

立法會
Legislative Council

LC Paper No. FC251/17-18
(These minutes have been
cleared with the Chairman)

Ref : FC/1/1

Finance Committee of the Legislative Council

Minutes of special meeting
held at Conference Room 1 of the Legislative Council Complex
on Friday, 5 January 2018, at 8:32 am

Members present:

Hon CHAN Kin-por, GBS, JP (Chairman)
Hon Michael TIEN Puk-sun, BBS, JP (Deputy Chairman)
Hon James TO Kun-sun
Hon LEUNG Yiu-chung
Hon Abraham SHEK Lai-him, GBS, JP
Prof Hon Joseph LEE Kok-long, SBS, JP
Hon Jeffrey LAM Kin-fung, GBS, JP
Hon WONG Ting-kwong, GBS, JP
Hon Starry LEE Wai-king, SBS, JP
Hon CHAN Hak-kan, BBS, JP
Dr Hon Priscilla LEUNG Mei-fun, SBS, JP
Hon WONG Kwok-kin, SBS, JP
Hon Mrs Regina IP LAU Suk-yee, GBS, JP
Hon Paul TSE Wai-chun, JP
Hon Claudia MO
Hon Steven HO Chun-yin, BBS
Hon WU Chi-wai, MH
Hon YIU Si-wing, BBS
Hon MA Fung-kwok, SBS, JP
Hon Charles Peter MOK, JP
Hon CHAN Chi-chuen
Hon CHAN Han-pan, JP
Hon LEUNG Che-cheung, SBS, MH, JP
Hon Kenneth LEUNG
Hon Alice MAK Mei-kuen, BBS, JP
Dr Hon KWOK Ka-ki

Hon KWOK Wai-keung, JP
Hon Dennis KWOK Wing-hang
Hon Christopher CHEUNG Wah-fung, SBS, JP
Dr Hon Fernando CHEUNG Chiu-hung
Hon IP Kin-yuen
Dr Hon Elizabeth QUAT, BBS, JP
Hon Martin LIAO Cheung-kong, SBS, JP
Hon POON Siu-ping, BBS, MH
Dr Hon CHIANG Lai-wan, JP
Hon Andrew WAN Siu-kin
Hon CHU Hoi-dick
Dr Hon Junius HO Kwan-yiu, JP
Hon LAM Cheuk-ting
Hon Holden CHOW Ho-ding
Hon SHIU Ka-fai
Hon SHIU Ka-chun
Hon Wilson OR Chong-shing, MH
Hon YUNG Hoi-yan
Dr Hon Pierre CHAN
Hon Tanya CHAN
Hon CHEUNG Kwok-kwan, JP
Hon HUI Chi-fung
Hon LAU Kwok-fan, MH
Hon Kenneth LAU Ip-keung, BBS, MH, JP
Dr Hon CHENG Chung-tai
Hon KWONG Chun-yu
Hon Jeremy TAM Man-ho

Members absent:

Hon Tommy CHEUNG Yu-yan, GBS, JP
Hon Frankie YICK Chi-ming, SBS, JP
Dr Hon Helena WONG Pik-wan
Ir Dr Hon LO Wai-kwok, SBS, MH, JP
Hon CHUNG Kwok-pan
Hon Alvin YEUNG
Hon Jimmy NG Wing-ka, JP
Hon HO Kai-ming
Hon CHAN Chun-ying
Hon LUK Chung-hung

Clerk in attendance:

Ms Anita SIT

Assistant Secretary General 1

Staff in attendance:

Mr Derek LO

Chief Council Secretary (1)5

Ms Ada LAU

Senior Council Secretary(1)7

Mr Raymond SZETO

Council Secretary (1)5

Mr Frankie WOO

Senior Legislative Assistant (1)3

Miss Yannes HO

Legislative Assistant (1)6

Action

Item 1 — Procedure for the Finance Committee to deal with members' motions to amend the Finance Committee Procedure, the Establishment Subcommittee Procedure and the Public Works Subcommittee Procedure

