

**立法會**  
***Legislative Council***

LC Paper No. PWSC138/14-15

(These minutes have been  
cleared with the Chairman)

Ref : CB1/F/2/1(6)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, 2 December 2014, at 5:00 pm**

**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 LEUNG Yiu-chung  
Hon Emily LAU Wai-hing, JP  
Hon TAM Yiu-chung, 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 CHEUNG Kwok-che  
Hon IP Kwok-him, GBS, JP  
Hon LEUNG Kwok-hung  
Hon Albert CHAN Wai-yip  
Hon Claudia MO  
Hon Frankie YICK Chi-ming  
Hon Charles Peter MOK, JP  
Hon CHAN Chi-chuen  
Dr Hon Kenneth CHAN Ka-lok  
Hon CHAN Yuen-han, SBS, JP  
Hon LEUNG Che-cheung, BBS, MH, JP  
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  
Hon Tony TSE Wai-chuen, BBS

**Members absent:**

Hon James TO Kun-sun  
Hon CHAN Kam-lam, SBS, JP  
Hon Abraham SHEK Lai-him, GBS, JP  
Hon WONG Kwok-hing, BBS, MH  
Hon Ronny TONG Ka-wah, SC  
Hon CHAN Hak-kan, JP  
Dr Hon LEUNG Ka-lau  
Hon Michael TIEN Puk-sun, BBS, JP  
Hon Gary FAN Kwok-wai  
Hon CHAN Han-pan, JP  
Hon Kenneth LEUNG  
Hon Alice MAK Mei-kuen, JP  
Dr Hon Helena WONG Pik-wan  
Dr Hon Elizabeth QUAT, JP

**Clerk in attendance:**

Ms Sharon CHUNG                      Chief Council Secretary (1)6

**Staff in attendance:**

Mr Jimmy MA	Legal Adviser
Ms Connie FUNG	Senior Assistant Legal Adviser 1
Mr Andy LAU	Assistant Secretary General 1
Ms Anita SIT	Assistant Secretary General 1 (Des)
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

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## **I. Applications for late membership**

The Chairman advised that the meeting was a continuation of the Subcommittee's special meeting on 11 November 2014 to consider applications for late membership and 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 or provide supplementary information on their applications. In addition, he had sent a letter to each of the 11 Members not attending the previous special meeting (i.e. excluding Mr Paul TSE) ("the 11 Members") to invite them to comment on whether Mr TAM Yiu-chung's remarks made in a programme of NOW TV regarding the submission of registration for membership of the Subcommittee by some Members and Dr CHIANG Lai-wan's remarks made at the previous special meeting regarding the personal assistants ("PAs") of some Members represented his/her case. The letters had been circulated to members of the Subcommittee on 18 November 2014. However, none of the Members concerned had provided feedback to his letters or supplementary information on his/her application. Regarding the attendance of the 12 Members at the current meeting, seven of them had replied in writing on 23 October 2014 and 24 October 2014 that there was no need for them to be present. One Member replied in writing that he could not attend the current meeting and would not provide any supplementary information on his application. Mr Paul TSE replied in writing that he could not attend the current meeting but had explained in person the reasons for his application at the previous special meeting. The Chairman said that the relevant letters from these Members had been circulated to members of the Subcommittee. The remaining three Members had informed the Secretariat that they would not attend the current meeting.

### Procedures for handling the twelve applications for late membership

2. The Chairman said that at the previous special meeting, a number of members had expressed views on the applications of the 12 Members. He had also 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. Members had expressed divergent views. Some members considered that the Subcommittee could have a joint debate on the

applications first, followed by voting on each of the applications; while some opined that applications citing similar reasons might be handled in one go. Some members said they had no preference. However, members in general agreed that the application of Mr Paul TSE should be handled first.

