

**立法會**  
***Legislative Council***

LC Paper No. PWSC54/14-15  
(These minutes have been  
cleared with the Chairman)

Ref : CB1/F/2/1(4)B

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

**Minutes of special meeting  
held in Conference Room 1 of the Legislative Council Complex  
on Tuesday, 11 November 2014, at 10:45 am**

**Members present:**

Hon Alan LEONG Kah-kit, SC (Chairman)  
Hon WU Chi-wai, MH (Deputy Chairman)  
Hon Albert HO Chun-yan  
Hon LEE Cheuk-yan  
Hon James TO Kun-sun  
Hon LEUNG Yiu-chung  
Hon Emily LAU Wai-hing, JP  
Hon TAM Yiu-chung, GBS, JP  
Hon Abraham SHEK Lai-him, GBS, JP  
Hon Frederick FUNG Kin-kee, SBS, JP  
Prof Hon Joseph LEE Kok-long, SBS, JP, PhD, RN  
Hon Cyd HO Sau-lan, JP  
Hon CHAN Kin-por, BBS, JP  
Hon IP Kwok-him, GBS, JP  
Hon Claudia MO  
Hon Frankie YICK Chi-ming  
Hon Gary FAN Kwok-wai  
Hon Charles Peter MOK, JP  
Hon CHAN Chi-chuen  
Hon CHAN Yuen-han, SBS, JP  
Hon Kenneth LEUNG  
Dr Hon KWOK Ka-ki

Hon Dennis KWOK  
Dr Hon Fernando CHEUNG Chiu-hung  
Hon SIN Chung-kai, SBS, JP  
Hon IP Kin-yuen  
Dr Hon CHIANG Lai-wan, JP  
Ir Dr Hon LO Wai-kwok, BBS, MH, JP  
Hon Christopher CHUNG Shu-kun, BBS, MH, JP

**Members attending:**

Hon WONG Yuk-man  
Hon Paul TSE Wai-chun, JP

**Members absent:**

Hon CHAN Kam-lam, SBS, JP  
Hon WONG Kwok-hing, BBS, MH  
Hon Ronny TONG Ka-wah, SC  
Hon CHAN Hak-kan, JP  
Dr Hon LEUNG Ka-lau  
Hon CHEUNG Kwok-che  
Hon LEUNG Kwok-hung  
Hon Albert CHAN Wai-yip  
Hon Michael TIEN Puk-sun, BBS, JP  
Hon James TIEN Pei-chun, GBS, JP  
Hon CHAN Han-pan, JP  
Dr Hon Kenneth CHAN Ka-lok  
Hon LEUNG Che-cheung, BBS, MH, JP  
Hon Alice MAK Mei-kuen, JP  
Dr Hon Helena WONG Pik-wan  
Dr Hon Elizabeth QUAT, JP  
Hon Tony TSE Wai-chuen, BBS

**Clerk in attendance:**

Ms Sharon CHUNG                      Chief Council Secretary (1)6

**Staff in attendance:**

Mr Andy LAU	Assistant Secretary General 1
Mr Hugo CHIU	Senior Council Secretary (1)6
Mr Fred PANG	Senior Council Secretary (1)8
Mr Frankie WOO	Senior Legislative Assistant (1)3
Ms Christy YAU	Legislative Assistant (1)7
Ms Haley CHEUNG	Legislative Assistant (1)8

---

Action

**I. Applications for late membership**

The Chairman advised that the relevant letters from 12 Members making applications for late membership ("the 12 Members") had been circulated to members of the Subcommittee vide LC Papers Nos. PWSC5/14-15 and PWSC6/14-15 on 8 October 2014 and 10 October 2014 respectively. He said that he had instructed the Clerk to invite the 12 Members to attend the meeting to explain in person the reasons for their applications. Seven of the 12 Members had replied in writing that there was no need for them to attend the meeting. These written replies had been circulated to members. Of the remaining five Members, four had informed the Secretariat that they would not attend the meeting, and only Mr Paul TSE had accepted the invitation. Mr TSE had informed the Secretariat that he would join the meeting at around 11:30 am.

