

立法會
Legislative Council

LC Paper No. PWSC142/14-15

(These minutes have been
cleared with the Chairman)

Ref : CB1/F/2/1(9)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, 13 January 2015, at 8:30 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 CHAN Kam-lam, SBS, JP
Hon LEUNG Yiu-chung
Hon Emily LAU Wai-hing, JP
Hon TAM Yiu-chung, GBS, JP
Hon Frederick FUNG Kin-kee, SBS, JP
Hon Ronny TONG Ka-wah, SC
Hon Cyd HO Sau-lan, JP
Hon CHAN Kin-por, BBS, JP
Hon IP Kwok-him, GBS, JP
Hon LEUNG Kwok-hung
Hon Albert CHAN Wai-yip
Hon Gary FAN Kwok-wai
Hon CHAN Chi-chuen
Hon CHAN Han-pan, JP
Dr Hon Kenneth CHAN Ka-lok
Hon CHAN Yuen-han, SBS, JP
Hon LEUNG Che-cheung, BBS, MH, JP
Hon SIN Chung-kai, SBS, JP

Hon IP Kin-yuen

Hon Christopher CHUNG Shu-kun, BBS, MH, JP

Members absent:

Hon Abraham SHEK Lai-him, GBS, JP

Hon WONG Kwok-hing, BBS, MH

Prof Hon Joseph LEE Kok-long, SBS, JP, PhD, RN

Hon CHAN Hak-kan, JP

Dr Hon LEUNG Ka-lau

Hon CHEUNG Kwok-che

Hon Claudia MO

Hon Michael TIEN Puk-sun, BBS, JP

Hon Frankie YICK Chi-ming

Hon Charles Peter MOK, JP

Hon Kenneth LEUNG

Hon Alice MAK Mei-kuen, JP

Dr Hon KWOK Ka-ki

Hon Dennis KWOK

Dr Hon Fernando CHEUNG Chiu-hung

Dr Hon Helena WONG Pik-wan

Dr Hon Elizabeth QUAT, JP

Dr Hon CHIANG Lai-wan, JP

Ir Dr Hon LO Wai-kwok, BBS, MH, JP

Hon Tony TSE Wai-chuen, BBS

Clerk in attendance:

Ms Sharon CHUNG

Chief Council Secretary (1)2

Staff in attendance:

Ms Anita SIT

Assistant Secretary General 1

Mr Fred PANG

Senior Council Secretary (1)2

Mr Hugo CHIU

Senior Council Secretary (1)6

Ms Christina SHIU

Legislative Assistant (1)2

Ms Christy YAU

Legislative Assistant (1)7

Ms Haley CHEUNG

Legislative Assistant (4)8

I. Applications for late membership

The Chairman advised that the meeting was a continuation of the Subcommittee's special meetings on 11 November and 2 December 2014 to consider applications for late membership and the relevant letters from 12 Members making such applications ("the 12 Members") had been circulated to members of the Subcommittee vide LC Papers Nos. PWSC5/14-15 and PWSC6/14-15 on 8 and 10 October 2014 respectively. He said that upon the request of some members, he had sent letters on 8 December 2014 to invite the 12 Members to attend the meeting to explain in person the reasons for their applications and provide supplementary written information on their applications. Mr Paul TSE had responded that he would attend the meeting. However, he informed the Chairman in writing on 9 January 2015 that he would be out of town in these few days and therefore absent from the meeting. Mr TSE's letter had been circulated to members. As for the other 11 Members ("the 11 Members"), they had replied that they would not attend any meeting which was held to consider their applications and would not provide any supplementary information on their applications.

2. The Chairman said that towards the end of the last special meeting, he had put to vote the question of whether to accept Mr Paul TSE's application. A member claimed a division at that time. However, there was insufficient time to conduct the division. He had undertaken to conduct the voting on Mr Paul TSE's application at the start of the current meeting and then proceed to handle the 11 Members' applications. The Chairman advised members that in accordance with the usual practice of the Subcommittee, if members accepted Mr Paul TSE's application for late membership, Mr TSE's membership would take immediate effect, i.e. he could take part in the discussion and voting of the Subcommittee at once.

Effective time of a successful application for late membership

3. Mr Gary FAN suggested that the membership, including the voting right, of any of the successful applicants should only take effect after all the 12 applications for late membership had been dealt with ("Mr Gary FAN's suggestion").

4. The Chairman said, according to his understanding as well as the Clerk's advice, it was the usual practice of the Legislative Council ("LegCo") that a Member would become a member of a Panel/Committee immediately if his application for late membership was accepted. Although such an arrangement was not specified in any rules or procedures, he considered that the Subcommittee should adopt the usual practice for the 12 Members'

applications, unless members held the view that Mr Gary FAN's suggestion should be accepted. He sought members' views on the issue.

