

立法會
Legislative Council

LC Paper No. CB(2)2733/11-12
(These minutes have been
cleared with the Chairman)

Ref : CB2/SC/11

**Select Committee to Study Mr LEUNG Chun-ying's Involvement as a
Member of the Jury in the West Kowloon Reclamation Concept Plan
Competition and Related Issues**

**Minutes of the first meeting
held on Saturday, 10 March 2012, at 9:00 am
in Conference Room 3 of the Legislative Council Complex**

- Members present** : Hon IP Kwok-him, GBS, JP (Chairman)
Hon Andrew CHENG Kar-foo (Deputy Chairman)
Dr Hon Philip WONG Yu-hong, GBS
Hon Abraham SHEK Lai-him, SBS, JP
Hon LEE Wing-tat
Hon Cyd HO Sau-lan
Dr Hon LAM Tai-fai, BBS, JP
Hon Paul CHAN Mo-po, MH, JP
Dr Hon Priscilla LEUNG Mei-fun, JP
Hon Paul TSE Wai-chun, JP
Hon Tanya CHAN
Hon WONG Yuk-man
- Clerk in attendance** : Mr Thomas WONG
Principal Council Secretary (SC)(2)
- Staff in attendance** : Ms Pauline NG
Secretary General
- Mr Jimmy MA, JP
Legal Adviser

Mr Stephen LAM
Senior Assistant Legal Adviser 4

Miss Odelia LEUNG
Assistant Secretary General 2

Miss Evelyn LEE
Assistant Legal Adviser 10

Ms Hedy FOK
Senior Council Secretary (SC)(2)2

Miss Jasmine TAM
Council Secretary (SC)(2)1

Mr Ringo LEE
Senior Legislative Assistant (2)1

Miss Emma CHEUNG
Legislative Assistant (SC)(2)

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The Chairman drew members' attention to the requirements in Rules 83A and 84 of the Rules of Procedure of the Legislative Council ("RoP") concerning personal pecuniary interest to be disclosed and voting or withdrawal in case of direct pecuniary interest respectively. He said that despite the absence of provisions on disclosure of non-pecuniary interests in RoP, there might be situations in which a member wished to declare non-pecuniary interests. He suggested and members agreed that the member concerned should write to the Chairman to declare such interests, if any. Members also agreed that the declaration of interests by members in writing would be uploaded onto the website of the Legislative Council ("LegCo").

2. The Chairman declared that he was a trustee and one of the Vice-Chairmen of Hon Wah Educational Organization, and Mr LEUNG Chun-ying was one of the 11 school managers of Hon Wah College under the Hon Wah Educational Organization.

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3. The Deputy Chairman declared that he was a former classmate of Mr CHIU Kam-Kuen of DTZ Debenham Tie Leung Limited whose name appeared on the list of Project Team members submitted by Dr Kenneth Yeang of T R Hamzah & Yeang Sdn Bhd to the Organizer of the West Kowloon Reclamation Concept Plan Competition ("the Competition") held in 2001-2002.

4. Mr Paul CHAN declared that he had nominated Mr LEUNG Chun-ying as a candidate in the 2012 Chief Executive ("CE") Election.

5. Dr Philip WONG and Mr Abraham SHEK declared that they had nominated Mr Henry TANG as a candidate in the 2012 CE Election.

I. Proposed practice and procedure for the Select Committee

LC Paper No. CB(2)1319/11-12(01)	-- Paper on proposed practice and procedure for the Select Committee prepared by the LegCo Secretariat ("proposed Practice and Procedure")
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6. Members noted that paragraph 18(g) of the proposed Practice and Procedure (which was subsequently re-numbered as paragraph 17(g) of the Practice and Procedure) would be revised as follows to bring it in line with the Practice and Procedure for the Select Committee to Inquire into Matters Relating to the Post-service Work of Mr LEUNG Chin-man -

"the privileges provided by Cap. 382 are available only within the context of the hearings. All members, including non-Select Committee Members should refrain from making comments relating to the hearing outside of the proceedings of the Select Committee. Evidence given in closed meetings should not be made public by any members."