2. The Chairman reminded members that, according to Paragraph 4B of the Public Works Subcommittee ("PWSC") Procedure, a request for late membership on grounds other than indisposition or absence from Hong Kong should be put to the Subcommittee. The Subcommittee should accept such applications only when sufficient grounds had been provided. He suggested that the Subcommittee should consider the application from each of the 12 Members in accordance with the sequence set out in the agenda.

Views on what led to the requests for late membership

3. Mr CHAN Kin-por remarked that Members of the Legislative Council ("LegCo") from the pan-democratic camp ("pan-democratic Members") and Members from the pro-establishment camp ("pro-establishment Members") used to have a mutual understanding that the composition of the Subcommittee would reflect the proportion of Members from both camps in the Finance Committee ("FC"). However, a large number of pan-democratic Members had sent out completed registration forms to the LegCo Secretariat during the last few minutes before the registration deadline, making pan-democratic Members a majority in the Subcommittee. In his view, the 12 Members' applications had been made in view of pan-democratic

Members' disregard for the mutual understanding. He considered that the pan-democratic camp should accept the 12 Members' applications to patch up its deteriorated relation with the pro-establishment camp and let the composition of PWSC reflect the proportion of Members from the two camps in FC.

4. Mr LEE Cheuk-yan said that pan-democratic Members had not unilaterally abandoned the mutual understanding between the two camps. Pan-democratic Members had acted on their own initiatives to join the Subcommittee because pro-establishment Members had not agreed to the suggestion of pan-democratic Members on a fairer allocation of Chairmanship and Deputy Chairmanship of LegCo Committees and Subcommittees among the two camps. Ms Emily LAU, Mr Albert HO and Mr Frederick FUNG shared Mr LEE's view. Mr SIN Chung-kai and Mr CHAN Chi-chuen said that joining a Subcommittee at the last few minutes before the registration deadline did not violate any rules or procedures.

5. Ms Emily LAU, Ms Cyd HO and Mr Albert HO remarked that although pan-democratic Members were the minority in LegCo, they had obtained many more votes than the pro-establishment Members in various LegCo elections in the past. Ms LAU said that the pro-establishment camp had monopolized the positions of Chairmen and Deputy Chairmen of most LegCo Committees and Subcommittees in the past two sessions. Her views were echoed by Mr Gary FAN and Dr KWOK Ka-ki. Ms LAU also said that, in the past, in general, applications for late membership of LegCo Committees and Subcommittees had not been refused. However, in June 2014, Mr Albert CHAN's application for late membership of the Establishment Subcommittee ("ESC") ("Mr Albert CHAN's application") had been rejected by pro-establishment Members.

6. Mr CHAN Chi-chuen said that there was already no mutual understanding among pan-democratic Members, pro-establishment Members and Members belonging to People Power. He considered that pro-establishment Members should support pan-democratic Members' request for rearranging the sequence of items on the agenda of FC if they wished to restore the mutual understanding concerned. Ms Cyd HO held the view that the mutual understanding between the two camps had been destroyed.

7. Mr IP Kwok-him and Mr TAM Yiu-chung said that in the past, the pro-establishment camp had discussed with the pan-democratic camp the allocation of the positions of Chairmen and Deputy Chairmen of LegCo Committees and Subcommittees with a view to accomplishing a mutually beneficial arrangement. Mr TAM added that the arrangement agreed by

both camps for the current legislative term had been adopted in the past two legislative sessions. Knowing that pan-democratic Members planned to act on their own initiatives in the current legislative session in respect of membership of Committees and Subcommittee with no regard to the mutual understanding, pro-establishment Members had nonetheless not departed from the agreed arrangement for participation in Committees and Subcommittees. Mr IP said that although pro-establishment Members in general had no strong views against requests for late membership, they had rejected Mr Albert CHAN's request in June this year because he had claimed that he would take up Mr LEUNG Kwok-hung's filibustering at ESC. Both Mr IP and Mr TAM stressed that members should not query the reasons set out in the application letters of the 12 Members.

