proposed motions numbered 0079 to 0104

5. The Chairman said that he had examined the remaining 26 proposed motions (numbered 0079 to 0104), which had been forwarded by Mr Gary FAN. Having made reference to the LegCo President's ruling made on 17 April 2014 on the Committee stage amendments ("CSAs") proposed by 14 Members to the Appropriation Bill 2014 ("the President's ruling of 17 April 2014"), he had ruled that these 26 proposed motions were out of order and had returned them to Mr FAN on 20 May 2014. Pointing out that he had the responsibility to ensure that the business on the agenda was transacted in a proper and efficient manner, he appealed to members to complete the process of expressing views under 32A as soon as possible. Thereafter, he would put the two funding proposals to vote.

6. Mr Gary FAN raised a point of order. He said that the Chairman had advised him in a letter dated 20 May 2014 that the 26 proposed motions returned to him were sequential in nature and had been ruled out of order after making reference to the President's ruling of 17 April 2014. Referring to paragraphs 13 and 16 of the President's ruling, he said that while the President considered that sequential CSAs had infringed Rule 57(4)(d) of RoP for being frivolous or meaningless, the rule should only apply to amendments to bills but not to views on funding proposals for public works projects, which were very different in nature. Taking into account that the

Subcommittee had its own practice and procedure, and Rule 57(4)(d) was not referred to in the PWSC Procedure, he queried whether the rule should be applied by the Chairman in determining the admissibility of members' motions proposed under 32A. Mr FAN said he would like to have Legal Adviser's views on the issue.

7. The Chairman advised that as a general principle, the Chairman of a committee of LegCo was responsible for ensuring that the business on the agenda was conducted in a proper and efficient manner. In considering whether the 26 proposed motions were in order, it was necessary for him to make reference to the practices of LegCo. At the invitation of the Chairman, Legal Adviser made the following points:

- (a) While Rule 57(4) of RoP applied to proposed CSAs to bills only, it was proper for the Chairman of the Subcommittee to draw reference from principles applied by the President in considering the admissibility of proposed CSAs, where the former considered appropriate because their respective responsibilities in chairing meetings were substantially the same.
- (b) According to Paragraph 27 of the PWSC Procedure, the Chairman was responsible for the observance of the rules of order in the Subcommittee and his decision on a point of order shall be final, and in line with Rule 30(3)(c) of RoP, the Chairman could give direction to return a member's proposed motions to the member which he opined to be out of order.

8. Mr Gary FAN opined that it was contradictory to say that while Rule 57(4) of RoP should not apply to matters other than bills, the principles underlying the President's ruling of 17 April 2014, which had referred to the rule, were applicable to the Chairman's ruling on the motions proposed by PWSC members in connection with the deliberations on funding proposals.

9. Dr Kenneth CHAN shared Mr FAN's view that the amendments relevant to the President's ruling of 17 April 2014 were only related to a bill and were different in nature from members' motions proposed under 32A. He said that although the Chairman's ruling on the admissibility of the 26 proposed motions was final, the Chairman should convince members that it was correct. He added that members had not been given the chance to peruse the wording of those proposed motions. Dr CHAN continued that Rule 30(3)(c) of RoP, being part of Rule 30, was about the manner of giving notice of motions and amendments. He considered the quoting of Rule 30(3)(c) was out of context.

10. Mr WU Chi-wai recalled that at the meeting on 13 May 2014, the Chairman had said that the Subcommittee would decide whether to proceed forthwith the proposed motions received from Mr Gary FAN, including the 26 proposed motions. He enquired why the Chairman had then ruled them out of order.

11. Mr WONG Kwok-hing said that according to Legal Adviser, the Chairman might consider the admissibility of members' motions taking into account his responsibility to ensure the smooth and proper conduct of the meeting. As the Chairman had already ruled out the 26 proposed motions, the Subcommittee should proceed to consider the other motions which were in order. He opined that, to avoid delaying the proceeding of the Subcommittee, the Chairman should address members' queries over his ruling in other occasions.

