

立法會
Legislative Council

LC Paper No. CB(2)1045/19-20

Ref : CB2/H/5/19

House Committee of the Legislative Council

**Minutes of the Special House Committee meeting
held in Conference Room 1 of the Legislative Council Complex
at 2:30 pm on Friday, 6 December 2019**

Members present :

Hon Starry LEE Wai-king, SBS, JP (Chairman for the 2018-2019 session)
Hon James TO Kun-sun
Hon LEUNG Yiu-chung
Hon Tommy CHEUNG Yu-yan, GBS, JP
Prof Hon Joseph LEE Kok-long, SBS, JP
Hon Jeffrey LAM Kin-fung, GBS, JP
Hon WONG Ting-kwong, GBS, JP
Hon CHAN Hak-kan, BBS, JP
Hon CHAN Kin-por, GBS, 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 Michael TIEN Puk-sun, BBS, JP
Hon Steven HO Chun-yin, BBS
Hon Frankie YICK Chi-ming, SBS, JP
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, BBS, 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 Christopher CHEUNG Wah-fung, SBS, JP
Dr Hon Fernando CHEUNG Chiu-hung

Dr Hon Helena WONG Pik-wan
Hon IP Kin-yuen
Hon Elizabeth QUAT, BBS, JP
Hon Martin LIAO Cheung-kong, GBS, JP
Hon POON Siu-ping, BBS, MH
Dr Hon CHIANG Lai-wan, SBS, JP
Ir Dr Hon LO Wai-kiwok, SBS, MH, JP
Hon CHUNG Kwok-pan
Hon Alvin YEUNG
Hon Andrew WAN Siu-kin
Hon CHU Hoi-dick
Hon Jimmy NG Wing-ka, BBS, JP
Hon HO Kai-ming
Hon LAM Cheuk-ting
Hon Holden CHOW Ho-ding
Hon SHIU Ka-fai, JP
Hon SHIU Ka-chun
Hon Wilson OR Chong-shing, MH
Hon YUNG Hoi-yan, JP
Dr Hon Pierre CHAN
Hon CHAN Chun-ying, JP
Hon Tanya CHAN
Hon CHEUNG Kwok-kwan, JP
Hon HUI Chi-fung
Hon LUK Chung-hung, JP
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
Hon Gary FAN Kwok-wai
Hon AU Nok-hin
Hon Vincent CHENG Wing-shun, MH, JP
Hon Tony TSE Wai-chuen, BBS
Hon CHAN Hoi-yan

Members absent :

Hon Dennis KWOK Wing-hang (Deputy Chairman for the 2018-2019 session)
Hon Abraham SHEK Lai-him, GBS, JP
Hon Junius HO Kwan-yiu, JP

Clerk in attendance :

Miss Flora TAI Clerk to the House Committee

Staff in attendance :

Ms Alice LEUNG	Chief Council Secretary (2)6
Miss Connie AU	Senior Council Secretary (2)6
Mr Richard WONG	Senior Council Secretary (2)8
Miss Michelle TANG	Council Secretary (2)6
Ms Anna CHEUNG	Senior Legislative Assistant (2)3
Mr Arthur KAN	Legislative Assistant (2)7

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I. Election of the Chairman and Deputy Chairman of the House Committee for the 2019-2020 session

Since Mr Dennis KWOK, Deputy Chairman of the House Committee ("HC") for the 2018-2019 session was absent from the meeting, Mr James TO, the Member present who had the highest precedence, presided over the meeting. Mr TO said that Ms Alice MAK, Mr HUI Chi-fung, Mr Andrew WAN, Mr WU Chi-wai and Mr SHIU Ka-chun had respectively issued a letter proposing to move a proposed resolution/motion at this meeting, and the five letters were tabled at the meeting.

(Post-meeting note: The above five letters were circulated to Members on 8 December 2019 vide LC Paper Nos. CB(2)354/19-20(01)-(05).)

