

**立法會**  
**Legislative Council**

LC Paper No. FC270/15-16  
(These minutes have been  
seen by the Administration)

Ref : FC/1/1(19)

**Finance Committee of the Legislative Council**

**Minutes of the 38<sup>th</sup> meeting**  
**held at Conference Room 1 of the Legislative Council Complex**  
**on Friday, 26 February 2016, at 6:30 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 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  
Dr Hon LAM Tai-fai, SBS, JP  
Hon CHAN Hak-kan, JP  
Dr Hon Priscilla LEUNG Mei-fun, SBS, JP  
Hon CHEUNG Kwok-che  
Hon IP Kwok-him, GBS, JP  
Hon Mrs Regina IP LAU Suk-ye, GBS, JP  
Hon Alan LEONG Kah-kit, SC  
Hon LEUNG Kwok-hung

Hon Albert CHAN Wai-yip  
Hon WONG Yuk-man  
Hon Claudia MO  
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  
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 Kenneth LEUNG  
Hon Alice MAK Mei-kuen, BBS, JP  
Dr Hon KWOK Ka-ki  
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 Christopher CHUNG Shu-kun, BBS, MH, JP  
Hon Tony TSE Wai-chuen, BBS

**Members absent:**

Dr Hon LAU Wong-fat, GBM, GBS, JP  
Hon Frederick FUNG Kin-kee, SBS, JP  
Hon Vincent FANG Kang, SBS, JP  
Dr Hon LEUNG Ka-lau  
Hon WONG Kwok-kin, SBS  
Hon Paul TSE Wai-chun, JP

Hon Michael TIEN Puk-sun, BBS, JP  
Hon NG Leung-sing, SBS, JP  
Hon KWOK Wai-keung  
Hon CHUNG Kwok-pan

**Public officers attending:**

Ms Elizabeth TSE Man-ye, JP	Permanent Secretary for Financial Services and the Treasury (Treasury)
Ms Esther LEUNG, JP	Deputy Secretary for Financial Services and the Treasury (Treasury) <sup>1</sup>
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) <sup>1</sup>
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) <sup>2</sup> , Highways Department
Dr Philco WONG	Projects Director, MTR Corporation Limited
Mr LEUNG Chi-lap	General Manager (XRL E&M), MTR Corporation Limited
Ms Maggie SO	General Manager (Corporate Relations), 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) <sup>5</sup>
Mr Ken WOO	Senior Council Secretary (1) <sup>5</sup>

Mr Raymond SZETO	Senior Council Secretary (1)7
Mr Keith WONG	Council Secretary(1)5
Mr Frankie WOO	Senior Legislative Assistant (1)3
Ms Michelle NIEN	Legislative Assistant (1)5

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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 Committee continued to discuss the motion to adjourn further proceedings of the Committee moved by Mr LEUNG Kwok-hung pursuant to paragraph 39 of the Finance Committee Procedure ("FCP").

Motion that further proceedings of the Committee be now adjourned

2. Ms Claudia MO, Ms Emily LAU, Mr LEUNG Yiu-chung, Mr Dennis KWOK, Mr SIN Chung-kai, Mr Gary FAN, Dr Fernando CHEUNG, Dr Helena WONG, Mr James TO, Mr CHEUNG Kwok-che, Dr KWOK Ka-ki, Mr Albert HO, Prof Joseph LEE, Mr Albert CHAN, Mr WU Chi-wai, Dr Kenneth CHAN, Mr Kenneth LEUNG, Ms Cyd HO, Mr LEE Cheuk-yan, Mr Alan LEONG, Mr Charles MOK and Mr CHAN Chi-chuen spoke in support of the motion moved by Mr LEUNG Kwok-hung. These members criticized that the additional funding proposal regarding the Hong Kong Section of the Guangzhou-Shenzhen-Hong Kong Express Rail Link ("XRL") was very controversial. In particular, the implementation of the "co-location arrangements" would easily affect the operation of "one country, two systems". However, ever since the commencement of the XRL project up to the present, the Administration had not been able to submit a workable proposal. Moreover, while the construction cost of the XRL was already very expensive, there were even cost overruns and delays currently, thus costing more public money. But the Administration still failed to determine the responsibility concerned, and it only claimed that the responsibility would be pursued after the

