



Hong Kong University Students' Union Council,
Session 2013
3rd Emergency Council Meeting [ECM3]
Minutes

Date: 24/5/2013

Venue: Union Council Chamber, 2/F, Union Building

Time: 18:06

Attendance:

CC, HS, P, IVP, EVP, FS, UAS1, EAS1, EAS2, SWS, PS, CAS, AS, ICAP, CAP, RSA1, RICA 2, RCA1, RCA2, LHHR, LHTHR, LSKHR, MHR, RCLHR, RHR, SCSHR (early leave with apology), SJCR, SKYLHR (sub), STHR (sub), SWHR (sub), UHR, ASR, AAR, DSR, EDSR, ENSR, LAR, MSR, SSR, SSSR, ECU, CTVC, PC4, PC5

Absent:

HHR (without apology), BEAR (with apology), PP (without apology), PC1 (with apology), PC2 (with apology), PC3 (with apology)

Late:

GS (without apology), SS (with apology), SAP (without apology), RSA2 (with apology), RICA1 (without apology), LCHHR (without apology), WLHR (without apology)

Section A

1. To read out the correspondences

Substitution

- SWHR Yu Lok Nam would be substituted by Lam Ka Lok, Chairperson of SWHSA, HKUSU, Session 2013-2014 (UID3035052662), due to family issues.
- SKYLHR Guan Jia Yin would be substituted by Yu Wang, Cultural Secretary of SKYLHSA, HKUSU, Session 2013-2014 (UID : 3035065384), due to family issues.

- STHR Tjang Ming Wai would be substituted by Chui Hing Cheung, Chairperson of STHSA, HKUSU, Session 2013-2014, due to family issues.

Early Leave

- SCSHR Yuen Wing Lam would early leave at 1945 for the appeal panel interview of Suen Chi Sun Hall.
- SS Cheung Kar Ying would early leave at 2000 since she needs to leave HK the next day.

Absent

- BEAR Ho Oi Mei would be absent due to an important meeting.
- PC 1 Chow Chun Ming would be absent due to examination in the next morning.
- PC 2 Kuang Kai Shan would be absent due to family issues.
- PC3 Leung Wing Ho would be absent due to family issues.

Late

- SS Cheung Kar Ying would be late due to traffic jam.
- RSA 2 Chow Ka Yuet would arrive late at 1900 due to family matters.

2. To receipt and adopt the agenda

Motion 1

To receive and adopt the agenda of ECM 3.

Proposer: WONG Yee Man (IVP)

Secunder: NG Chi Hin (EDSR)

Time Received: 18:12

No objection.

Resolution: Motion Carried

Time Resolved: 18:13

Session B

1. To discuss the legal action concerning the handover dispute of HKUSU

- P explained that there were 4 documents in total. The first one would be a letter to the Police Societies Office, indicating who to be the new office bearers, when Tam Chun Sing was removed by a vote of no-confidence. There are attachments like letters with signatures. The second one would be a reply from the police, stating that the reviewing of documents was in progress. The third one would be a letter issued by the solicitor to the Societies Office. The last one would be again, another reply from police. After having discussion with the solicitors, it was suggested that 31/5 to be set as the deadline, if there was still no concrete reply received by then, lawsuit should be taken.

He went on to list out 2 possible legal actions:

- 1) Judicial Review- more desirable, since the time needed should be faster, which is as suggested, only 4-6 months.
- 2) civil lawsuit- the time needed maybe counted in years, and possibly would be more costly, highly dependable on Tam Chun Sing and Chan Koon Hong's response.

Either one would cost \$300000-800000, as suggested. For the former option, the Police was also to be bearing some cost. However in a case of Judicial Review, the HKUSU could not be represented by a solicitor, instead, a barrister would be needed, and possibly Mr. Eric Shum would be responsible for this case.

- AAR was concerned about when to pay the legal costs, as HKUSU would not be financially sustainable at that moment.
- P stated that actually the lawyer invited was a former LAR, who was already acknowledged with the present situation, and promised not to demand for payment so soon. He has also confirmed that the amount would not vary due to the result.
- AAR asked how subordinate associations and societies would be affected.
- P explained that the university had promised to subsidize students' activities.
- LAR explained that an action of Judicial Review would only override the action for the Societies Office to demand for the signature of the outgoing officers. She wanted to confirm whether or not the payment would need
- P explained that the problems lies on that, outgoing office bearer's should not be needed, or else it would be an illegitimate use of power. Personally he believed that it would be unfair in reality if civil case is needed to solve all these disputes caused by an outgoing officers being unwilling to leave the office.