3. Ms Cyd HO supported that the Subcommittee should first consider Mr Paul TSE's application as he had provided relatively concrete reasons in his application letter and attended the last special meeting on 11 November 2014. Ms HO said that one reason for almost all Members of the Legislative Council ("LegCo") from the pan-democratic camp ("pan-democratic Members") to join the Subcommittee was that they were dissatisfied with the pro-establishment camp's hegemony on the membership of the Subcommittee and uncritical approach in endorsing the Administration's funding proposals on capital works projects in the past. It was apparent that the applications of Members from the pro-establishment camp for late membership only aimed at regaining a majority of membership in the Subcommittee. The pro-establishment camp would welcome the rejection of the applications by the Subcommittee because the concerned Members would then put their cases to the Finance Committee ("FC") for a decision. In response to the Chairman's enquiry about how the applications should be handled, Ms HO remarked that the Subcommittee (i) could first consider Mr Paul TSE's application; and (ii) should not consider the remaining 11 applications until the Members concerned had advised the Subcommittee of the genuine reasons for their applications and/or no longer put the blame on their PAs for missing the registration deadline ("Ms Cyd HO's proposals"). Mr Albert HO and Dr KWOK Ka-ki agreed to Ms Cyd HO's proposals and expressed appreciation of Mr Paul TSE's sincerity in making his application.

4. Miss CHAN Yuen-han said that LegCo Members should show mutual respect among themselves instead of criticizing one another. She hoped that Members would put their efforts in conducting the normal business of LegCo instead of further tearing the society's harmony. Ms Cyd HO said that she had not named any Members in her earlier remarks.

5. Mr LEUNG Kwok-hung said that the tearing of the society's harmony was caused by the undemocratic nature of LegCo and the problem could only be solved by the implementation of real universal suffrage. He queried why the 12 Members had missed the registration deadline. In response to the Chairman's enquiry about how the applications should be handled, Mr LEUNG suggested that the Chairman should issue a letter to each of the 12 Members to inform them that their applications would be accepted if they came to observe three future meetings of the Subcommittee on time and stayed throughout each of the meetings.

6. Mr Albert HO remarked that applications for late membership should be handled in accordance with Paragraph 4B of the Public Works Subcommittee Procedure ("PWSCP 4B"). He found it hard to accept the mishandling of PAs as the reason for making applications for late membership. He considered that the underlying reason for some of the applications was that the pro-establishment camp had failed to anticipate that almost all pan-democratic Members would join the Subcommittee.

7. Dr KWOK Ka-ki said that the Subcommittee had endorsed a number of funding proposals on "white elephant" capital works projects in the past and some of these projects had suffered or would suffer from huge cost overruns. He considered that pan-democratic Members had joined the Subcommittee with a view to examining the Administration's funding proposals prudently to stop the Subcommittee from becoming a rubber stamp again.

8. Mr IP Kwok-him opined that if members considered that the Members making the applications for late membership had not provided sufficient grounds, they might turn down their applications. Dr CHIANG Lai-wan urged the Chairman to deal with the applications by allowing the Subcommittee to vote on them promptly. Ir Dr LO Wai-kwok echoed Dr CHIANG's view.

9. The Chairman said that he had invited for three times and in writing the 12 Members to attend the Subcommittee's special meetings which had been convened to consider their applications. He considered it likely that the Members would continue to decline his future invitations.

10. Mr LEUNG Yiu-chung suggested that the Subcommittee should vote on the various proposals made by members at the meeting on how to deal with the applications. The Chairman said that members had made the following four proposals: (1) the application of Mr Paul TSE should be handled first ("the 1<sup>st</sup> proposal"); (2) applications of the 11 Members should not be handled at the meeting as the Members had not provided sufficient information on their applications ("the 2<sup>nd</sup> proposal"); (3) the Chairman should send a letter to each of the 12 Members to inform them that their applications would be accepted if they came to observe three future meetings of the Subcommittee on time and stayed throughout each of the meetings ("the 3<sup>rd</sup> proposal"); and (4) the 12 applications should be put to vote quickly ("the 4<sup>th</sup> proposal"). The Chairman remarked that he would invite members to vote on the four proposals one by one. The Chairman also confirmed Ms Cyd HO's understanding that if the 2<sup>nd</sup> proposal was carried, the 4<sup>th</sup> proposal would not be considered, as they were contradictory to each another.

Withholding the handling of the applications due to the lack of sufficient information

11. Regarding the 2<sup>nd</sup> proposal, Mr IP Kwok-him raised a point of order as to whether the Subcommittee had the power to refuse to handle the 11 Members' applications for late membership under PWSCP. The Chairman said that under PWSCP 4B, 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 an application only when sufficient grounds had been provided. Mr IP held the view that if members considered that any of the 11 Members had not provided sufficient information about his/her application, they might turn down the application instead of refusing to handle it. Mr LEUNG Yiu-chung said it was proposed that the Subcommittee should withhold the handling of the 11 Members' applications for the moment because members were waiting for further information to be provided on the applications to decide whether there were sufficient grounds. The Chairman said his understanding was that it was up to the Subcommittee, rather than to himself, to decide how to handle the applications. He sought the Secretariat's view on his understanding.