5. Mr WU Chi-wai enquired about the existing practices of other Panels/Committees in respect of the effective time of a successful application for late membership. At the invitation of the Chairman, Assistant Secretary General 1 ("ASG1") advised that it was the usual practice of the committees of LegCo that a Member would become a member of a Committee immediately if his/her application for late membership was accepted. However, there was no precedent case involving a large number of applications for late membership that a committee had to consider at the same time. As such, it was for the Subcommittee to consider and decide whether the aforesaid usual practice or other arrangements should be taken for the effective time of a successful application. If it was accepted that the membership of a successful applicant would take immediate effect, i.e. the successful applicant would then have a vote in deciding whether to accept the remaining applications, the order in which the applications were to be considered would have a bearing on the results of the applications. Therefore, the Secretariat had adopted an objective criterion, i.e. the time of receipt of the application letters, in making a recommendation on the order for considering the 12 applications. As for Members whose application letters were received at the same time, the order for considering such applications would be based on the Members' positions on the precedence list of LegCo.

6. Mr Ronny TONG, Mr Albert CHAN, Mr WU Chi-wai and Ms Emily LAU opined that the usual practice should be adopted in determining the effective time of successful applications. Mr TONG further opined that a member's voting right at a committee should not be subject to any unnecessary restriction.

7. Mr Gary FAN said that it was rare for a committee/subcommittee to receive 12 applications for late membership at the same time. A special arrangement should be adopted for the present case before the Subcommittee, which was not similar to any precedent case. He opined that, if the applicants learned that a successful applicant would be immediately allowed to vote on other applications, some of them might be more willing to attend the Subcommittee's meeting to explain their reasons for making late applications.

8. Mr CHAN Chi-chuen enquired about (i) whether a Member could re-submit an application for late membership within the same legislative session if his application had been turned down by the Subcommittee; and (ii) whether the 12 Members could withdraw their applications and re-submit

them, thus changing the positions of their applications in the sequence of applications to be considered.

9. At the invitation of the Chairman, ASG1 responded to Mr CHAN's questions. She advised that while there was no rule prohibiting a Member from re-submitting an application for late membership to a committee in the same legislative session after his/her application had been rejected, it was in general out of order for a committee to allow its decision to be reopened for discussion in the same session, unless the committee had agreed to rescind the decision. As to whether a Member could withdraw his/her application for late membership and re-submit it so as to change the position of his/her application in the sequence of similar applications to be considered, it would be up to the Subcommittee to decide whether the re-submission should be allowed.

10. The Chairman said that members in general did not agree to Mr Gary FAN's suggestion. He would consult Mr FAN whether he insisted that the membership, including the voting right, of any of the successful applicants should only take effect after all the 12 applications had been dealt with.

[Mr Gary FAN was not in the conference room at the juncture. The Chairman instructed the Clerk to contact Mr FAN and invite him to return to the conference room as soon as possible. The Clerk tried to contact Mr FAN by phone but to no avail.]

11. Mr SIN Chung-kai said that Mr FAN had left for the meeting of a District Council. The Chairman decided that, given the absence of Mr FAN and that so far no member had indicated support for his suggestion, the Subcommittee would not further consider his suggestion.

Application of Hon Paul TSE

12. The Chairman put the question of whether to accept Mr Paul TSE's application for late membership to vote. At the request of Mr SIN Chung-kai, the Chairman ordered a division. The division bell was rung for five minutes. The Chairman announced that 20 members voted for, no one voted against the application and no one abstained. The voting result was as follows:

For:

Mr Albert HO

Mr James TO

Mr LEUNG Yiu-chung

Mr LEE Cheuk-yan

Mr CHAN kam-lam

Ms Emily LAU

Mr TAM Yiu-chung
Mr Ronny TONG
Mr LEUNG Kwok-hung
Mr WU Chi-wai
Mr CHAN Han-pan
Mr LEUNG Che-cheung
Mr IP Kin-yuen
(20 members)

Mr Frederick FUNG
Ms Cyd HO
Mr Albert CHAN
Mr CHAN Chi-chuen
Dr Kenneth CHAN
Mr SIN Chung-kai
Mr Christopher CHUNG

Against:
(0 member)

Abstain:
(0 member)

13. The Chairman declared that Mr Paul TSE's application for late membership was accepted by the Subcommittee. Responding to Mr Albert CHAN's enquiry, the Chairman confirmed that Mr TSE's membership took immediate effect.

Handling of the 11 remaining applications

14. The Chairman said that the Subcommittee would proceed to handle each of the other 11 Members' applications for late membership. He enquired whether members preferred a joint discussion on the 11 applications, to be followed by voting on each of the applications, or discussing each application separately, followed by a voting on that application.

15. Mr Albert CHAN said that the applications should be considered one by one. He stressed that an application should be accepted only if the applicant had given the genuine reason for making the application. He considered it unacceptable that some of the 11 Members had put the blame on their personal assistants ("PAs") for missing the registration deadline. It was irresponsible of these Members to refuse to attend the Subcommittee's meeting to answer questions. Mr CHAN considered that some of the 11 Members who had rejected his application to the Establishment Subcommittee for late membership in June 2014 held double standards.