12. The Chairman reiterated that he had made reference to the principles underlying the President's ruling of 17 April 2014 when deciding whether the 26 proposed motions were in order. He believed the principles should be of reference value to LegCo committees, including the Subcommittee. The 26 proposed motions could be grouped into various sequences, each of which fell into a series in which the wordings of the motions were the same as one or more motions already considered by the Subcommittee at previous meetings except a number. As the admission of these sequential motions would have the effect of prolonging the proceedings of the Subcommittee to the extent of preventing the Subcommittee from properly exercising and discharging its functions, he considered it appropriate to rule them out of order. He had communicated with Mr FAN on the sequential motions and then returned them to him before the meeting. In making a decision on the matter, his major consideration was to strike a proper balance between respecting the right of individual members to propose motions and ensuring the efficient and orderly conduct of the meeting.

13. The Chairman continued that at the previous meeting, members had already forwarded to him a number of sequential motions. As these motions were received when he was chairing a meeting, it was difficult practically for him to make a ruling on their admissibility. It took time for him to find out, with the assistance of the Secretariat, whether a proposed motion was materially the same as the other motions already considered by the Subcommittee. As such, he had advised at the previous meeting that since he would put the question on whether each of these proposed motions should be proceeded forthwith to vote, he had adopted a liberal approach towards sequential motions.

14. Dr Kenneth CHAN was concerned whether, apart from rejecting sequential motions, the Chairman would rule out proposed motions which were not sequential in nature but were forwarded in large quantity, on the ground that they would affect the efficient conduct of the Subcommittee. The Chairman advised that as regards a proposed motion which had no sequential relationship with one that had been considered, he would consider only if it was directly related to the agenda item. If it was, he would put to vote the question that the proposed motion be proceeded forthwith.

Re-ordering of agenda items

15. The Subcommittee noted that in his letter to the Chairman dated 14 May 2014, Mr Gary FAN had requested that the Chairman should postpone the Subcommittee's consideration of the two funding proposals, i.e. PWSC(2014-15)6 and PWSC(2014-15)7, and move forward agenda items 3 (70MM - Redevelopment of Queen Mary Hospital Phase 1) and 4 (43CG - Greening Master Plans for the New Territories) for the Subcommittee's deliberation. Mr Gary FAN raised a point of order and requested the Chairman to deal with his request at the meeting.

16. The Chairman said that on Mr FAN's suggestion on rearranging the order of the agenda items, he had given Mr FAN a written reply on 20 May 2014 enclosing a letter from the Administration, dated 16 May 2014, setting out its views on the suggestion. In the letter, the Administration indicated that it did not support re-ordering the agenda items concerned. A copy of the Chairman's reply, together with the letters from Mr FAN and the Administration, had been issued to members. The Chairman advised that the role of the Subcommittee was to examine the expenditure proposals on public works projects which fell under the Capital Works Reserve Fund and to make recommendations to the Finance Committee ("FC"). Under existing practice, the Administration would give notice to the Clerk to the Subcommittee of the items of business to be included in the agenda of a Subcommittee's meeting. As the Administration should have the best knowledge about the priorities of the public works projects and their importance to society, the PWSC Chairman had all along respected the Administration's views on the order of agenda items. As such, he did not consider it appropriate to accept Mr FAN's suggestion.

17. Mr Gary FAN opined that in considering his suggestion, the Chairman should take into account not only the view of the Administration, but also the collective view of the Subcommittee. He considered that the Chairman should allow members of the Subcommittee to express views on his suggestion.

18. Mr IP Kwok-him said that the agenda of a meeting of the Subcommittee was to be decided by the Chairman. As the Chairman had decided not to accept Mr FAN's suggestion, his decision was final and should not be further discussed.

19. The Chairman said that he had made a decision in writing on the order of the agenda items. It was inappropriate for the Subcommittee to hold a discussion on it.

Number of motions to be moved under Paragraph 32A of the PWSC Procedure

20. The Subcommittee noted that the Chairman had received a letter from Dr CHIANG Lai-wan dated 20 May 2014 requesting the Chairman to allow each individual member to move no more than one motion on an agenda item under 32A. Dr CHIANG Lai-wan requested for the Chairman's reply to the letter before the next meeting of the Subcommittee. The Chairman advised that the issue raised by Dr CHIANG would need to be carefully examined.