- PC4 asked what would the consequence if the attempt failed, how would the \$800000 sum of payment be settled.
- P stated that the payment would not be demanded so soon. And the worst situation after all would be paying it by P himself.
- PC4 asked if Tam's signature in the HSBC Bank Account would be cancelled altogether with a single legal action.
- P explained that since the bank would be taking Societies Office as reference, it would be solved once the office bearer alteration was done.
- PC5 asked if outgoing officers' signatures should be needed for Judicial Review. He predicted that even the lawsuit was won after the 4-6 months' procedure, it would not be a must that we could alter office bearers, and more time would be needed for the Societies Offices to handle the application. He queried if it would really be efficient. The legal action would be ended fastest by October, plus some time for society office to work, it might already be December, then it would nearly be the beginning of the next Union session, there would be not much extra effect when compared to the present situation anyway, he queried if it would be cost-efficient.
- P stated that there would be no reason for the Societies Office to turn down the application once tam (as an interest party)'s objection was no longer launched and there was only one applicant left. The office bearer must be changed, since financial autonomy was necessary for the daily operation of the Union. Actually every possible way was tried, but none succeed. Without a legitimate alteration of office bearer, even next election organized by council would be challenged by Tam.
- ECU asked that originally, without legal procedures initiated, Tam and Chan would not have a chance to appear in court, the Ex-cos could continue their office no matter what. However if they were given a chance to stand on court, what the worst possible consequence when the judge settle together the legitimacy of Tam & Chan would be. He believed that it would definitely take more time.
- P was not familiar with the aftermath of such situation, he would email the solicitor and ask.
- EDSR asked if the entity of HKUSU was used to sue, then why P would be responsible for the legal costs settlement.
- P stated he would use the title of HKUSU to raise money. And he would continue taking his office.
- LAR raised the possibility of applying for legal aid.
- P stated that the lawyer was very confident in winning the lawsuit, if legal aid was applied, it would be more time consuming. They had tried consulting the legal

clinic, however Prof. Cheung Tat Ming declined due to conflict of interest, stating that his office in the legal clinic had already ended.

- AAR asked if members' voice and opinion should be heard, since the money spent on legal actions came from HKUSU.
- P asked if AAR referred to there would be a need to consult members before launching legal actions.
- AAR asked if consultation would be preferred. The Union would definitely fulfill their basic responsibilities, e.g. mass email would be sent although it was exam period.
- P stated that 31/5 would be the deadline, and he agreed that there would be a need to hold press conference, and the press had contacted P already. Regarding the time limit and limit of knowledge base (too complicated the issue), consultation open to all members may not be feasible.
- AAR reminded that the statement issued by HKUSU (endorsed by UC13 in ECM 2) on 28/4/2013 had already stated that there would be "potential legal action", so it could be treated as informing subordinate societies.
- PC5 queried that the letter from the Societies Office was sent on 20/5, and it stated that there would be reply given, which meant there had been no conclusion yet. In his personal opinion, Judicial Review should be initiated only after the concrete yes or no reply had been attained from society office. And it was somehow still uncertain on whether signatures from Tam and Chan would be eventually needed. The letter from lawyers was sent on 30/4, and 31/5 would already be the deadline, it might seem to schoolmates that 1 month would be too rush and insufficient. He believed that prolonging the deadline for a half or one more month would make no big difference.
- P reinforced that he had applied for alteration of office bearers for 2 times in since March. The solicitor also urged for reply for several times, and concluded the Societies Office was having delayed practice. There could be two problems for further delay: 1) the financial power remained unattained 2) it would sound to the University that HKUSU was not determined to solve this problem.
- CC asked how long the lawyer suggested an application without outgoing office bearers' signature required should take.
- P replied it would take around one month.
- EDSR suggested making complaint to Independent Police Complaints Council (IPCC).
- P confessed that it would not be impossible, but the problem needed to be solved as soon as possible. He worried that IPCC would not generate hard pressure. The alteration was hoped to have been completed by 31/5.

