

立法會
Legislative Council

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Ref : FC/1/1(20)

Finance Committee of the Legislative Council

Minutes of the 42nd meeting
held in the Chamber of the Legislative Council Complex
on Saturday, 27 February 2016, at 4:45 pm

Members present:

Hon CHAN Kin-por, BBS, JP (Chairman)
Hon CHAN Kam-lam, SBS, JP (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 Tommy CHEUNG Yu-yan, GBS, JP
Hon Frederick FUNG Kin-kee, SBS, JP
Hon WONG Kwok-hing, BBS, MH
Prof Hon Joseph LEE Kok-long, SBS, JP, PhD, RN
Hon Jeffrey LAM Kin-fung, GBS, JP
Hon Andrew LEUNG Kwan-yuen, GBS, JP
Hon WONG Ting-kwong, SBS, JP
Hon Cyd HO Sau-lan, JP
Hon Starry LEE Wai-king, JP
Hon CHAN Hak-kan, JP
Dr Hon Priscilla LEUNG Mei-fun, SBS, JP
Hon CHEUNG Kwok-che
Hon WONG Kwok-kin, SBS
Hon IP Kwok-him, GBS, JP

Hon Mrs Regina IP LAU Suk-yee, GBS, JP
Hon Paul TSE Wai-chun, JP
Hon Alan LEONG Kah-kit, SC
Hon LEUNG Kwok-hung
Hon Albert CHAN Wai-yip
Hon WONG Yuk-man
Hon Claudia MO
Hon Michael TIEN Puk-sun, BBS, JP
Hon James TIEN Pei-chun, GBS, JP
Hon Steven HO Chun-yin, BBS
Hon Frankie YICK Chi-ming, JP
Hon WU Chi-wai, MH
Hon YIU Si-wing, BBS
Hon Gary FAN Kwok-wai
Hon MA Fung-kwok, SBS, JP
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
Hon Kenneth LEUNG
Hon Alice MAK Mei-kuen, BBS, JP
Dr Hon KWOK Ka-ki
Hon KWOK Wai-keung
Hon Dennis KWOK
Hon Christopher CHEUNG Wah-fung, SBS, JP
Dr Hon Fernando CHEUNG Chiu-hung
Hon SIN Chung-kai, SBS, JP
Dr Hon Helena WONG Pik-wan
Hon IP Kin-yuen
Dr Hon Elizabeth QUAT, JP
Hon Martin LIAO Cheung-kong, SBS, JP
Hon POON Siu-ping, BBS, MH
Hon TANG Ka-piu, JP
Dr Hon CHIANG Lai-wan, JP
Ir Dr Hon LO Wai-kwok, SBS, MH, JP
Hon CHUNG Kwok-pan
Hon Christopher CHUNG Shu-kun, BBS, MH, JP
Hon Tony TSE Wai-chuen, BBS

Members absent:

Dr Hon LAU Wong-fat, GBM, GBS, JP
Hon Vincent FANG Kang, SBS, JP
Dr Hon LAM Tai-fai, SBS, JP
Dr Hon LEUNG Ka-lau
Hon NG Leung-sing, SBS, JP
Hon CHAN Han-pan, JP

Public officers attending:

Ms Elizabeth TSE Man-yee, JP	Permanent Secretary for Financial Services and the Treasury (Treasury)
Ms Esther LEUNG, JP	Deputy Secretary for Financial Services and the Treasury (Treasury)1
Mr Alfred ZHI Jian-hong	Principal Executive Officer (General), Financial Services and the Treasury Bureau (The Treasury Branch)
Prof Anthony CHEUNG, GBS, JP	Secretary for Transport and Housing
Mr Joseph LAI, JP	Permanent Secretary for Transport and Housing (Transport)
Ms Rebecca PUN Ting-ting, JP	Deputy Secretary for Transport and Housing (Transport) 1
Mr Peter LAU Ka-keung, JP	Director of Highways
Mr Jimmy CHAN Pai-ming, JP	Principal Government Engineer (Railway Development), Highways Department
Mr TAM Hon-choi	Government Engineer (Railway Development) 2, Highways Department
Dr Philco WONG	Projects Director, MTR Corporation Limited
Ms Linda SO	Corporate Affairs Director, MTR Corporation Limited
Mr LEUNG Chi-lap	General Manager (XRL E&M), MTR Corporation Limited