Continuation of dealing with motions proposed by individual Members

2. Mr James TO invited Members to continue the discussion on Mr Jeremy TAM's motions, which had originally been proposed at the special HC meeting on 15 November 2019. Mr TO further said that the subject matter of Mr TAM's proposed motions was substantially the same as that of Mr Gary FAN's proposed motion which would be dealt with at a later time, and therefore, once HC made a decision on Mr TAM's proposed motions, HC should not deal with Mr FAN's proposed motion.

3. Mr Gary FAN said that he hoped that HC would hold a joint discussion on the motions respectively proposed by Mr Jeremy TAM and

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by himself and then would vote on them one by one. Mr James TO referred Members to the motion proposed by Mr FAN and said that the wording of the motions proposed by Mr FAN and Mr TAM was practically the same, and rule 24(n) of the House Rules ("HR") stipulated that the decisions of a committee should not be reopened for discussion, unless with the permission of the committee. Therefore, he had ruled that if HC made a decision on Mr Jeremy TAM's motions, HC should not discuss Mr FAN's motion.

Points of order raised by Members

Issues relating to whether and how non-binding motions and proposed resolutions should be dealt with

4. Dr KWOK Ka-ki noted that among the various proposed motions/proposed resolutions put forward by individual Members, the one originally proposed by himself at the special HC meeting on 15 November 2019 and the one proposed by Ms Alice MAK at this meeting were both proposed resolutions which, if passed, would have binding effect on HC. He enquired about the order for dealing with all those non-binding motions and proposed resolutions that had been proposed by individual Members since the special HC meeting on 15 November 2019.

5. In response, Mr James TO said that non-binding motions would first be dealt with, followed by proposed resolutions. Therefore, he would first invite Members' views as to whether they agreed to deal with those non-binding motions originally proposed to be moved at the special HC meeting on 15 November 2019, and then those non-binding motions originally proposed at the special HC meeting on 22 November 2019, and so on, before inviting Members' views on the two proposed resolutions.

6. Mr Martin LIAO asked about the rationale for making the said arrangements and whether such arrangements were specified in the Rules of Procedures ("RoP") or HR. At the invitation of Mr James TO, the Clerk said that where non-binding motions and proposed resolutions were put forward by Members at the same meeting of a committee, it was the practice to first deal with non-binding motions, followed by proposed resolutions ("the said practice"). However, the present situation was rather special as there were several non-binding motions and a proposed resolution which had originally been proposed to be moved at previous special HC meetings but had not been dealt with. She had earlier consulted Mr Dennis KWOK, Deputy Chairman for the 2018-2019

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session and presiding Member of the election of the HC Chairman for the 2019-2020 session, and Mr KWOK had taken the view that the said practice should be followed and all non-binding motions proposed at previous meetings should be dealt with first, followed by proposed resolutions.

7. Expressing concern about the said arrangements, Mr Steven HO and Ms Alice MAK shared a similar view that it was necessary to set a deadline for Members to propose non-binding motions and proposed resolutions so as to avoid further prolonging the election procedure. Mr HO said that it was very likely that HC could not finish the discussion on all the non-binding motions previously proposed by individual Members at this meeting, and if more non-binding motions were to be proposed after this meeting, then the timing for dealing with Ms MAK's proposed resolution would be further postponed. Ms MAK considered that the duration of the election of the HC Chairman for the 2019-2020 session ("the said election") had gone beyond reasonable limits, and that Mr Dennis KWOK as the presiding Member should step up his effort in expediting the proceedings of the said election.

8. Dr KWOK Ka-ki, Mr HUI Chi-fung and Mr LEUNG Yiu-chung considered that the security arrangements for the Legislative Council ("LegCo") Complex were urgent issues which should be dealt with as soon as possible. These Members took the view that if the Secretary General ("SG") undertook to attend HC meetings and respond to Members' questions on the relevant issues, the said election could be expedited. Dr KWOK said that his proposed resolution, if passed, would give rise to a situation that the proceedings of the said election would not be continued unless SG attended HC meetings to respond to Members' questions. Dr KWOK therefore considered that it was proper to first deal with non-binding motions, followed by proposed resolutions, and that such practice should be respected. Mr HUI said that if Members of the pro-establishment camp wished to solve the present deadlock faced by HC, they should ask SG to attend HC meetings. Mr HUI also suggested that the presiding Member and/or the Clerk should personally invite SG to attend HC meetings. Mr LEUNG said that even if SG found that some of the questions to be raised by Members involved confidential information, SG should give reasons and justifications for declining to disclose such information during the relevant meetings.