8. Referring to Ms Emily LAU's dissatisfaction about the rejection of Mr Albert CHAN's application, Dr CHIANG Lai-wan said that pan-democratic Members should accept the 12 Members' requests if they considered the rejection of a request for late membership unreasonable. She added that the Subcommittee had not rejected any request for late membership in the past.

9. Mr Albert HO observed that LegCo Members had taken a more rigorous approach to accepting requests for late Committee membership recently because there had been more and more voting occasions at Committee meetings. He opined that the rules and practices for accepting requests for late membership should not be altered easily. His view was echoed by Mr WU Chi-wai. Mr IP Kin-yuen said overseas experience revealed that only if the members of a legislature respected established practices could it operate smoothly in the long run.

10. Mr Gary FAN said that some pro-establishment Members had acted unfairly in serving as the Chairmen of certain LegCo Committees or Subcommittees. For instance, during Ir Dr LO Wai-kwok's tenure as Chairman of PWSC, Ir Dr LO had sent a WhatsApp message to pro-establishment Members reminding them to vote for items relating to three landfill extensions and the Integrated Waste Management Facilities. Besides, Mr CHAN Kam-lam implicitly allocated different durations of speaking time to pan-democratic Members and pro-establishment Members when he was Chairman of the Transport Panel. Mr NG Leung-sing also did not chair FC meetings impartially when he served as the Chairman.

11. Ir Dr LO Wai-kwok referred to Mr Gary FAN's comments on him and clarified that the WhatsApp message concerned had been sent to a group set up for the communication among members of the Panel on Environmental Affairs ("EA Panel") and the Secretariat. Ir Dr LO stressed that the message

was related to a meeting of EA Panel on 28 March 2014 but not the business of PWSC. As a member of EA Panel, he had his own position on the relevant funding proposals and his position had been made clear by his vote cast at the relevant meeting of EA Panel. He said that during his tenure as Chairman of PWSC, he had performed the duties of a Chairman impartially.

12. Noting that some of the 12 Members had indicated in their application letters that the reason for requesting late membership was that their personal assistants ("PAs") had mishandled the matter, Mr LEE Cheuk-yan queried whether that was the genuine reason. Ms Cyd HO, Ms Claudia MO, Mr WU Chi-wai, Dr KWOK Ka-ki and Mr Frederick FUNG considered that these Members should not put the responsibilities for missing the deadline on their PAs. Ms HO further suggested that the Members making the applications, except Mr Paul TSE, whose reasons were different from those of the other 11 Members, should provide revised application letters specifying the genuine reasons for requesting late membership .

13. The Chairman said that of the 12 Members, eight had stated that they had missed the deadline because of the mishandling of their PAs, three had stated that they had missed the deadline due to engagement with other businesses, while one Member had indicated that the reason for making the request for late membership was that the effective operation of PWSC was important.

14. Mr SIN Chung-kai said that if pro-establishment Members regarded the rejection of a request for late membership as inappropriate, they should consider making an apology in public for rejecting Mr Albert CHAN's request in June this year. He held the view that the 12 Members should be provided with an opportunity to elaborate on their reasons for making the requests. Mr TAM Yiu-chung considered Mr SIN's remarks on pro-establishment Members making an apology inappropriate.

15. Mr James TO said that the Subcommittee should consider whether sufficient grounds in respect of the applications had been provided by the 12 Members. Mr LEUNG Yiu-chung shared Mr TO's view and considered that bad precedents would be established if applications for late membership without sufficient grounds were accepted by the Subcommittee. Mr TO considered that Mr CHAN Kin-por's earlier remarks on pan-democratic Members' disregard of the mutual understanding between the two camps should not be taken into account in considering the issue of sufficient grounds if the 12 Members had not authorized him to speak on their behalf. In his view, to secure a majority in the Subcommittee to speed up the examination of the Administration's funding proposals on public works projects was not a sufficient ground, as the 12 Members could have joined the Subcommittee

before the registration deadline if they had intended to make the pro-establishment camp a majority in PWSC. Mr TO further opined that the possibility of filibustering was not a sufficient ground for rejecting Mr Albert CHAN's application in June this year. His view was echoed by Ms Claudia MO.