The Chairman briefed members on the purpose of holding the special meetings on that day and the next day. The Chairman advised that the special meetings were held for the Finance Committee ("FC") to establish a set of procedures for dealing with members' motions to amend the Finance Committee Procedure ("FCP"), the Establishment Subcommittee Procedure and the Public Works Subcommittee Procedure (the three sets of procedure collectively referred to as "the Procedures") ("the Handling Procedure"). The Chairman further explained that there was no specific provision in the Rules of Procedure of the Legislative Council ("RoP") and FCP governing how FC should deal with amendments proposed to be made to the Procedures. As a number of members had given notices to move motions to amend the Procedures, the Chairman directed the Secretariat to propose a Handling Procedure for consultation with members. Most members who responded to the relevant consultation paper were supportive of the Handling Procedure proposed by the Secretariat. A special meeting was originally scheduled to be held on 25 November 2017 for FC to discuss whether the Handling Procedure proposed by the Secretariat should be adopted, and a discussion paper on the subject had also been issued by the Secretariat. However, some members requested that a briefing session be held on the matter. At the briefing session held on 20 November 2017, some members relayed to the Chairman the view that any proposal(s) on the Handling Procedure should be presented to FC in the form of a motion, so that members could propose alternative proposals and amendments to the extant proposal(s). Having

considered the views from members, and to ensure orderly, efficient and fair conduct of business by FC, the Chairman decided that the Handling Procedure proposed by the Secretariat should be presented to FC in the form of a motion, and individual members might propose motions on the Handling Procedure ("the Original Motions") and amendments to such motions ("the Amending Motions"). Having regard to the precedent cases, Mr Michael TIEN, the Deputy Chairman, agreed to present the Handling Procedure proposed by the Secretariat to FC in the form of a motion and to move the said motion for FC's approval.

Members' views on the arrangement of the special meetings

Written notice of the special meetings and members' speaking time

2. Mr Andrew WAN, Mr HUI Chi-fung, Dr Fernando CHEUNG, Mr CHAN Chi-chuen, Mr Charles Peter MOK and Mr KWONG Chun-yu were dissatisfied that members did not receive written notice for the arrangements of the special meetings on that day and the next day until the day before. Mr WAN and Mr MOK sought an undertaking from the Chairman that no such arrangement would be made again in future.

3. Ms Claudia MO, Mr Andrew WAN and Mr KWONG Chun-yu criticized the Chairman for not allowing sufficient speaking time for members as each member (except the movers of the Original Motions) could only speak once for not more than eight minutes. They questioned the principles behind the Chairman's decision on members' speaking time.

4. The Chairman explained that the present special meeting was held for FC to establish a set of procedures for dealing with members' motions to amend the Procedures. The Chairman considered that the said purpose was clear and straight forward, while only one subject was being dealt with under the Original Motions and Amending Motions. He held that by holding a joint debate, members could have a focused discussion on the matter before coming to a decision. In this regard, he had given instructions regarding the speaking time of members as appropriate under RoP 38, RoP 43 and FCP 38. The Chairman added that for special meetings held in future to deal with members' motions for amending the Procedures, he would set members' speaking time as appropriate accordingly. The Chairman pointed out that written notice for the special meetings on that day and the next day was issued to members vide LC Paper No. FC91/17-18 on 28 December 2017, while the circular LC Paper No. FC95/17-18 was issued on 4 January 2018 to set out the relevant debate and voting arrangements.

The Chairman's rulings on the Original Motions and Amending Motions

5. Mr CHAN Chi-chuen, Mr CHU Hoi-dick and Mr KWONG Chun-yu expressed dissatisfaction with the Chairman's rulings in respect of some Original Motions and Amending Motions proposed by members.

6. Mr CHAN Chi-chuen, Mr CHU Hoi-dick, Ms Claudia MO, Dr Fernando CHEUNG, Mr Dennis KWOK and Mr Jeremy TAM were of the view that in this instance, the Secretariat had not provided any technical advice to members regarding their proposed Original Motions and Amending Motions (including correction of typographical errors, as well as improving the style and wording of the motions), which was a departure from the previous practice adopted by the Secretariat to give advice on Members' motions moved in Council meetings. Mr CHU opined that the current practice was inconsistent with the provision in RoP 63(2). Mr TAM and Mr Andrew WAN asked whether the Chairman had instructed the Secretariat not to provide assistance to members in this respect. Mr WAN also asked whether the Secretariat had provided assistance to Mr Michael TIEN for polishing his Original Motion; if it had, what the details were. Mr WAN asked if the Chairman would seek legal advice on the motions for amending the Procedures. Mr CHAN said that when he submitted his Amending Motions the day before expiry of the notice period, the Secretariat did not give him any advice at all. Mr Dennis KWOK considered that FC should appoint a subcommittee similar to the Committee on Rules of Procedure to handle the work relating to amendments to the Procedures.