Clerk in attendance:

Ms Anita SIT	Assistant Secretary General 1
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Staff in attendance:

Mr Derek LO	Chief Council Secretary (1)5
Mr Ken WOO	Senior Council Secretary (1)5
Mr Raymond SZETO	Senior Council Secretary (1)7
Mr Keith WONG	Council Secretary (1)5
Miss Queenie LAM	Senior Legislative Assistant (1)2
Mr Frankie WOO	Senior Legislative Assistant (1)3
Ms Michelle NIEN	Legislative Assistant (1)5

Action

**Item No. 1 – FCR(2015-16)46
CAPITAL WORKS RESERVE FUND**

HEAD 706 – HIGHWAYS

Transport – Railways

**53TR – Hong Kong Section of Guangzhou–Shenzhen–Hong Kong Express
Rail Link – construction of railway works**

**Item No. 2 – FCR(2015-16)47
CAPITAL WORKS RESERVE FUND**

HEAD 706 – HIGHWAYS

Transport – Railways

**57TR – Hong Kong Section of Guangzhou–Shenzhen–Hong Kong Express
Rail Link – construction of non-railway works**

The Deputy Chairman advised that the Finance Committee ("FC") would continue with the deliberation on the motion moved by Dr KWOK Ka-ki pursuant to paragraph 39 of the Finance Committee Procedure ("FCP") that further proceedings of the Committee be now adjourned.

2. Mr James TO, Ms Claudia MO, Mr LEE Cheuk-yan, Mr Gary FAN, Mr CHAN Chi-chuen, Dr Kenneth CHAN, Mr Albert CHAN, Dr Helena WONG and Mr LEUNG Kwok-hung spoke in support of Dr KWOK Ka-ki's motion. These members considered it unfair that the Deputy Chairman declared that members were only allowed to raise the last round of questions for two minutes before the questioning session would come to a close because such arrangement was not in line with the usual practice of the FC Chairman. Normally, the FC Chairman would allow each member five minutes to speak during the first round of questions and then progressively reduce the question time to one minute for the fifth and further rounds. The Deputy Chairman had deprived members of their rights to monitor the Government by raising

questions and requesting for information. As a number of doubts concerning the cost overrun and delay of the Hong Kong Section of the Guangzhou-Shenzhen-Hong Kong Express Rail Link ("XRL") project had not yet been dispelled, it was indeed difficult for members to first approve the additional funding proposal at this juncture. Dr Kenneth CHAN and Dr Helena WONG queried about the Deputy Chairman's justification for ordering them to withdraw from the last meeting.

3. Ms Starry LEE spoke against Dr KWOK Ka-ki's motion. She pointed out that adjourning further proceedings of the Committee was in contrary to members' expectation of raising further questions to the Administration. Ms LEE declared that she was the Director of KPMG China and advised that while KPMG had provided professional services to MTR Corporation Limited ("MTRCL"), she personally did not involve in any of these services, therefore she had no direct or indirect pecuniary interest.

4. In response to the motion, Secretary for Transport and Housing ("STH") reiterated that the Government had commenced discussion with the relevant Mainland authorities on immigration and customs clearance arrangements relating to the Hong Kong Section of XRL. He also emphasized that he did not trump up that it was necessary to consider by the end of February 2016 the deadline for suspending the project, and pointed out that information about 42 works contracts, including granting date and progress, had been provided at members' request. He further clarified that while the direct economic benefits of the XRL Hong Kong Section estimated in 2009 were discounted to 2009 prices at a rate of 4%, such benefits were still calculated at a rate of 4% and discounted to 2015 prices when the Administration updated the relevant estimations in 2015.

