

立法會
Legislative Council

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(These minutes have been
cleared with the presiding
member)

Ref : CB4/PL/TP/1

Panel on Transport

**Minutes of meeting held on
Tuesday, 18 October 2016, at 12:00 noon
in Conference Room 3 of the Legislative Council Complex**

Members present : 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 Starry LEE Wai-king, SBS, JP
Hon CHAN Hak-kan, BBS, JP
Hon CHAN Kin-por, BBS, JP
Hon Mrs Regina IP LAU Suk-ye, GBS, JP
Hon Paul TSE Wai-chun, JP
Hon LEUNG Kwok-hung
Hon Claudia MO
Hon Michael TIEN Puk-sun, BBS, JP
Hon Steven HO Chun-yin, BBS
Hon Frankie YICK Chi-ming, JP
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, BBS, MH, JP
Hon Kenneth LEUNG
Hon Alice MAK Mei-kuen, BBS, JP
Dr Hon KWOK Ka-ki

Hon KWOK Wai-keung
Hon Christopher CHEUNG Wah-fung, SBS, JP
Dr Hon Fernando CHEUNG Chiu-hung
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
Dr Hon CHIANG Lai-wan, JP
Ir Dr Hon LO Wai-kwok, SBS, MH, JP
Hon CHUNG Kwok-pan
Hon Alvin YEUNG
Hon Andrew WAN Siu-kin
Hon Jimmy NG Wing-ka, JP
Dr Hon Junius HO Kwan-yiu, JP
Hon HO Kai-ming
Hon LAM Cheuk-ting
Hon Holden CHOW Ho-ding
Hon SHIU Ka-chun
Hon Wilson OR Chong-shing, MH
Hon YUNG Hoi-yan
Hon CHAN Chun-ying
Hon Tanya CHAN
Hon CHEUNG Kwok-kwan, JP
Hon HUI Chi-fung
Hon LUK Chung-hung
Hon LAU Kwok-fan, MH
Hon Kenneth LAU Ip-keung, MH, JP
Dr Hon CHENG Chung-tai
Hon KWONG Chun-yu
Hon Jeremy TAM Man-ho
Hon Nathan LAW Kwun-chung
Dr Hon LAU Siu-lai

Members absent : Hon WONG Ting-kwong, SBS, JP
Dr Hon Priscilla LEUNG Mei-fun, SBS, JP
Hon WONG Kwok-kin, SBS, JP
Hon WU Chi-wai, MH
Hon Dennis KWOK Wing-hang
Hon CHU Hoi-dick
Dr Hon YIU Chung-yim

Clerk in attendance : Ms Sophie LAU
Chief Council Secretary (4)6

Staff in attendance : Mr Matthew LOO
Assistant Secretary General 4

Ms Macy NG
Senior Council Secretary (4)6

Miss Katherine CHAN
Council Secretary (4)6

Miss Winnie CHENG
Senior Legislative Assistant (4)1

Ms Carmen HO
Senior Legislative Assistant (4)2

Ms Margie LI
Senior Legislative Assistant (4)3

Ms Emily LIU
Legislative Assistant (4)6

Miss Kay PANG
Legislative Assistant (4)7

Miss Ariel SHUM
Clerical Assistant (4)5

Action

I. Election of Chairman and Deputy Chairman

Election of Chairman

Nomination

Mr James TO, member present who had the highest precedence presided over the election of the Chairman of the Panel on Transport for the 2016-2017 session. He called for nominations for the chairmanship of the Panel. Mr Michael TIEN was nominated by Mr Kenneth LAU and the nomination was seconded by Mrs Regina IP. Mr Michael TIEN

did not accept the nomination. Mr James TO called for other nominations.

2. Mr CHAN Han-pan was nominated by Ms Starry LEE and the nomination was seconded by Mr Frankie YICK. Mr CHAN Han-pan accepted the nomination. Mr James TO called for other nominations.

3. Mr CHAN Chi-chuen nominated Dr LAU Siu-lai, who was not present at the meeting at that moment. Mr CHAN Chi-chuen said that Dr LAU Siu-lai had indicated that she would accept the nomination. The nomination was seconded by Mr LEUNG Yiu-chung. Mr James TO called for other nominations.

4. Ms Starry LEE disagreed that Dr LAU Siu-lai was eligible to stand for election as the Chairman of the Panel on Transport as the President of the Legislative Council had just announced his ruling that among other things Dr LAU's affirmation made at the Council meeting on 12 October 2016 was invalid ("the President's Ruling").

5. Mr James TO informed members that as Dr LAU Siu-lai had joined the Panel on Transport before the deadline for signification of membership, her right to be nominated and to stand for election as chairman of a Panel should not be affected. As regards the validity of Dr LAU's affirmation made at the Council meeting on 12 October 2016, Mr TO said that it was a separate issue which might affect Dr LAU's eligibility to attend and vote at the meeting.