- PC5 deduced that as P mentioned, the Societies Office adopted delayed tactics, which would definitely be improper. Therefore making complaint would be appropriate, only if there was still no response by mid-June, then Judicial Review shall be initiated.
- AAR specified that actually IPCC usually would only investigate on illegitimate use of power. In this case, loads of legal procedures are involved, thus legal actions might be a better choice.
- PC5 clarified that what he supported was not complaining to IPCC, but Complaints Against Police Organization (CAPO).
- CC asked what it would help.
- PC5 explained that they would see if there were really any problem, if yes, then the application would be handled by another officer.
- AAR believed this case is procedurally right, it basically did not involve any illegitimate use of power.
- ECU pointed out that then it would not be a direct settlement of the office bearer issue.
- P predicted there to be a long procedure. He foresaw that the case would be thrown to Department of Justice (DOJ). Once there was a court endorsement, the Societies Office would definitely follow.
- LCHHR asked what would be the possible consequence if Tam and Chan appealed, whether or not another 4-6 months would be taken, and another \$800000 would be spent.
- P explained that the Society Office would not appeal, since the case was about their illegitimate use of power. Although he did not have much legal knowledge, but he believed that they would have the risk of heavier cost also.
- PC5 quoted P's words and pointed out that, in usual the alteration could be done within one month, it meant the delay should be just an individual malpractice, under which complaints would be a better step to take.
- CC differentiated the differences between the two sides as exhausting all means or getting the issue handled ASAP.
- RCA2 also expressed concern on the heavy cost for legal actions, while both means would be time-consuming anyway.
- SSSR predicted that complaints would be more impossible to succeed, and to take an active role, legal means would be preferred. If an action within channels under the police structure was chosen eventually, the HKUSU would be staying passive.
- PC5 emphasized on the reasonableness of believing in the independence of IPCC at this stage.

- CC addressed both sides to be having the concern on time, while Judicial Review would take 4-6 months, CAPO would take unknown period of time.
- EDSR suggested taking both channels concurrently.
- MSR stated that even if complaint-making was taken as the final resolution, the same practice under Societies ordinance would remain unchanged.
- LHHR pointed out that CAPO would not handle cases in legal procedure, so concurrent actions are unrealistic.
- CC wanted to clarify that whether or not the councilors believed that the issue should be handled within the term of office.
- PC4 suggested this to be done in fastest speed, and pointed out that CAPO usually would be quite inefficient.
- P predicted that since the complaint point would be only on the speed of action, then they would probably fasten the speed to reject, but Judicial Review would be reviewing on the practice of Society Office for long.
- PC5 did not agree that Judicial Review would be fast, it would also take 4-6 month, especially when it would be conducted both on the ordinance and the legitimacy issue. Instead, IPCC would not be handling the issue of whether or not outgoing officer's signature is needed, but the speed of handling.
- P predicted that CAPO would refer to DOJ due to complicated facts, but in case of Judicial Review, the three times of application would be sounding to the judge.
- LCHHR regarded there to be no point for councilors to have too much discussion, as the lawyer's comment should be regarded as the most professional no matter what.
- AAR stated that complaining to CAPO might be even inefficient than lawyers sending letters. He pointed out that a meeting that would originally take only 1 hour, now turned out to have taken already over an hour. He emphasized the importance of efficiency, and reminded councilors not to loop points. He suggested that actually there would only be 3 points of concerns in the discussion: money, alternatives and scope of side effects for the method chosen.
- SSSR partly agreed with AAR, but he also pointed out that members' opinion might not be strictly taken, e.g. GP would not be needed to reach consensus. He used the case of terminal strike as an example, if members' opinion were taken into consideration, then it would be too complicated.
- AAR also regarded GP as unsuitable, as GP were usually used on deciding moral issue, with a motion as a statement to be passed. He wished councilors could suggest informal ways to consult.
- P agreed with AAR that members should be briefed on the reasons why Judicial Review was used, and the cost implied in taking such actions. In his belief, ex-cos

were elected to handle the turmoil, so there should not be any escape from this basic responsibility. If suddenly there were a bulk number of opposition received, he would halt the launching of legal actions. He would try to use mass email & Union Facebook page to notify full members about the intended actions.

- ECU raised two points:
 - 1) reinforcing the severity of the issue, which was the loss of administrative power and financial power, which led the running of the Union into a stalemate. He regarded the psychological barrier as the refrainment from taking legal actions.
 - 2) raising the concern over the possible self-censorship existing in council, with sufficient knowledge base, he believed the councillors could take more proactive actions.
- LAR pointed out that since legal action would utilize \$800000, there should be a press conference held, to avoid history of the Black Gold incident to repeat.