12. Assistant Secretary General 1 ("ASG1") said that the Chairman could make reference to PWSCP 39, which provided, inter alia, that "PWSC makes decisions on all matters by a majority of the members present and voting."

13. Pointing out that PWSCP 4B provided that "the Subcommittee shall accept such applications only when sufficient grounds have been provided" and that Members should not speculate on the reasons given by other Members, Mr IP Kwok-him queried whether the 2<sup>nd</sup> proposal would contradict PWSCP 4B. Mr IP suggested that advice should be sought from the Legal Adviser ("LA").

14. The Chairman stressed that he had to act in accordance with the relevant procedures and pay heed to members' views on how to take forward a matter at a meeting, rather than taking actions on his own initiative. As pointed out by ASG1, PWSCP 39 provided that PWSC made decisions on all matters by a majority of the members present and voting.

15. Mr Albert CHAN said that the Subcommittee should handle the applications prudently and suggested that the 12 Members should be given an opportunity to attend a meeting to explain in person the reasons for their applications and/or provide supplementary information on their applications, so that members could have sufficient information to consider their applications. He held the view that the PAs of some of the 12 Members

should be invited to attend the meeting as well to explain what had happened with the applications so as to ascertain whether these PAs had not been blamed unjustly. Mr CHAN agreed that the Subcommittee should withhold the handling of the applications for the moment.

16. Mr Christopher CHUNG considered that PWSCP 4B or 39 would not prohibit the Subcommittee from voting on the applications immediately.

*Mr Albert HO's proposal to move a motion to adjourn further proceedings of the Subcommittee under Paragraph 33 of the PWSC Procedure*

17. Mr Albert HO said that the disputes among members on whether to withhold the handling of the applications had made it difficult for the Subcommittee to continue its discussion in a rational manner. He moved a motion under PWSCP 33 to adjourn further proceedings of the Subcommittee.

18. ASG1 opined that the original intent of PWSCP 33 was that the provision would only apply to the Subcommittee's discussions on the Administration's funding proposals. He suggested that the Chairman should consider whether PWSCP 33 was relevant to the current meeting, which dealt with the Subcommittee's internal business.

19. Mr Albert HO said that he did not see why the further proceedings of the Subcommittee could not be adjourned merely because the current meeting was dealing with the Subcommittee's internal business. Ms Claudia MO said that she had reservation on the view that PWSCP 33 applied only to the Administration's proposals.

20. Ir Dr LO Wai-kwok said that members had agreed to holding a special meeting to deal with applications for late membership. Even if PWSCP 33 could apply to the Subcommittee's internal business, the public would be perplexed by a motion to adjourn the further proceedings of the Subcommittee. Pointing out that the Subcommittee had to examine as many as 89 funding proposals on capital works projects in the current legislative session, Dr LO opined that the Subcommittee should make good use of meeting time to discuss those proposals. Any further delay in the commencement of capital works projects would have an adverse impact on the construction and engineering industries as well as the well-being of the society. He expressed opposition to Mr Albert HO's motion.

21. The Chairman advised that the Subcommittee would hold two additional meetings, which lasted a total of five hours, in December 2014 to examine the Administration's funding proposals. As regards the

construction and engineering industries' concern about the drop in the number of public works contracts, he had endeavoured to address it in his intended ruling on Hon SIN Chung-kai's proposal for rearranging the sequence of items on the agenda of PWSC. However, the draft ruling was rendered irrelevant owing to the changes made by the Administration to the agenda of the Subcommittee's meeting on 26 November 2014. The Chairman said that Mr Albert HO's motion was to adjourn further proceedings of the Subcommittee rather than the discussion on a proposal. Considering that PWSCP 33 might be applicable, he sought ASG1's further views on the matter.

22. ASG1 said that under PWSCP 27, the Chairman's decision on a point of order shall be final. He also drew members' attention to PWSCP 1 and 2, which set out the role of the Subcommittee. He further advised that PWSCP 33 referred to a member "speaking on a proposal". In response to the Chairman's enquiry about whether PWSCP had defined the term "proposal", ASG1 remarked that while there was no such definition in PWSCP, PWSCP 2 mentioned that "the Subcommittee examines the public works expenditure 'proposals' presented by the Financial Secretary".