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9. Mr James TO said that he had learnt from the Clerk that Mr Dennis KWOK as the presiding Member had previously invited SG to attend HC meetings, and Mr KWOK had also informed Members of SG's response at a previous meeting. At the invitation of Mr James TO, the Clerk added that SG had also issued a written reply to Members indicating that The Legislative Council Commission ("LCC") had not given him permission to attend HC meetings to answer Members' questions on the security arrangements for the LegCo Complex. In response to Mr HUI Chi-fung's further enquiry about whether the Chief Security Officer of the LegCo Secretariat ("CSO") could be invited to attend this meeting, Mr James TO said that SG had not been given permission to attend HC meetings on the ground that information relating to the security arrangements for the LegCo Complex was confidential in nature, and therefore, in his view, the request for CSO to attend HC meetings would not be treated in a different manner. Mr TO added that another alternative that Members could consider was to request SG to answer Members' questions on such issues at closed meetings of HC.

(Post-meeting note: The Clerk issued a referral memorandum on 9 December 2019 to SG regarding Members' views on the requests for SG's attendance at HC meetings, and SG made a written reply to the Clerk on 13 December 2019. The referral memorandum and SG's written reply were circulated to Members vide LC Paper Nos. CB(2)382/19-20(01) and (02) on 13 December 2019.)

10. Noting that a few more Members had requested to raise points of order, Mr James TO reminded those Members to avoid raising points of order which had already been dealt with, so as to allow HC to continue the discussion on the motions proposed by Mr Jeremy TAM.

11. Ms Alice MAK and Mr Martin LIAO took the view that issues relating to the security arrangements for the LegCo Complex should not be dealt with during the said election. Ms MAK queried whether requesting SG to attend HC meetings by way of proposing motions was tantamount to abusing the procedure. She considered that a proper way to deal with the relevant issues was to expeditiously elect the Chairman and Deputy Chairman of HC for the 2019-2020 session, and then to request the newly elected Chairman to schedule a special HC meeting for the discussion on the relevant issues. Mr LIAO said that such issues should be under the purview of LCC and therefore, were not directly related to the said election. He added that even if such motions were to

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be discussed, those motions that were concerned with the same subject should be grouped for joint discussion, and there should be a deadline for Members to propose motions.

12. Given that proposed resolutions were intended to have binding effect on HC, Mr Kenneth LEUNG considered it questionable for the presiding Member to allow Members to propose any resolutions even if such proposed resolutions were related to the said election. In Mr LEUNG's view, if a proposed resolution, if passed, gave the presiding Member any powers in excess of presiding over the said election, then giving permission for dealing with such proposed resolution would be ultra vires. Therefore, before inviting Members to discuss a proposed resolution, the presiding Member should carefully examine how the said election would be affected by the proposed resolution.

13. Mr Martin LIAO and Ms Alice MAK also queried whether the presiding Member was vested with the power to deal with motions proposed by individual Members during the said election, irrespective of whether or not such motions would have binding effect on HC. Mr LIAO said that the role of the presiding Member should be confined to the conduct of the said election, and therefore, the presiding Member should only have those powers incidental to the said election, e.g. maintaining the order of meetings. Therefore, he took the view that as the presiding Member was not the HC Chairman duly elected by Members, the presiding Member should not have the power to deal with motions proposed by individual Members.

14. In response to various views raised by Members, Mr James TO said that in his estimation, this meeting could only finish discussing the non-binding motions originally proposed by Mr Jeremy TAM and Mr Kenneth LEUNG respectively at the HC meeting on 15 November 2019. Therefore, he considered it unnecessary to discuss at length whether or not HC should first deal with all non-binding motions proposed at previous meetings, followed by proposed resolutions. Mr TO further said that he understood Mr Dennis KWOK's rationale for allowing Members to propose motions during the said election and that he did not see any strong justification to overturn the decision already made by Mr KWOK. As regards some Members' view that it was necessary to set a deadline for Members to propose motions, he would instruct the Clerk to relay the view to Mr Dennis KWOK. Mr TO also said that he did not subscribe to Mr Martin LIAO's view concerning the power of the presiding Member to deal with motions, but instead, he shared the view

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stated earlier by Mr Dennis KWOK that if the motions proposed by individual Members were directly related to the said election, the presiding Member should have the power to deal with such motions.