7. The Deputy Chairman suggested that the phrase "and where possible," in the last sentence of paragraph 26 of the proposed Practice and Procedure be deleted. Mr Paul TSE however considered that the phrase should be retained to maintain flexibility. As there were divided views among members on the Deputy Chairman's suggestion, the Chairman put the suggestion to vote. Four members voted for and three members voted against the suggestion, and four members abstained. The Chairman declared that the suggestion was adopted.

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8. Members agreed to further amend paragraph 26 of the proposed Practice and Procedure as follows -

- (a) "closed meetings" be substituted by "closed hearings"; and
- (b) the phrase "and where possible, the identity of the witness who has provided the information should not be disclosed" be substituted by "and the identity of the witness who has provided the information should not be disclosed if it is so decided by the Select Committee".

9. On Mr Paul TSE's enquiry about whether the proposed Practice and Procedure could be revised in the future if necessary, the Chairman responded in the affirmative.

10. Dr Priscilla LEUNG asked whether there was a need to invite views of the parties concerned (such as Mr LEUNG Chun-ying) on the proposed Practice and Procedure. Secretary General ("SG") advised that the proposed Practice and Procedure was drawn up having regard to those adopted by previous select committees and committees with an investigatory function. Any person could submit his/her views to the Select Committee on its Practice and Procedure, which would be uploaded onto the LegCo website after it was endorsed.

11. Members endorsed the proposed Practice and Procedure.

II. Proposed major areas of study

LC Paper No. CB(2)1319/11-12(02)	-- Paper on proposed major areas of study prepared by the LegCo Secretariat ("proposed major areas of study")
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12. The Chairman reminded members that the areas to be studied should be confined to those within the terms of reference of the Select Committee as set out in the Resolution passed by LegCo on 29 February 2012.

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13. Mr Abraham SHEK considered that the Select Committee should study the role and involvement of the Executive Council ("ExCo") and the Administration in the Competition. Mr LEE Wing-tat added that the role and involvement of the Administration and ExCo in the release of information on the final results of the Competition and disqualification of entries should also be studied. Mr Abraham SHEK, Ms Cyd HO and Mr WONG Yuk-man considered that the Administration should provide information on the discussions held, and the relevant papers considered, by ExCo in relation to the Competition.

14. Dr Priscilla LEUNG said that the Select Committee should study the assessment and adjudication process of the entries including the first prize winner. The Chairman reminded members that the matters to be studied had to be within the terms of reference of the Select Committee, i.e. Mr LEUNG Chun-ying's involvement as a member of the Jury in the Competition and related issues. Mr Paul TSE and Miss Tanya CHAN considered that the matter raised by Dr Priscilla LEUNG might be covered by items (h), (i) and (k) of the proposed major areas of study.

15. Mr Paul CHAN considered it necessary for the Administration to provide the Select Committee with a copy of the declaration forms completed by all members of the Jury for the Competition.

16. In response to Miss Tanya CHAN's enquiry as to whether the role and involvement of the Professional Adviser to the Competition fell within the proposed major areas of study, the Clerk advised that the matter should fall within the scope of item I of the proposed major areas of study.

17. Members endorsed the proposed major areas of study.

III. Proposed work plan

LC Paper No. CB(2)1319/11-12(03)	-- Paper on proposed work plan prepared by the LegCo Secretariat ("proposed work plan")
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18. In response to Mr WONG Yuk-man's enquiry about the latest date by which the Select Committee should submit its report to LegCo, SG advised that the Select Committee would have to complete its work and report to LegCo before the fourth-term LegCo was to stand prorogued in mid-July 2012.

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19. Members endorsed the proposed work plan and agreed in principle that the Select Committee would hold two meetings or hearings per week. Members also agreed that pre-hearing and post-hearing internal deliberations, each lasting about 30 minutes, would be held for each hearing.