23. Before the Chairman made a ruling on whether PWSCP 33 was applicable to the current proceedings of the Subcommittee, Mr Albert HO withdrew the motion to adjourn further proceedings of the Subcommittee.

*The Subcommittee's power in withholding the handling of applications for late membership*

24. Mr IP Kwok-him suggested that legal advice be sought on whether the Subcommittee had the power to refuse to handle applications for late membership. Mr LEE Cheuk-yan said that Ms Cyd HO's proposals were not about refusing to handle such applications. Under her proposals, the Subcommittee would first handle Mr Paul TSE's application. As for the remaining applications, the Subcommittee would wait until the 11 Members had provided sufficient information for members to make informed decisions. The Chairman agreed that he would seek LA's advice as requested by Mr IP Kwok-him.

*(LA arrived at the conference room at the juncture, i.e. at 6:10 pm.)*

25. LA said he noted the Subcommittee's request for his advice on the interpretation and implementation of PWSCP 4B. He considered that in interpreting PWSCP 4B, the provision should be read in its entirety. In his view, in accordance with the first sentence of PWSCP 4B, the Chairman had to put the question to the Subcommittee once it was clear that the request for



late membership was not based on the two grounds specified. The second sentence regulated the Subcommittee's exercise of power by stating that it was only on sufficient grounds that the application could be accepted. A decision that the question shall not be put until sufficient grounds were provided might be considered a refusal to exercise the Subcommittee's power. Nevertheless, the Chairman should put the question to vote when he was satisfied that the Subcommittee had considered the matter to such an extent that it was ready to vote on the question. While the Subcommittee should only accept an application upon the provision of "sufficient grounds", such grounds referred to those provided by the Member making the application and not by other parties. The Subcommittee's decision on whether to accept an application was to be made collectively by voting.

26. Mr LEE Cheuk-yan suggested that the wording of the 2<sup>nd</sup> proposal be changed to "the Subcommittee requests the 11 Members to further explain the reasons for their application for its consideration". Mr IP Kwok-him said that the effect of the request was to refuse to handle the applications, given that the Chairman had already invited the 11 Members for a few times to attend the Subcommittee's special meetings or to provide supplementary information, but all to no avail. He opined that it would not make sense to consider the 2<sup>nd</sup> proposal.

27. Dr KWOK Ka-ki said that as the 11 Members had refused to attend the Subcommittee's meetings to explain in person the reasons for their applications or provide supplementary information on their applications, the Subcommittee was unable to handle their applications because there was insufficient information for members to decide whether sufficient grounds had been provided. The Subcommittee should thus withhold the handling of the 11 Members' applications and continue to invite them to provide further information. He asked whether his views were consistent with LA's interpretation of PWSCP 4B.

28. Pointing out that the Subcommittee had held more than one meeting to consider the applications, and the 12 Members had indicated that they had no further information to provide and would not attend the Subcommittee's special meetings, Ir Dr LO Wai-kwok asked LA's views on whether these facts constituted justifications for the Subcommittee to decide on the applications without delay.

29. LA said that the Subcommittee was currently in the process of deliberating the applications for late membership. The Chairman should decide, as part of his duties for chairing a meeting, when the deliberation should end and the question under deliberation be put to vote. In making the decision, the Chairman would follow some objective criteria as well as

the requirements stipulated in the relevant rules and procedures. For instance, the Chairman might consider the limitations of "sufficient grounds", whether the issues raised during the deliberation process were relevant and within the scope of the subject, the number of meetings already held to discuss the applications, etc. When the Chairman had formed the view that the Subcommittee had considered the matter to such an extent that it was ready to make a decision, he should consider putting the question to vote.

30. The Chairman recapitulated that he had already invited the 12 Members for three times to attend the special meetings to consider their applications and it was unlikely for them (except Mr Paul TSE) to attend such meetings of the Subcommittee to be held in future. He ruled that the Subcommittee should proceed to handle the applications and make decisions on the applications. The procedure for handling the applications had yet to be decided by members. He sought members' views on whether they preferred to have a joint debate or separate debates on the 12 applications; and whether the Subcommittee should vote on the 12 applications in one go or vote on each of the applications separately.