16. The Chairman said that the 12 Members had not included Mr CHAN Kin-por's remarks in their application letters. His understanding was that Mr CHAN did not intend to speak on their behalf. Mr CHAN Kin-por clarified that he had not spoken on behalf of the 12 Members.

17. Ms Claudia MO, Mr Albert HO, Mr WU Chi-wai and Mr IP Kin-yuen considered that the genuine reasons of some of the 12 Members for making applications for late membership was to speed up the Subcommittee's examination of the Administration's funding proposals by securing a majority for the pro-establishment camp in the Subcommittee, which would compromise the Subcommittee's power in monitoring the work of the Administration. Ms MO, Mr WU and Dr KWOK Ka-ki were also dissatisfied that some of the 12 Members had declined to provide supplementary information on their applications or attend the meeting despite the Chairman's invitation. Mr WU and Dr KWOK opined that these Members should attend another special meeting of the Subcommittee to give their reasons in person.

18. Dr CHIANG Lai-wan remarked that PAs of LegCo Members belonging to the Democratic Alliance for the Betterment and Progress of Hong Kong ("DAB") had been asked to check the tentative membership of LegCo Panels and Subcommittees before the registration deadline. However, some members who were present at the meeting had acted stealthily ("鬼崇地") by sending out completed registration forms during the last few minutes before the deadline. As such, the PAs had failed to make an enquiry in time.

19. Ms Claudia MO raised a point of order as to whether Dr CHIANG had used offensive language by saying that some members had acted stealthily and requested Dr CHIANG to withdraw her remark. The Chairman asked whether Dr CHIANG would consider withdrawing the relevant remark, or else he had to make a ruling. Dr CHIANG said that she had not said that Ms MO had acted stealthily. Ms MO opined that Dr CHIANG's relevant remark covered pan-democratic Members and their PAs. The Chairman advised Ms MO his understanding was that Dr CHIANG had not intended to offend any persons and enquired whether Ms MO agreed to his understanding. Ms MO said she would not pursue the matter any further.

20. Mr CHAN Kin-por remarked that LegCo's composition was stipulated in the Basic Law and the pro-establishment camp was the majority in LegCo under the current composition. He opined that Mr Albert CHAN's application was different in nature from those from the 12 Members, as Mr CHAN had made his application towards the end of a legislative session with the declared purpose of filibustering, while the 12 Members had made their applications at the start of a session.

Procedure for handling the twelve applications for late membership

21. The Chairman sought members' views on whether they preferred to have a joint debate or separate debates on the 12 applications; and whether they would vote on the 12 applications in one go or conduct a separate voting on each of the applications.

22. Mr LEE Cheuk-yan said that applications citing similar reasons might be deliberated in one lot. Mr James TO and Mr Gary FAN opined that the applications should be considered one by one. Mr IP Kin-yuen indicated that he had no preference on the debate arrangement.

23. Mr SIN Chung-kai opined that the Subcommittee should divide the applications into the following two categories: (a) those giving genuine reasons for making applications for late membership; and (b) those which did not give genuine reasons for making the applications. The Chairman advised that the Clerk had invited the 12 Members to provide supplementary information on their applications yet no such information had been received.

24. Pointing out that the Subcommittee had to handle a large number of funding proposals on public works projects, including the outstanding items carried over from the last legislative session, Ir Dr LO Wai-kwok expressed concern that any further delay in the commencement of public works projects would have an adverse impact on the construction and engineering industry as well as the well-being of the society. He called on members to deal with the applications without delay so that the Subcommittee could focus its work on examining the funding proposals. He opined that the Subcommittee should accept the applications of those Members who were willing to contribute time and efforts to the examination of funding proposals on public works projects. Mr Abraham SHEK shared Ir Dr LO's concern and said that the Subcommittee had accepted applications for late membership before.