7. The Chairman said that as he had already clearly explained the rationale for ruling certain proposed Original Motions and Amending Motions to be out of order in his written rulings, he did not intend to discuss those cases specifically at the present meeting. Regarding the motions to amend the Procedures already proposed by members, he would make his ruling in due course, and legality would be one of the factors he would take into consideration. The Chairman explained that since Mr Michael TIEN's Original Motion was an exact copy of the proposed Handling Procedure set out in FCR(2017-18)40, there was no need for any refinement. On the Chairman's instruction, the Clerk explained that except for Mr Michael TIEN, other movers did not submit their proposed Original Motions until the notice period was about to expire. Before expiry of the notice period, the Secretariat could normally give advice to the members concerned on the texts, and not the material contents, of their proposed Original Motions or Amending Motions, so that they might decide for themselves whether to revise and re-submit the same before

expiry of the notice period. After expiry of the notice period, it would not be appropriate for the Secretariat to give any advice to members on such motions as they were subject to the Chairman's ruling according to RoP.

Joint debate and voting arrangements

8. Mr CHAN Chi-chuen, Mr CHU Hoi-dick and Mr Charles Peter MOK were dissatisfied with the arrangements for handling the Original Motions and Amending Motions. Mr CHU pointed out that as stated in FC64/17-18 issued on 28 November 2017, Mr Michael TIEN, the Deputy Chairman, had agreed to give notice to move a motion on the proposed Handling Procedure set out in FCR(2017-18)40 for FC's approval. Mr CHU considered that in that case, Mr TIEN would surely be the first member to propose an Original Motion. Coupled with the fact that the sequence of voting would depend on the time of submission of the admissible Original Motions, the arrangement was unfair to other members. Mr IP Kin-yuen was of the view that since the Original Motions and Amending Motions were not all mutually exclusive or repetitive, FC should consider the Original Motions and their Amending Motions one by one, and consolidate their merits in a single proposal. Mr CHAN Chi-chuen, Dr Fernando CHEUNG, Mr Charles Peter MOK and Mr IP Kin-yuen expressed dissatisfaction with the joint debate and voting arrangements.

9. On the Chairman's instruction, the Clerk explained that according to the established practice, the voting sequence of the Original Motions would be decided according to the time such motions were submitted by members.

10. The Chairman explained that since the seven Original Motions proposed by members were independent alternative proposals on the Handling Procedure, according to RoP 34(4), he considered it appropriate to hold a joint debate on the seven Original Motions and their Amending Motions. He did not agree with members' claim that the voting arrangement was unfair to some members. Moreover, members had already been informed about the principles for dealing with the Original Motions and Amending Motions at the special meetings vide LC Paper No. FC91/17-18 issued by the Secretariat on 28 December 2017. The Chairman also pointed out that the present special meeting was originally scheduled to be held on 16 December 2017 but had subsequently been postponed due to clashes with Council meetings. As the ruling on the Amending Motions had already been issued to members vide LC Paper No. FC87/17-18 on 20 December 2017, members should have sufficient time and information to prepare for the debate.

Mechanism for amending the Handling Procedure

11. Mr IP Kin-yuen asked whether the Original Motion or the same as amended that was passed at the present special meeting would be incorporated into FCP forthwith or become a stand-alone resolution. Mr IP also enquired about the mechanism for amending the Handling Procedure passed by FC. Raising similar concerns, Mr CHU Hoi-dick held that the Handling Procedure passed by FC should first be incorporated into FCP before FC proceeded to deal with the motions proposed by members to amend the Procedures.

12. The Chairman said that he considered it more appropriate to implement the said procedures for a period of time before incorporating the same into FCP. Alternatively, FC might further amend the procedures when necessary. The Chairman advised that he would provide a written response later on Mr IP Kin-yuen's point about the principles for handling the motions.

Other views

13. Mr CHU Hoi-dick pointed out that as the Chairman had publicly stated time and again his view that it was necessary to amend the Procedures, it was inappropriate for the Chairman to preside over the special meetings held in connection with amending the Procedures. In response, the Chairman affirmed that he had publicly stated his stance on amending the Procedures. Nonetheless, the purpose of the special meetings on that day and the next day was for FC to establish a set of handling procedures, which had no relevance to his personal stance on the matter.