XRL had been commissioned. These members also raised queries about the estimates made by the Administration regarding the travelling time of XRL, as well as the depreciation rate used to calculate the economic internal rate of return. They were of the view that before the Administration had responded adequately to members' questions, the Committee should not vote on the relevant items. In addition, these members stressed that moving that further proceedings of the Committee be then adjourned did not mean that members had already asked enough questions about the project. They also criticized the Deputy Chairman for preventing members from asking questions on the supplementary papers and claiming that the discussion session might be suspended after this motion had been put to vote, as this showed that he did not respect the right of members to raise questions.

3. Mr Albert CHAN raised a query as to whether the Deputy Chairman had the power to convene a meeting and decide on the agenda.

4. Dr Priscilla LEUNG, Ms Starry LEE and Dr CHIANG Lai-wan spoke to oppose the motion from Mr LEUNG Kwok-hung. These members opined that the XRL project must not be postponed and the additional funding should be put to vote before the commission fees were all spent; otherwise, the public coffer would suffer substantial losses. As for the responsibility for cost overruns and delays, this could be pursued after the commissioning of the XRL project. They criticized the pan-democrat members for raising questions repeatedly to delay the approval of the item.

5. In making her speech, Dr CHIANG Lai-wan described Mr LEE Cheuk-yan and his suggestion as "good for nothing". Mr LEE Cheuk-yan raised a point of order because of that, saying that Dr CHIANG used offensive language. The Deputy Chairman ruled that describing another member as "good for nothing" was offensive and he asked Dr CHIANG Lai-wan to make a clarification of the abovementioned words. Dr CHIANG Lai-wan clarified that what she meant was that Mr LEE Cheuk-yan's suggestion was "good for nothing".

6. Secretary for Transport and Housing ("STH") pointed out when replying to questions from members that the Administration would strive to complete the XRL project to safeguard the interests of public money. It had also handed in as many supplementary papers as possible to answer members' questions. STH also spoke to respond to queries raised by members on the estimates on XRL's travelling time and how capital depreciation was calculated when adopting the EBITDA approach in deducting interest, tax, depreciation and return before amortization.

7. When responding to members' queries about he himself, the Deputy Secretary remarked that he would conduct meetings and exercise the relevant powers strictly according to the Rules of Procedure. He understood that repetitions in the questions asked by members stemmed from their dissatisfaction with the responses from the Administration. He would allow members to have ample time to raise follow-up questions. But in any case the Committee still had to make a decision on the items. He called upon members to join the discussion according to the Rules of Procedure so that the meeting could continue in an orderly manner.

8. Mr LEUNG Kwok-hung spoke in reply of his motion. The Deputy Chairman then put the motion to vote. At the request of members, the Deputy Chairman ordered a division and the division bell was rung for five minutes.

9. In the meantime, Dr KWOK Ka-ki and Mr CHEUNG Kwok-che declared that they held shares of the MTR Corporation Limited ("MTRCL").

10. Mr James TO declared that his spouse held shares of MTRCL.

11. Mr LEE Cheuk-yan requested to move a motion pursuant to Rule 84(3A) of the Rules of Procedure that members who had direct pecuniary interest in the question to be voted on should withdraw from the meeting when the question was put to vote. The Deputy Chairman pointed out in response that Rule 84(3A) of the Rules of Procedure applied only to meetings of the Legislative Council and meetings of the Committee of the whole Council, but not meetings of the Finance Committee.