Motion 2

To authorize Tang Laurence Yat Long, President of the Hong Kong University Students' Union, to carry out legal actions on behalf of the Hong Kong University Students' Union regarding the change of office-bearers of the Hong Kong University Students' Union.

Proposer: TANG Laurence Yat Long (P)

Seconder: HSU Yin Man (FS)

Time Received: 19:35

Resolution: Withdrawn

- P emphasized that actually the ex-cos had already exhausted all means to remedy the situation, but Tam and Chan were really uncooperative, for example a meeting was arranged with Dean Of Students' Affairs, Dr. Albert Chau as an observer, but the ex-cos were notified only 30 minutes before the start of the meeting, that Tam and Chan would not attend, due to the belief that CEDARS had bias. The ex-cos would make use of all means to explain to members the following up actions once the motion was passed. He hoped that subordinate societies would help promoting the remediation also.
- PC5 moved back the discussion to the choice between complaining CAPO and launching Judicial Review, which he believed to be related to the motion. With the fact that Judicial Review would take 4-6 months, and Societies Office would stop handling the application, there would be no progress during this period for sure.

Money would be another concern, and the inefficiency of wasting 4-6 months' time would be another cost. He believed that if the Societies Office really wanted to reject, the application should have been rejected already. He pointed out that both Judicial Review and complaining to CAPO might have two possible results, one would be success and one failure.

- CC wanted to clarify the wordings in motion, she pointed out that "legal actions" would not necessarily equal to Judicial Review alone.
- ECU asked for clarification, whether or not the words refer to JR alone or all legal actions on behalf of HKUSU.
- P clarified his original intention as endorsing himself to represent HKUSU in legal action.
- ECU pointed out that in case of Judicial Review, it should be authorizing P to represent HKUSU in legal action, but not authorizing P to carry out the legal actions.
- P suggested that, in response to PC5, if Societies Office replied a deadline before 31/5, they would still wait.
- CC pointed out that the wordings of the motion would be too vague.
- ECU suggested to specify the legal action equaled to Judicial Review in the motion.
- AAR pointed out that P originally represented the Union already, he suggested the motion should be authorizing the lawyer to carry out legal actions on behalf of HKUSU.
- P explained that HKUSU would be the plaintiff, and P was the oath taker of the Union.
- LAR clarified that it should be endorsing P to represent HKUSU to carry out, or else the case would be TANG LAURENCE YAT LONG v SOCIETIES ORDINANCE, instead of HKUSU v SOCIETIES ORDINANCE.
- PC5 asked if the deadlines were specified in the letters from lawyer to the Societies Office.
- P confirmed that the letters did state 31/5, and he asked for the deadline in every letter, but no response was given either.

Motion 3 19:55

To withdraw motion no.2 in ECM3.

Proposer: TANG Laurence Yat Long (P)

Seconder: CHAU Dickson Ka Faat (GS)

Time Received: 19:55

No objection.

Resolution: Motion Carried

Time Resolved: 19:55

Motion 4

To authorize Tang Laurence Yat Long, President of the Hong Kong University Students' Union, to represent the Hong Kong University Students' Union regarding Judicial Review of the change of office bearers of the Hong Kong University Students' Union.

Proposer: TANG Laurence Yat Long (P)

Seconder: CHAU Dickson Ka Faat (GS)

Time Received: 20:00

Vote by Simple Majority

Valid votes: 45

For: 44

(P, IVP, EVP, GS, FS, USA1, EAS1, EAS2, SWS, PS, CAS, SS, AS, ICAP, CAP, SAP, RSA1, RSA2, RICA1, RICA2, RCA1, RCA2, LCHHR, LHHR, LHTHR, LSKHR, RCLHR, RHR, SJCR, SKYLHR (sub), STHR (sub), SWHR (sub), WLHR, UHR, ASR, AAR, DSR, EDSR, ENSR, LAR, MSR, SSR, SSSR, PC4)

Against: 0

Abstain: 1 (PC5)

Resolution: Motion Carried

Time Resolved: 20:00

- The meeting ended at 20:06.

Prepared by,

Approved by,

Leung Lai Kwok Yvonne
Honorary Secretary
HKUSU Council, Session 2013

Li Wai Yan, Vivian
Council Chairperson
HKUSU Council, Session 2013