16. The Chairman advised that he had already invited the 11 Members for six times to attend the Subcommittee's special meetings to consider their applications, yet they had declined his invitations. He would, however, pay heed to members' views on how to take forward the matter. He further said that, as advised by the Clerk, the order for the consideration of the first 10 of the remaining 11 applications as listed on the agenda was based on the

respective positions of the 11 Members in LegCo's precedence list because these 10 applications had been received on the same day, i.e. 8 October 2014, whereas the 11th application had been received on 9 October 2014. As Mr WONG Kwok-kin, Mr TANG Ka-piu and Mr KWOK Wai-keung had sent in a joint application letter, in the order for considering the 11 applications, the applications from these three Members were grouped together.

17. Mr LEE Cheuk-yan said that the 11 remaining applications should be considered one by one rather than as a lot. He opined that it would be more appropriate to arrange the order for the consideration of the 11 applications with reference to the time of receipt of the application letters instead of Members' positions in LegCo's precedence list.

18. The Chairman said that in all the application letters, except that from Ms Starry LEE, the time that the letter had been sent out by fax was shown. Mr LEE Cheuk-yan suggested that the order for considering the remaining 11 applications be re-arranged with reference to the time that the application letter had been sent out by fax ("Mr LEE Cheuk-yan's suggestion").

19. Mr Albert CHAN held the view that the Subcommittee's unanimous support of Mr Paul TSE's application indicated that the Subcommittee would show positive feedback to Members' applications provided that they gave the genuine reasons for their applications and explained the reasons in person to Subcommittee members. Mr Albert CHAN and Mr LEUNG Kwok-hung suggested that the Chairman should, once again, invite the 11 Members to attend the Subcommittee's meeting. Mr LEUNG further suggested that, until the 11 Members received the Chairman's new invitation, the Subcommittee should withhold the handling of their applications. ("Mr LEUNG Kwok-hung's suggestion").

20. The Chairman pointed out that the suggestions of Mr LEE Cheuk-yan and Mr LEUNG Kwok-hung might be interrelated. If Mr LEE's suggestion was accepted by members, it would be appropriate for him to inform the 11 Members of the revised order for the consideration of their applications. The Chairman sought members' views on the suggestions.

21. Mr WU Chi-wai, Mr CHAN Chi-chuen, Mr James TO and Mr Albert CHAN agreed to Mr LEE Cheuk-yan's suggestion. Mr WU said that the application of Ms Starry LEE, whose letter did not show the time it had been sent out by fax, might be placed after the other 10 applications.

22. Mr Albert HO and Mr CHAN Chi-chuen said that the re-arrangement of the order might affect the voting result for each application. They considered that the 11 Members should be informed of the revised order.

23. Mr CHAN Han-pan considered it unnecessary for the Subcommittee to withhold the handling of the 11 applications until the 11 Members were informed about the revised order. He said that the Subcommittee should vote on their applications quickly to avoid wasting public money. He remarked that the 11 Members were well aware of the facts that (i) the Subcommittee would consider their applications in accordance with the order set out in the agenda; and (ii) a Member whose application for late membership was accepted by the Subcommittee would become the Subcommittee's member immediately. Moreover, the 11 Members had already set out the reasons for their application for late membership in their letters and responded to the Chairman that they would not attend any meeting which was held to consider their applications for late membership.

24. Mr James TO, Mr LEUNG Kwok-hung and Mr WU Chi-wai disagreed with Mr CHAN Han-pan's view and considered it necessary for the Subcommittee to inform the 11 Members of the revised order for the consideration of the 11 remaining applications.

25. Mr CHAN Chi-chuen opined that, due to the lack of sufficient information about the reasons for the 11 applications, it would be inappropriate for the Subcommittee to consider these applications at the meeting. He agreed to some members' view that the 11 Members should be invited to attend the Subcommittee's next special meeting. Mr James TO held similar views and cautioned that the Subcommittee should handle the applications carefully as any steps considered improper or unfair might lead to appeals on the Subcommittee's decisions.

26. The Chairman said that, having considered members' views, he decided to adjourn the meeting. The next meeting would be held at 10:45 am, 3 February 2015. In the meantime, he would inform the 11 Members of: (i) the Subcommittee's unanimous support of Mr Paul TSE's application; and (ii) the revised order for considering the 11 remaining applications. The 11 Members would be invited to attend the Subcommittee's next special meeting. He further advised that, as the application letter from Ms Starry LEE, submitted on 8 October 2014, did not show the time that the letter had been sent out, Ms LEE's application would be placed after those submitted on the same day.

(Post-meeting note: A sample of the letters issued by the Chairman to the 11 Members on 14 January 2015 were circulated to PWSC members vide PWSC77/14-15 on 15 January 2015.)

27. Mr CHAN Han-pan said the Subcommittee had already held three special meetings to consider the 12 applications for late membership. He expressed regret that some members had staged a filibuster in the name of upholding procedural justice.

28. There being no other business, the meeting ended at 9:46 am.

Council Business Division 1
Legislative Council Secretariat
27 March 2015