Eligibility of Dr LAU Siu-lai to attend the meeting and vote therein

6. Mr LEUNG Yiu-chung enquired if Dr LAU Siu-lai could attend the meeting. Mr James TO considered that Dr LAU Siu-lai could attend the meeting and vote therein because in his view, the President's Ruling should come into effect after it was formally made at a Council meeting. He considered that the President had only given his opinion on the validity of Dr LAU Siu-lai's affirmation at this moment.

7. Mr LEUNG Yiu-chung further asked if Dr LAU Siu-lai should be informed of Mr James TO's decision because she was not present in the meantime. Mr James TO replied that he had not disallowed Dr LAU to attend the meeting.

8. Dr Elizabeth QUAT pointed out that according to her understanding, only Members who had made or subscribed an oath or

affirmation could attend a meeting or vote therein. She queried whether the member presiding had the power to rule that Dr LAU Siu-lai could attend the meeting or vote therein.

9. In response to members' enquiry, Assistant Secretary General 4 said that according to Rule 1 of the Rules of Procedure ("RoP"), no Member of the Council should attend a meeting or vote therein before his/her fulfillment of the oath-taking requirement. He supplemented that the President's Ruling was valid once it was made public.

10. Dr Elizabeth QUAT expressed that Mr James TO had no power to rule that Dr LAU Siu-lai could attend a meeting or vote therein. Mr James TO maintained his view in paragraph 6 above.

11. Mr Kenneth LEUNG, Mr Paul TSE and Ir Dr LO Wai-kwok disagreed with Mr James TO's view that the President's Ruling should be formally made at a Council meeting before it came into effect. They considered that a written ruling should be valid in law and carried the same effect as a verbal ruling made at a Council meeting. Mr Paul TSE added that there were many precedent cases on which the President had made written rulings beyond a Council meeting.

12. Ir Dr LO Wai-kwok referred to the wording of the President's Ruling and considered that the President's Ruling took effect immediately after the ruling was made. Ir Dr LO requested Mr James TO to review his ruling.

13. Mr LAU Kwok-fan also raised concern over the right of Dr LAU Siu-lai to be nominated and to stand for election as chairman of a Panel, as well as her eligibility of attending the meeting before her fulfillment of the oath-taking requirement.

14. Given the above views, Mr James TO consulted members on whether he should suspend the meeting to allow him some time to review his ruling as his ruling might affect the election of the chairman and deputy chairman of Panels at ensuing meetings in the afternoon.

15. Mr Jeremy TAM noted that the Secretariat had previously advised at other Panel meetings that those members who had not fulfilled the oath-taking requirement could still be nominated and elected as chairman of a Panel. He considered that Mr James TO should maintain his ruling made in paragraph 6 above for consistency.

16. Mr James TO clarified that according to a precedent case, Dr LAU Siu-lai's right to be nominated and to stand for election as chairman of a Panel should not be affected. However, some members queried whether Dr LAU was eligible to attend the meeting or vote therein.

17. Mr LAM Cheuk-ting requested that Mr James TO should seriously study whether Dr LAU Siu-lai could attend the meeting and vote therein. Ms Tanya CHAN and Dr Helena WONG agreed that Mr TO should suspend the meeting to allow time for studying the President's Ruling. Dr WONG added that some members might not be able to access the softcopy of the President's Ruling while attending a meeting and suggested that hardcopy of the President's Ruling should be distributed to Members soonest possible.

18. Dr CHENG Chung-tai concurred with Mr James TO's decision that Dr LAU Siu-lai could attend the meeting. Dr CHENG however considered that those Members whose oath/affirmations were ruled to be invalid should also be allowed to attend the meeting.

19. Mr James TO said that his decision of not allowing Dr YIU Chung-yim, Mr Sixtus LEUNG and Miss YAU Wai-ching to attend the meeting was bound by the judgment made by the Secretary General at the Council meeting on 12 October 2016. At that Council meeting, the Secretary General accepted the affirmation of Dr LAU Siu-lai but the President had subsequently ruled that Dr LAU's affirmation was invalid. He added that the point of contention was whether the President's Ruling came into effect once it was made public.

20. Mr Martin LIAO expressed that no Member of the Council should attend a meeting or vote therein until he/she had made or subscribed an oath or affirmation according to the relevant RoP. Mr LIAO considered that the President's Ruling stated very clearly that Dr LAU Siu-lai's affirmation was invalid and as a result, she could not attend the meeting. He stressed that this was a factual judgment and that the President's Ruling should be effective immediately after it was made public.

21. Mr James TO maintained his view that the President's Ruling should be formally made at a Council meeting before it came into effect. Noting that some members held different views from him, Mr TO said that he would review his decision. He further said that since the election of the chairman could not be completed before the appointed end time of the meeting, the election would be suspended and be continued at the next meeting. In response to Mr Michael TIEN's enquiry, Mr James TO

confirmed that the nomination procedure for the chairmanship of the Panel on Transport would have to be continued at the next meeting.

22. The meeting ended at 12:29 pm.

Council Business Division 4
Legislative Council Secretariat
10 November 2016