5. The Deputy Chairman responded to some members' queries that it was not justified for him to order some members to withdraw from the last meeting held on the same day. He pointed out that some members occupied the Chairman's seat and hindered the work of the Clerk at the last meeting, disrupting the order of the meeting. Besides, some other members surrounded the Chairman's bench and refused to return to their seats as he had directed, making the meeting unable to proceed. In order to ensure the continuous conduct of the meeting, he had no choice but to order the aforesaid members to withdraw from the meeting and directed that the Committee be moved to the Chamber of the Legislative Council ("LegCo") Complex to hold the meeting.

6. Dr KWOK Ka-ki spoke in reply on his motion. The Deputy Chairman then put Dr KWOK's motion to vote. At the request of Mr Gary FAN, the Deputy Chairman ordered a division and the division bell was rung for five minutes.

7. The Deputy Chairman announced that 25 members voted in favour of, and 29 members voted against the motion. The votes of individual members were as follows –

For:

Mr Albert HO Chun-yan	Mr LEE Cheuk-yan
Mr James TO Kun-sun	Mr LEUNG Yiu-chung
Ms Emily LAU Wai-hing	Mr Frederick FUNG Kin-kee
Prof Joseph LEE Kok-long	Ms Cyd HO Sau-lan
Mr CHEUNG Kwok-che	Mr Alan LEONG Kah-kit
Mr LEUNG Kwok-hung	Mr Albert CHAN Wai-yip
Mr WONG Yuk-man	Ms Claudia MO
Mr WU Chi-wai	Mr Gary FAN Kwok-wai
Mr Charles Peter MOK	Mr CHAN Chi-chuen
Dr Kenneth CHAN Ka-lok	Mr Kenneth LEUNG
Dr KWOK Ka-ki	Mr Dennis KWOK
Dr Fernando CHEUNG Chiu-hung	Mr SIN Chung-kai
Dr Helena WONG Pik-wan	
(25 members)	

Against:

Mr TAM Yiu-chung	Mr WONG Kwok-hing
Mr Jeffrey LAM Kin-fung	Mr Andrew LEUNG Kwan-yuen
Mr WONG Ting-kwong	Ms Starry LEE Wai-king
Mr CHAN Hak-kan	Dr Priscilla LEUNG Mei-fun
Mr WONG Kwok-kin	Mr IP Kwok-him
Mrs Regina IP LAU Suk-yee	Mr Paul TSE Wai-chun
Mr Michael TIEN Puk-sun	Mr Steven HO Chun-yin
Mr Frankie YICK Chi-ming	Mr YIU Si-wing
Mr MA Fung-kwok	Miss CHAN Yuen-han
Mr LEUNG Che-cheung	Miss Alice MAK Mei-kuen
Mr KWOK Wai-keung	Dr Elizabeth QUAT
Mr Martin LIAO Cheung-kong	Mr POON Siu-ping
Mr TANG Ka-piu	Dr CHIANG Lai-wan
Mr Dr LO Wai-kwok	Mr Christopher CHUNG Shu-kun
Mr Tony TSE Wai-chuen	
(29 members)	

8. The Deputy Chairman declared that the motion was negatived.

Last round for members to speak two minutes on the agenda items

9. The Deputy Chairman invited members to speak for the last round for not more than two minutes.

10. Mr LEUNG Kwok-hung queried about the Deputy Chairman's justification for ending the questioning session. Dr KWOK Ka-ki requested to summon the Legal Adviser of FC to give an explanation in respect of the Deputy Chairman's decision. The Deputy Chairman reiterated that, although some members had not raised questions for many times, FC had spent more than 25 hours to discuss this additional funding item and members had raised questions for more than 100 times in total. Hence, he was of the view that he had already made reasonable arrangements to allow members to raise questions.