12. The motion was put to vote after the division bell had been rung for five minutes. 20 members voted in favour of the motion and 25 members voted against the motion. The votes of individual members were as follows –

*For:*

Mr Albert HO Chun-yan  
Mr LEUNG Yiu-chung  
Ms Cyd HO Sau-lan  
Mr LEUNG Kwok-hung  
Mr WONG Yuk-man  
Mr WU Chi-wai  
Mr Charles Peter MOK  
Dr Kenneth CHAN Ka-lok  
Mr Dennis KWOK  
Dr Helena WONG Pik-wan  
(20 members)

Mr LEE Cheuk-yan  
Ms Emily LAU Wai-hing  
Mr Alan LEONG Kah-kit  
Mr Albert CHAN Wai-yip  
Ms Claudia MO  
Mr Gary FAN Kwok-wai  
Mr CHAN Chi-chuen  
Mr Kenneth LEUNG  
Dr Fernando CHEUNG Chiu-hung  
Mr IP Kin-yuen

*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 IP Kwok-him	Mrs Regina IP LAU Suk-yee
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 Christopher CHEUNG Wah-fung
Dr Elizabeth QUAT	Mr POON Siu-ping
Mr TANG Ka-piu	Dr CHIANG Lai-wan
Ir Dr LO Wai-kwok	Mr Christopher CHUNG Shu-kun
Mr Tony TSE Wai-chuen	
(25 members)	

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

14. The Committee continued with the combined discussion on items FCR(2015-16)46 and 47.

Alleged Military Use of the XRL Project

15. Mr Gary FAN claimed that there was a linking rail at the Shek Kong train depot near the Shek Kong barracks and the rail seemingly led to the Shek Kong barracks. He queried whether or not XRL would be requisitioned by the People's Liberation Army for military uses.

16. STH advised that the Administration had stressed many times that XRL was purely a transport infrastructure for civilian use and there was no consideration for military use. Dr Philco WONG, Projects Director, MTR Corporation Limited added that the road link did not go to the Shek Kong barracks but to the power distribution station for the purpose of maintenance of facilities. The power distribution station and the Shek Kong barracks were separated by iron wires.

### Project Management

17. Dr KWOK Ka-ki noted that the consultant for project management, Lloyd's Register Rail (Asia) Limited ("Lloyd's") had suggested that the Administration did not have to engage in any micro monitoring or verification of the XRL project. But the result was that under the management of MTRCL, there were cost overruns and delays. He queried that the suggestions made by Lloyd's were biased in favour of MTRCL. He demanded that the Administration should examine the suggestions from the consultant and see whether or not there was any conflict of interest between the two companies.

18. STH and Director of Highways ("DHy") advised that the suggestions from Lloyd's were based on the fact that MTRCL had been appointed as the project manager of the XRL project. If the Administration took part in the micro management, a duplication of duties would appear. So it was suggested that the Administration should engage in macro management and sampling. Ever since 2014 when the Administration found out cost overruns and delays in the project, an independent expert panel was formed to review and make suggestions on the progress of the XRL project, and various measures had been taken to enhance the monitoring of the project.

### Responsibility for Cost Overruns and Delays

19. Dr Kenneth CHAN enquired about whether or not the additional funding applied for at present had included any funds reserved for the purpose of claims made in respect of the responsibility for cost overruns and delays of the project.

20. STH replied in the affirmative. DHy added that the Administration had reserved about \$180 million in the additional funding, including funds for hiring engineering and legal experts to assist the Government in dealing with the relevant arbitration proceedings.

### Meeting Arrangements

21. At 8:25 pm, the Deputy Chairman advised that the Committee had received a total of 151 motions to be moved by members under paragraph 37A of FCP to express their views on the two items. These motions would be dealt with after discussions on the items were finished. The Deputy Chairman then declared that the meeting be adjourned.



22. The meeting was adjourned at 8:25 pm.

Legislative Council Secretariat  
29 June 2016