Proposed motions received at the meeting

21. The Chairman advised that he had received at the meeting 39 proposed motions from Mr Gary FAN and 14 from Mr Albert CHAN. As he needed to peruse these proposed motions in order to determine their relevance to the agenda item, he ordered that the meeting be suspended for 15 minutes.

(Post-meeting note: The 14 proposed motions from Mr Albert CHAN were about the development of integrated waste management facilities phase 1. At the meeting on 27 May 2014, the Subcommittee voted on whether to proceed forthwith these proposed motions.)

22. Dr CHIANG Lai-wan said that under Paragraph 26 of the PWSC Procedure, subject to RoP and the procedure endorsed by FC, the Subcommittee determined its own practice and procedure. She opined that, to ensure the efficient conduct of the meeting, the Chairman should consider "drawing a line" to stop receiving proposed motions on the agenda item.

23. The Chairman said that it was important for him to strike a proper balance between respecting the right of individual members to propose motions and ensuring the efficient conduct of the Subcommittee. At this stage, he considered that he should peruse the proposed motions received. At the suggestion of Mr IP Kwok-him, the Chairman enquired if members

had any more proposed motions to forward to him. He requested that members should inform him about any proposed motions after the break.

24. Dr Kenneth CHAN queried, as the Chairman had ordered that the meeting be suspended, whether the members who spoke after the order had behaved in a disorderly manner.

[The meeting was suspended at 9:10 am and resumed at 9:47 am.]

25. The Chairman advised that the 39 proposed motions received from Mr Gary FAN aimed to express the view that the Administration should satisfy certain conditions before implementing the proposal to extend the Southeast New Territories Landfill. He took this as meaning that the member wished the Subcommittee to append to its recommendation to FC, if made, some specific views on the proposal. As such, he considered that most of the proposed motions directly related to the agenda item under discussion. However, he observed that the submission of more than 100 proposed motions would only have the effect of prolonging the proceedings of the Subcommittee to the extent of preventing it from properly performing its functions. He reiterated that, as the Chairman of the Subcommittee, it was important for him to strike a balance between respecting the right of individual members to propose motions and ensuring the efficient conduct of the meeting. He had returned to Mr FAN some of the proposed motions which were duplicates of other proposed motions or not directly related to the agenda item. He had also requested Mr FAN to consolidate some groups of the proposed motions which had the same themes. At the invitation of the Chairman, the Clerk advised that of the 39 proposed motions received from Mr Gary FAN at the meeting, the Chairman had ruled that 16 were directly related to the agenda item. The others were duplicates of other proposed motions, not directly related to the agenda item, or had been returned to Mr FAN for consolidation.

26. Mr IP Kwok-him enquired whether the Chairman would "draw a line" to stop receiving proposed motions on the agenda item so as to ensure the efficient conduct of the meeting. In response to the Chairman's enquiry on whether members would forward any more proposed motions on the agenda item to him, Mr Gary FAN responded that he would, as advised by the Chairman, consolidate some of the motions returned to him and forward them afterwards.

27. The Chairman said that it was clear some members held the view that he should not accept new proposed motions. He considered that such a view should be addressed, taking into account that he should ensure the efficient operation of the Subcommittee, and the Subcommittee determined

its own practice and procedure under Paragraph 26 of the PWSC Procedure, subject to RoP and the procedure endorsed by FC. He said that many of the proposed motions forwarded by members were repetitive, and some were trivial or frivolous. Such motions had been returned to the member concerned. He advised that the Subcommittee should consider how it could proceed to deal with the other items on the agenda and perform in an efficient manner the function of assisting FC in examining public works expenditure proposals.

28. Dr Fernando CHEUNG said that, while he agreed that it was important for the meeting to be conducted efficiently, under 32A, a member had the right to move a motion without notice to express a view on the agenda item so long as the Chairman considered the motion directly related to the agenda item and a majority of members agreed that the motion be proceeded forthwith. He queried about the basis for the Chairman to "draw a line" to stop receiving proposed motions.