31. In response to Dr KWOK Ka-ki's remarks that Ms Cyd HO's proposals should not be bypassed, the Chairman clarified that having regard to members' views, LA's advice, relevant procedures and objective factors, he had made a ruling that the Subcommittee should proceed to handle the applications. He sought members' views on how the applications should be handled.

32. Mr LEE Cheuk-yan supported the 1<sup>st</sup> proposal, i.e. that the Subcommittee should first handle Mr Paul TSE's application. As for the remaining 11 Members, he opined that the Chairman should invite them to attend another special meeting to provide more information about their applications to the Subcommittee.

33. The Chairman said that the Subcommittee would first handle Mr Paul TSE's application and then, if the time allowed, handle the remaining 11 applications one by one in accordance with the sequence set out in the agenda.

#### Application of Hon Paul TSE

34. Mr SIN Chung-kai supported Mr Paul TSE's application. Based on the reasons given by Mr TSE for his application at the Subcommittee's last special meeting, he considered that Mr TSE had provided sufficient grounds. Dr KWOK Ka-ki said he was also inclined to supporting Mr TSE's application as he had not put the responsibility for missing the registration

deadline on his PA. Moreover, his attendance at the Subcommittee's last special meeting showed his respect for other Members.

35. Mr LEUNG Yiu-chung said that while he did not agree to what Mr Paul TSE had said when he explained his reasons for making an application for late membership, he would not oppose his application.

36. Referring to the rejection by the pro-establishment camp of Mr Albert CHAN's application for late membership of the Establishment Subcommittee in June 2014, Mr LEUNG Kwok-hung said that Mr Paul TSE's reasons for his application were not more reasonable than those of Mr CHAN. However, taking into account that Mr TSE had not voted against Mr CHAN's application in June, he would not oppose Mr TSE's application. Mr LEUNG said that it was natural for people to exchange benefits privately ("私相授受") and members could ask Mr IP Kwok-him whether he would also behave in that way.

37. Mr IP Kwok-him raised a point of order as to whether Mr LEUNG Kwok-hung had used insulting language against him. He said that the Chairman could listen to the digital recording of the meeting if necessary. The Chairman asked whether Mr LEUNG would consider withdrawing the relevant remarks, or else he had to make a ruling. Mr LEUNG clarified that he had said it was natural for people to exchange benefits privately ("私相授受") and members could ask Mr IP Kwok-him whether he would also behave in that way. Mr IP said that he would not pursue the matter any further.

38. At 6:55 pm, the Chairman enquired whether members would agree to extending the meeting by 15 minutes. One member agreed to the proposal, whereas eight members disagreed. The Chairman said that the meeting would end at 7:00 pm as scheduled.

39. Mr Frederick FUNG requested the Chairman to put to vote Mr Paul TSE's application. Mr LEUNG Kwok-hung claimed a division. The Chairman said that as there would not be sufficient time to conduct a division, the question would be put to vote at the next special meeting.

40. In response to Mr IP Kwok-him's enquiry, the Chairman advised that the voting on Mr Paul TSE's application would be conducted at the start of the next special meeting.

Follow-up actions to be taken

41. The Chairman said that he would send a letter to each of the 12 Members relaying members' request for them to attend the next special meeting to further explain the reasons for making late applications, and to answer the questions that members might have, so as to help members decide whether sufficient grounds for the applications had been provided. He would also invite the 12 Members to provide supplementary information on their applications. On the suggestion of Mr IP Kwok-him, the Chairman would ask, in the letter, whether the Member concerned had no intention to provide any supplementary information about his/her application.

*(Post-meeting note: Samples of the letters issued by the Chairman to the 12 Members on 8 December 2014 were circulated to PWSC members vide PWSC52/14-15 on 9 December 2014.)*

42. The Chairman requested LA to provide the following as suggested by Ms Cyd HO and Dr KWOK Ka-ki: (i) a written record of his advice on PWSCP 4B given at the meeting; and (ii) information and views on the role of the FC Chairman in relation to a request made by a Member whose application for late membership had been turned down by PWSC under PWSCP 4B.

*(Post-meeting note: A verbatim transcript of LA's advice made at the meeting and a note prepared by the Legal Service Division on requests for late membership under PWSCP 4B (LC Paper No. LS27/14-15) were circulated to members on 8 January 2015 vide LC Paper No. PWSC71/14-15.)*

43. There being no other business, the meeting ended at 6:59 pm.