11. Mr Charles MOK, Mr SIN Chung-kai, Ms Cyd HO, Mr LEUNG Yiu-chung, Dr Fernando CHEUNG, Ms Emily LAU, Mr Dennis KWOK, Mr Albert HO, Mr CHEUNG Kwok-che, Mr WU Chi-wai, Mr Alan LEONG, Mr Kenneth LEUNG, Mr Frederick FUNG, Mr Gary FAN, Mr LEE Cheuk-yan, Ms Claudia MO, Mr CHAN Chi-chuen, Mr Albert CHAN, Dr Helena WONG, Mr IP Kin-yuen, Mr James TO and Dr Kenneth CHAN spoke on the funding application for the last round for two minutes. These members criticized that the Administration's replies to questions raised by members were ambiguous, avoiding issues that members were gravely concerned about, such as the financial feasibility of the project, the possible long-term deficits brought by the operation of the project, the possible impact of the "co-location arrangements" on the Basic Law and the principle of "one country, two systems", the possible use of the project for military purpose, the information and progress of 42 works contracts, as well as the profit sharing of the project with Mainland operators, etc. These members therefore spelled it out that it was not acceptable of the Deputy Chairman to "draw a line" on the questioning session.

12. At 6:27 pm, the Deputy Chairman directed the meeting be extended for 15 minutes.

13. Mr LEE Cheuk-yan requested for a verbatim transcript to be prepared for this meeting. Some members raised objection. The Deputy Chairman was of the view that as the video recording of the meeting would be uploaded to the LegCo's website, it was not necessary to prepare a verbatim transcript for the meeting.

14. Referring to STH's remarks that the Administration would secure LegCo's consent before implementing the final proposal on the immigration and customs clearance arrangements of the Hong Kong Section of the XRL project, Mr Michael TIEN requested the Administration to clarify whether this was tantamount to saying that it had to be implemented through legislative means. STH responded that legislation would be a means to approve the arrangements concerned. The concrete proposal for the "co-location arrangements" would be submitted to LegCo for consultation and be put into implementation only after securing LegCo's consent.

15. Mr WU Chi-wai expressed concern as to whether the arrangement of MTRCL to also apply the factor of price surge to the adjustment of contracts signed at fixed prices would be in violation of the established criteria. Mr MA Fung-kwok was concerned that contractors of the Hong Kong Section of XRL might request to revise the contract requirements on the ground of the tight schedule. He requested the Administration to closely monitor the contractual arrangements between MTRCL and its contractors to prevent MTRCL from arbitrarily revising the terms of contracts, so as to safeguard the uses of public money. Mr Tony TSE and Mr Martin LIAO both requested MTRCL to deal with the issues relating to obligations and claims in accordance with the terms of the contracts. Director of Highways explained that taking into account the delay in the project and the terms of the relevant contracts, MTRCL might consider it necessary to make appropriate price adjustments to some of the contracts in order to cope with any possible claims. However, the Administration and MTRCL had an established mechanism for monitoring the execution of each works contract and MTRCL was required to deal with any request for revisions of the contracts and claims according to the terms of the contracts. Under the Entrustment Agreement, MTRCL was required to manage works contracts in the best interest of the project.

16. Mr Abraham SHEK declared that he was a non-executive director of MTRCL. He pointed out that the concerns raised by members in respect of the additional funding had been explained in detail in the reports published by MTRCL in July and November 2014 respectively.

17. At 6:39 pm, the Deputy Chairman declared that the questioning session in respect of the additional funding application be ended, and FC would start dealing with the motions proposed to be moved by members pursuant to paragraph 37A of FCP. As some members walked out in protest towards the President's podium, the Deputy Chairman advised at 6:40 pm that the meeting was unable to continue due to disruptions. He declared the meeting be adjourned.

18. The meeting was adjourned at 6:40 pm.

Legislative Council Secretariat

22 August 2016