IV. Proposed list of persons who may assist the Select Committee in its study

LC Paper No. CB(2)1319/11-12(04)	-- Paper on witnesses to be invited to assist the Select Committee in its study prepared by the LegCo Secretariat
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Whether witnesses should be summoned or invited

Local witnesses

20. Mr LEE Wing-tat asked whether a witness not summoned but invited to give evidence before the Select Committee would be examined on oath. Legal Adviser ("LA") advised that it was up to the Select Committee to decide.

21. Members agreed that all local witnesses appearing before the Select Committee to give evidence should be summoned in accordance with the relevant provisions of the Legislative Council (Powers and Privileges) Ordinance (Cap. 382) and examined on oath.

Overseas witnesses

22. The Chairman pointed out that the Select Committee's power to summon was confined to witnesses who resided in Hong Kong, as Cap. 382 did not have extra-territorial effect. LA advised that a summons issued under Cap. 382 could not be served on and enforced against a person who was not present in Hong Kong. He informed members that in the case of the Select Committee to inquire into the handling of the Severe Acute Respiratory Syndrome ("SARS") outbreak by the Government and the Hospital Authority (the SARS Select Committee), Dr Margaret CHAN, former Director of Health, had returned from overseas to Hong Kong, and a summons was served on her when she arrived in Hong Kong. Pursuant to

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section 14(1) of Cap. 382, a witness summoned to appear before the Select Committee to give evidence etc. would be entitled, in respect of such evidence, to the same right or privilege as before a court of law.

23. Ms Cyd HO and Dr Priscilla LEUNG considered that overseas members of the Jury should be invited to provide information to the Select Committee.

24. SG advised that there were previous cases where a select committee had invited an overseas witness to come to Hong Kong before a summons was served on him/her in Hong Kong. Information provided by a witness on invitation would not enjoy the same right or privilege accorded to persons summoned to appear before the Select Committee to give evidence or to produce papers, books, records or documents pursuant to Cap. 382. SG added that the LegCo Secretariat would explore the feasibility of arranging video-conferencing for overseas witnesses to provide information to the Select Committee by invitation.

Arrangements for CE and CE-elect to appear before a select committee

25. Ms Cyd HO sought information on the arrangements for CE to provide information to the SARS Select Committee. LA advised that the SARS Select Committee had invited, in the first instance, CE to give evidence at an open meeting without being required to give evidence under oath. The SARS Select Committee was subsequently advised by the CE's Office that although CE appreciated the nature of the invitation, he considered it "constitutionally inappropriate" for him as the Head of the Hong Kong Special Administrative Region to be subject to personal compulsion by the legislature. Members of the SARS Select Committee subsequently had a meeting with CE in the Government House outside the SARS Select Committee's formal proceedings for obtaining information from him.

26. In response to Mr LEE Wing-tat's question on whether Article 48(11) of the Basic Law ("BL48(11)") was applicable to CE-elect, LA advised that BL48(11), which was applicable to CE, had to be read in conjunction with BL73(10). There was no definition of CE-elect in BL or existing legislation.

27. Mr WONG Yuk-man requested the Legal Service Division to provide a paper on the position of a select committee in law if it was to obtain evidence from CE.

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(Post-meeting note: The paper prepared by the Legal Adviser to the Select Committee (LC Paper No. LS46/11-12) was circulated to members vide LC paper No. CB(2)1425/11-12 on 16 March 2012.)

28. Mr Paul CHAN asked whether CE-elect might refuse to attend a hearing of the Select Committee. LA advised that under section 9 of Cap. 382, LegCo might summon any person to appear before a committee specifically authorized by a resolution of LegCo to exercise such powers in respect of any matter or question specified in the resolution. However, under BL48(11), the Chief Executive was given the power and function to decide, in the light of vital public interests, whether government officials or other personnel in charge of government affairs should testify or give evidence before the Legislative Council or a committee.