25. Mr TAM Yiu-chung said that the applications for late membership should be dealt with in accordance with the relevant procedures. The Subcommittee could have a joint debate on the applications first, and then



proceed to vote on the applications.

26. Mr Christopher CHUNG said as LegCo Members had been elected by the public under the system of representative government, their rights to participate in LegCo Committees and Subcommittees should not be unduly restrained. Although non-Subcommittee members could express views on the Administration's funding proposals on public works projects at the meetings of the Subcommittee, they could not vote on them. He considered that the Chairman should exercise his discretionary power to accept the 12 Members' applications. The Chairman clarified that he did not have the discretion under Paragraph 4B of the PWSC Procedure to accept a request for late membership on grounds other than indisposition or absence from Hong Kong. Mr CHUNG insisted that the Chairman had the discretion to accept the 12 applications. The Chairman requested Mr CHUNG to specify the relevant rules to justify his claim that the Chairman of the Subcommittee had the aforesaid discretion.

*(The meeting was suspended for one minute and resumed at 12:08 pm.)*

27. Mr Christopher CHUNG said his understanding was that the Chairman had, under Paragraph 4B of PWSC Procedure, the discretion to accept a request for late membership if sufficient grounds had been provided by the Member concerned.

28. The Chairman ruled that he did not have the discretion to accept a request for late membership on grounds other than indisposition or absence from Hong Kong under Paragraph 4B of the PWSC Procedure.

29. Ms Claudia MO raised a point of order as to whether the Chairman should clarify whether he had no discretion ("酌情權") or no power to make a ruling ("裁決權") on requests for late membership on grounds other than indisposition or absence from Hong Kong. The Chairman said that his ruling was clear and there was no need for further elaboration.

30. Mr LEE Cheuk-yan expressed regret that Mr Christopher CHUNG had referred to the Chairman as a hypocrite ("偽君子") and that the Chairman had to spend a long time explaining the relevant procedures to a person with low comprehension ability ("理解能力低"). Mr CHUNG raised a point of order as to whether Mr LEE had used offensive language about him by saying that he was a person with low comprehension ability. Mr LEE requested Mr CHUNG to withdraw his remark that the Chairman was a hypocrite and said that he had only made a fair comment on Mr CHUNG.

31. The Chairman said that he did not mind being referred to as a

hypocrite by Mr CHUNG. He asked whether Mr LEE would consider withdrawing his remark "a person with low comprehension ability" against Mr CHUNG, or else he would have to make a ruling. Mr LEE agreed to withdrawing the remark.

#### Application of Hon Paul TSE

32. Mr Paul TSE thanked the Subcommittee for arranging the special meeting to consider the applications. He said that he had not decided to join PWSC before the registration deadline because, at that time, he had been concerned that his heavy schedule might prevent him from participating actively in the business of PWSC. However, in view of the large number of outstanding items, i.e. funding proposals on public works projects on the agenda, he was worried that further delay on those projects would result in huge cost overrun. He hoped that the operation of PWSC would resume normal and so had decided lately to make a request for late membership. Secondly, he noted that Members were more concerned about procedural issues than before. As a lawyer, he wished to contribute to the discussion of such issues by giving views on the interpretation of rules and procedures in an independent, neutral and impartial manner.

33. Mr Paul TSE said that there was no clear guidelines under the PWSC Procedure for determining what "sufficient grounds" were under Paragraph 4B. He suggested that members might make reference to the past practices of PWSC in considering what constituted "sufficient grounds". However, he considered that Mr Albert CHAN's case was a special one and might not be a suitable example for reference, as Mr CHAN had provided a destructive cause for his application, i.e. to conduct filibustering at the meetings of ESC. Mr TSE said that members should not adopt a narrow interpretation of the term "sufficient grounds". He added that he had no destructive cause for joining PWSC. Mr Frederick FUNG shared Mr TSE's view that members were more concerned about procedural matters than before. Mr Gary FAN disagreed to Mr TSE's remark that filibuster was a destructive cause.