14. Dr CHENG Chung-tai held that the absence of any provision in FCP concerning the procedure for amending the Procedures had provided FC with certain flexibility in respect of its proceedings. Members should consider whether it was necessary to adopt a set of procedures for amending the Procedures. He also considered the term "necessary modifications" in the 1st motion incomprehensible. The Clerk explained that "necessary modifications" was a term used in FCP 37. Mr SHIU Ka-chun expressed dissatisfaction with the Chairman's handling of the special meetings.

Joint debate on the Original Motions and Amending Motions

15. At 9:54 am, the Chairman called upon Mr Michael TIEN to speak and move his Original Motion. Mr TIEN spoke and moved his Original Motion. Mr TIEN said that the purpose of the motion was to seek FC's approval of the set of procedures set out in his Original Motion, so that it would form the procedural basis on how FC should handle amendments to be made to the Procedures in future. Under the procedure proposed by the Secretariat, various provisions under RoP 29 to RoP 35 should apply to FC's proceedings on dealing with members' motions to amend the Procedures and that the practices governing the dealing of motions with legislative effect at meetings of the Legislative Council ("LegCo") should be adopted, with necessary modifications. In other words, if the Handling Procedure set out in the motion was adopted by FC, the practice of FC would generally be in line with that of LegCo for dealing with motions with legislative effect.

16. The Chairman proposed the question on the 1st Original Motion and called upon Mr CHU Hoi-dick to speak.

17. Mr CHU Hoi-dick considered that members had yet to reach a consensus on how to amend the Procedures. As he could foresee, motions proposed by pro-establishment Members to amend the Procedures would further undermine FC's power to scrutinize financial proposals submitted by the Administration. Mr CHU held that the Chairman should first allow members to discuss whether such proposed motions to amend the Procedures were lawful. Separately, Mr CHU opined that Mr Michael TIEN's Original Motion was seriously flawed because it did not specify the notice requirement for holding special meetings. In his view, while his proposed Amending Motions were not in conflict with Mr TIEN's Original Motion, they had been ruled to be out of order by the Chairman. He considered the Chairman's ruling unfair. Stating his view that each proposed motion to amend the Procedures should only cover one paragraph of the relevant procedures, Mr CHU explained the importance of such a principle.

Motion for the adjournment of further proceedings of FC

18. At 10:04 am, Mr CHU Hoi-dick moved that further proceedings of FC be then adjourned under FCP 39. The Chairman proposed the question on the adjournment motion and directed that each member might speak once on the motion for not more than three minutes.

19. Mr CHU Hoi-dick spoke on his motion. He said that given that there were deficiencies in Mr Michael TIEN's motion and the Amending Motions and Original Motions he proposed were intended to rectify the deficiencies and improve the procedure as a whole, he requested the Chairman to allow the combination of non-conflicting Original Motions and Amending Motions.

20. The Chairman reminded the Member that he should focus his speech on the reasons for moving the motion to adjourn further proceedings of FC. Ms Claudia MO, Mr CHAN Chi-chuen, Dr KWOK Ka-ki, Mr Charles Peter MOK, Mr HUI Chi-fung, Mr Andrew WAN, Mr KWONG Chun-yu, Mr Dennis KWOK, Dr Fernando CHEUNG, Mr SHIU Ka-chun, Mr LEUNG Yiu-chung and Dr CHENG Chung-tai spoke in support of the adjournment motion. In general, they expressed dissatisfaction with the Chairman's handling of the special meetings and held that proposals from pro-establishment members to amend the Procedures were tantamount to FC voluntarily surrendering its scrutiny powers. Mr Dennis KWOK considered that the relevant amendment proposals might be in conflict with the powers vested to FC by the Public Finance Ordinance (Cap. 2) and hence unlawful. He requested that the Chairman should seek legal advice on the matter and disclose the same.

21. At 10:27 am, the Chairman directed that the special meeting be extended for 15 minutes. After Dr CHENG Chung-tai had spoken, Mr CHU Hoi-dick's motion to adjourn further proceedings of FC was not put to vote as the time was up for the meeting.

[Post-meeting note: The information note prepared by LegCo Secretariat on issues raised by members at the special meetings held on 5 and 6 January 2018 (LC Paper No. FC106/17-18) was issued to members vide LC Paper No. FC107/17-18 on 12 January 2018.]

22. The meeting ended at 10:46 am.