15. Ms Tanya CHAN recalled that at a previous special HC meeting, Mr Dennis KWOK had explained why he upheld the view that he had the power to deal with motions/proposed resolutions proposed by Members. She asked whether and when the minutes of previous special HC meetings would be issued to Members. At the invitation of Mr James TO, the Clerk said that in accordance with the note entitled "Implications on the operation of the House Committee pending the election of its chairman and deputy chairman" prepared by the Legal Service Division, the election of the Chairman and Deputy Chairman of HC for the 2019-2020 session would need to be completed before HC could proceed to transact other business that required its decision, including confirmation of minutes. Although the draft minutes of the special HC meetings had not been issued to Members, the Secretariat was preparing them as usual.

Other issues

16. Noting that RoP stipulated that HC should make recommendations to the President on the size of a select committee (if any) and its membership, Dr Priscilla LEUNG enquired whether it was the case that even if a motion under the Legislative Council (Powers and Privileges) Ordinance to appoint a select committee to conduct an inquiry was passed in Council, the relevant select committee could not commence work pending the election of the Chairman and Deputy Chairman of HC for the 2019-2020 session. At the invitation of Mr James TO, the Clerk replied in the affirmative. Dr LEUNG considered it necessary to have more details about the matters that had been affected or would be affected by the prolonged proceedings of the election of the Chairman and Deputy Chairman of HC. Mr James TO concurred and instructed the Clerk to prepare a note on the matter.

(Post-meeting note: A note entitled "Matters awaiting consideration/decision by the House Committee pending the election of its chairman and deputy chairman" was issued to Members vide LC Paper No. CB(2)381/19-20(01) on 12 December 2019.)

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17. Mr LUK Chung-hung and Mr CHAN Kin-por expressed strong dissatisfaction with the way Mr James TO presided over the meeting. In the view of Mr LUK and Mr CHAN, Members should not be allowed to incessantly raise points of order on issues which were not points of order at the meeting, and therefore, it was questionable whether Mr TO had properly carried out his duty as the presiding Member. Mr CHAN denounced Mr TO for failing to ensure that the meeting was conducted in an efficient manner, allowing Members to raise points of order without requiring them to first specify which rule(s) of RoP they referred to, and not setting any limits on Members' speaking time, etc. Mr CHAN considered that a point of order should only be raised when there was an irregularity in the course of the meeting that should be rectified immediately, and he urged Mr TO to consult the Legal Adviser on the matter. Pointing out that HC had held many special meetings since mid-October 2019 for the election of the Chairman and Deputy Chairman of HC, Mr LUK said that this had failed to meet the reasonable expectation of Members and given rise to an undesirable situation that HC could not deal with normal business, particularly those relating to the scrutiny of Bills and subsidiary legislation. Mr CHAN also considered that the duration of the election of the HC Chairman had gone beyond reasonable limits as a total of more than 19 hours of meeting time had been spent on such election.

18. In response, Mr James TO said that he disagreed with the comments made by Mr LUK Chung-hung and Mr CHAN Kin-por. In Mr TO's view, whenever a Member raised a point of order, he, as the presiding Member, had a duty to allow sufficient time for that Member to elucidate his point/view. If that Member could not state clearly his point after a reasonable period of time, he would request that Member to substantiate his point as soon as possible or to stop speaking further. Furthermore, he had reminded Members to avoid raising points of order which had already been dealt with. Mr TO considered that by doing so, he had endeavored to preside over this meeting in a fair manner. Mr TO further said that as the meeting was approaching 4:00 pm at which a Finance Committee meeting had been scheduled to commence, he had to close the meeting.

19. The meeting ended at 3:59 pm.