34. Mr LEUNG Yiu-chung said that Mr Paul TSE was more sincere and conscientious in his application than the other Members. He asked why Mr TSE had not submitted the registration for joining PWSC before the deadline if he had the said sufficient grounds. Mr TSE responded that as he had mentioned in his earlier remarks, he had been concerned that his heavy schedule would prevent him from actively participating in the business of PWSC. However, the latest development was that the chaos in LegCo had worsened, which had prompted him to decide to make a request to join PWSC.

35. Mr LEE Cheuk-yan said that as Mr Paul TSE had attended the meeting and explained his reasons for making an application for late membership, members should consider whether there were sufficient grounds for his application. Mr IP Kin-yuen also agreed that Mr Paul TSE's application might be considered first.

36. At 12:39 pm, the Chairman enquired whether members would agree to extending the meeting by 15 minutes. Five members agreed to the proposal, while eight members disagreed. The Chairman said that the meeting would end at 12:45 pm as scheduled. He informed the Subcommittee that five members were waiting to speak.

#### Follow-up actions required

37. Referring to NOW TV's programme "News Magazine" broadcast on 10 October 2014 ("the NOW TV Programme"), Mr LEE Cheuk-yan said that Mr TAM Yiu-chung had made remarks in the programme that pro-establishment Members had submitted registrations for membership of LegCo Committees and Subcommittees for the current session in accordance with past practices but had later found that some pan-democratic Members had sent out completed registration forms for joining PWSC during the last few minutes before the registration deadline. In Mr LEE's view, such remarks might imply that the eight Members who had claimed that they had missed the deadline due to the mistakes made by their PAs might not have given the true reasons. Mr LEE suggested that the Chairman should write to the 11 Members (not including Mr Paul TSE) requesting them to advise whether Mr TAM's aforementioned remarks represented them, and to provide details of the mishandling of their PAs. He further suggested that in the letter, the 11 Members should also be asked whether Dr CHIANG Lai-wan's remarks made earlier in the meeting about the PAs applied to their situations. Mr LEE opined that the Subcommittee should hold another special meeting, to which the remaining eleven Members should be invited, to consider the applications for late membership.

38. Mr CHAN Kin-por and Ir Dr LO Wai-kwok considered it unnecessary to issue letters to the 11 Members requesting for further information on their applications. Mr CHAN further suggested that applications giving similar reasons should be handled in one lot.

39. The Chairman agreed to Mr LEE Cheuk-yan's suggestion of issuing a letter to the 11 Members to ask for their comments on the remarks of Mr TAM Yiu-chung and Dr CHIANG Lai-wan referred to by Mr LEE. He requested Mr LEE to provide information on the NOW TV Programme to the Clerk after the meeting.

40. Mr James TO suggested that (i) another special meeting should be arranged given that there was insufficient time to deal with the applications at the current meeting; and (ii) the Legal Adviser should be requested to provide a paper, which would be considered at the next special meeting, on the Chairman's discretion in considering applications for late membership.

41. The Chairman said that Mr Paul TSE's application would be the first application to be dealt with at the next special meeting.

*(Post-meeting note: The Chairman decided to hold another special meeting from 5:00 pm to 7:00 pm on 2 December 2014. He also issued a letter on 17 November 2014 to each of the 11 Members not attending the special meeting on 11 November to invite them to (i) attend the special meeting scheduled for 2 December 2014 to answer the questions that might be raised by members of the Subcommittee on his/her application; (ii) comment on whether Mr TAM Yiu-chung's relevant remarks in the NOW TV programme and Dr CHIANG Lai-wan's remarks on the PAs made at the meeting represented him/her; and (iii) provide supplementary information, if any, on the application. Members were informed of the next special meeting and the letter vide PWSC29/14-15 and PWSC34/14-15, issued on 13 November 2014 and 18 November 2014 respectively. A note prepared by the Legal Service Division on requests for late membership under paragraph 4B of the PWSC Procedure was circulated to members vide LC Paper No. PWSC30/14-15 on 14 November 2014.)*

42. There being no other business, the meeting ended at 12:45 pm.