29. In response to Mr Paul TSE's further enquiry about the process of issuing summonses to witnesses, SG advised that upon determination of the date and time of a hearing and the witnesses to be summoned, she would, with the consent and on the authorization of the President of LegCo, issue summonses to the witnesses concerned under section 10 of Cap. 382 and inform the witnesses of the major areas of study of the Select Committee, among others.

Persons to be summoned to attend hearings

30. Ms Cyd HO suggested that the Chairman and members of the Jury of the Competition be summoned to attend hearings of the Select Committee. Mr LEE Wing-tat suggested that local members of the Jury be summoned to attend a hearing of the Select Committee.

31. SG advised that as the Administration's documents and records relating to the Competition were currently in the possession of the Home Affairs Bureau, the Select Committee might consider summoning the Secretary for Home Affairs or Permanent Secretary for Home Affairs to attend a hearing of the Select Committee and produce the requisite documents and records.

32. Members agreed that Mr LEUNG Chun-ying be summoned to attend the hearing on 20 March 2012 and the following persons be summoned to attend the hearing on 17 March 2012 -

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- (a) Mr Raymond YOUNG Lap-moon, Permanent Secretary for Home Affairs;
- (b) Mr John TSANG Chun-wah, former Secretary for Planning and Lands;
- (c) Mr Eric Johnson, former Principal Assistant Secretary (Planning and Lands), Planning and Lands Bureau and Co-ordinator of the Competition; and
- (d) Mr Bosco FUNG Chee-keung, former Director of Planning and Chairman of the Technical Panel for the Competition.

33. Members also agreed that -

- (a) the four local members of the Jury, viz. Mr Nicholas Brooke, Prof CHANG Hsin-kang, Mrs Selina CHOW and Prof Patrick LAU Sau-shing, be summoned to give evidence before the Select Committee;
- (b) Mr Bill Lacy, Professional Adviser to the Competition and Lord Rothschild, Chairman of the Jury, be invited to provide information to the Select Committee; and
- (c) the Select Committee might consider summoning additional witnesses to give evidence before it if necessary.

(Post-meeting note: Members were subsequently informed that Mr Bill Lacy could not be located and Lord Rothschild declined to accept the Select Committee's invitation.)

(Members agreed to extend the meeting time by 30 minutes.)

V. Schedule of hearings

LC Paper No.
CB(2)1284/11-12(01)

-- Email dated 2 March 2012 from
C Y LEUNG Campaign Office to
the President of LegCo

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LC Paper No. CB(2)1284/11-12(02) -- Reply dated 5 March 2012 from SG on behalf of the President of LegCo to C Y LEUNG Campaign Office

LC Paper No. CB(2)1284/11-12(03) -- Reply dated 5 March 2012 from the Chairman of the Select Committee to C Y LEUNG Campaign Office

34. Mr WONG Yuk-man expressed dissatisfaction about the views raised in the email dated 2 March 2012 from the C Y LEUNG Campaign Office regarding the composition of the Select Committee and the timing for holding hearings of the Select Committee. He considered that in scheduling the dates of hearings, there was no need for the Select Committee to take into account the date of the 2012 CE Election. Miss Tanya CHAN considered that when drawing up its schedule of meetings/hearings, the Select Committee should only consider the requirements, if any, under the existing legislation. Dr Priscilla LEUNG however considered that it was the right of any person to express views to the Select Committee.

35. Members agreed that the hearings in March 2012 be scheduled as follows -

Saturday, 17 March 2012 9:00 am to 1:00 pm

Tuesday, 20 March 2012 9:00 am to 1:00 pm

Saturday, 31 March 2012 9:00 am to 1:00 pm

VI. Proposed indexing system for Select Committee papers

LC Paper No. CB(2)1319/11-12(05) -- Paper on proposed indexing system for Select Committee papers prepared by the LegCo Secretariat

36. Members endorsed the proposed indexing system for papers of the Select Committee.

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VII. Any other business

37. There being no other business, the meeting ended at 12:07 pm.

Council Business Division 2
Legislative Council Secretariat
3 September 2012