29. Mr IP Kwok-him said the Chairman should conduct the meeting according to Paragraph 26 of the PWSC Procedure and any decision made by him shall be final. Queries over his decisions should be addressed in other occasions.

Voting on whether to proceed forthwith 20 motions proposed by Mr Gary FAN

30. The Chairman took turn to put to vote the questions that proposed motions numbered 0106 - 0109, 0121, 0123, 0126 - 0127, 0129, 0143, 0145 - 0149 and 0151 be proceeded forthwith. As requested by Mr Gary FAN, the division bell was rung for one minute before members' voting on individual questions. All questions were voted down by a majority of members.

[The Chairman ordered that the meeting be extended to 10:45 am.]

31. The Chairman advised that he had received four more proposed motions, which were related to the agenda item, from Mr Gary FAN. He took turn to put to vote the questions that proposed motions numbered 0168 to 0171 be proceeded forthwith. As requested by Mr Gary FAN, the division bell was rung for one minute before members' voting on individual questions. All questions were voted down by a majority of members.

32. The Chairman said that the meeting had completed considering whether to proceed forthwith all the motions proposed by members under 32A on agenda item 1, i.e. the proposal under PWSC(2014-15)6. He put the

proposal to vote. At the request of Mr Gary FAN, the Chairman ordered a division. Of the 27 members present, 25 members voted. Sixteen voted for, nine voted against the proposal and no one abstained. The voting results were as follows:

For:

Mr CHAN Kam-lam
Mr WONG Kwok-hing
Mr CHAN Kin-por
Mr Michael TIEN
Mr CHAN Han-pan
Mr LEUNG Che-cheung
Dr Elizabeth QUAT
Mr Christopher CHUNG

Mr TAM Yiu-chung
Mr CHAN Hak-kan
Mr IP Kwok-him
Mr MA Fung-kwok
Miss CHAN Yuen-han
Miss Alice MAK
Dr CHIANG Lai-wan
Mr Tony TSE

(16 members)

Against:

Mr James TO
Mr Albert CHAN
Mr Frankie YICK
Mr Gary FAN
Dr Fernando CHEUNG

Ms Emily LAU
Mr James TIEN
Mr WU Chi-wai
Dr Kenneth CHAN

(9 members)

Abstain:

(0 member)

33. The Chairman declared that the proposal under PWSC(2014-15)6 was endorsed by the Subcommittee.

PWSC(2014-15)7 - 177DR - Development of integrated waste management facilities phase 1

34. The Chairman advised that the Subcommittee would proceed to consider the funding proposal under agenda item 2, i.e. PWSC(2014-15)7. He said that members had finished asking questions on the proposal at the meeting on 7 May 2014. Fourteen proposed motions had been received from Mr Albert CHAN on the item at the meeting.

35. Mr IP Kwok-him said that members' motions proposed under 32A should be forwarded to the Chairman at a reasonable time in advance so that

the Chairman did not have to suspend the meeting to peruse them in order to determine their direct relevance to the agenda item.

36. The Chairman said that motions proposed under 32A were moved by members without notice. He, with the assistance of the Secretariat, would continue to make best efforts in the perusal of these motions.

37. Dr CHIANG Lai-wan said that during the period of extension of a meeting, no new motions should be proposed. The Chairman clarified that the 14 proposed motions forwarded by Mr Albert CHAN had been received at an earlier part of the meeting.

38. In response to the Chairman's enquiry on whether members would forward to him more proposed motions on the agenda item, Mr Albert CHAN said that he was preparing to do so. Dr Kenneth CHAN said that some members who were absent from the meeting might propose motions on the item without notice at a later stage. Mr Gary FAN said that, with reference to 32A, members who had not responded to the Chairman's enquiry should not be disallowed to forward proposed motions to him without notice on the agenda item at the upcoming meetings.

39. The Chairman remarked that it was the responsibility of the Chairman to chair the meeting pursuant to the relevant rules. He ordered that the unfinished business be carried forward to the next meeting scheduled for 9:00 am on 27 May 2014.

Any other business

40. There being no other business, the meeting ended at 10:36 am.

Council Business Division 1
Legislative Council Secretariat
26 June 2014