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MINUTES OF THE 14TH MEETING OF THE TWELFTH ANGUILLA
EXECUTIVE COUNCIL HELD ON THURSDAY 15TH OCTOBER 2020 AT 9.00AM

- PRESENT: His Excellency The Governor, Mr Timothy Foy, OBE
- The Honourable Premier and Minister for Finance and Health,
Dr Ellis Webster
- The Honourable Deputy Governor, Mr Perin Bradley
- The Honourable Minister for Social Development, Cultural Affairs,
Youth Affairs, Gender Affairs, Education and Library Services,
Ms Dee-Ann Kentish-Rogers
- The Honourable Minister for Home Affairs, Immigration, Labour,
Human Rights, Constitutional Affairs, Information and Broadcasting,
Lands and Physical Planning, Mr Kenneth Hodge
- The Honourable Minister for Infrastructure, Communications,
Utilities, Housing and Tourism, Mr Haydn Hughes
- The Honourable Minister for Economic Development, Commerce,
Information Technology, Environment and Natural Resources,
Mr Kyle Hodge
- The Honourable Attorney General, Mr Dwight Horsford
- Clerk to Executive Council, Mrs Angela Hughes
- IN ATTENDANCE: Hon Parliamentary Secretary for Economic Development,
Mrs Quincia Gumbs-Marie
Hon Special Ministerial Assistant to the Hon Minister for Social
Development/Education, Mr Merrick Richardson
Financial Specialist, Mr Stephen Turnbull

EX MIN 20/426

CONFIRMATION OF THE MINUTES

Hon Parliamentary Secretary for Economic Development, Hon Special Ministerial Assistant to the Hon Minister for Social Development/ Education and Financial Specialist remained.

Council confirmed the Minutes of the 13th Meeting of Executive Council held on Thursday 8th October 2020.

MATTERS ARISING FROM THE MINUTES

Council noted that:

- 1) work is continuing on the report on the update and reform of the Interim Stabilization Levy, prior to presentation to Executive Council;
- 2) the Statutory Bodies Contingent Liabilities Report has been circulated for review by the Ministers of Government and should be submitted to the FCDO on 15th October; and
- 3) work to appoint the Supply Officer is ongoing.

ORAL MENTION

EX MIN 20/427

EX MEM 20/197 CHILD JUSTICE BILL REVISED

Hon Parliamentary Secretary for Economic Development, Hon Special Ministerial Assistant to the Hon Minister for Social Development/ Education and Financial Specialist remained.

Council:

- 1) noted that the provisions within the Bill do not cause any substantive financial implications for the 2021 budget and the costs associated with legal aid can be accommodated within it;
- 2) approved the draft Bill; and
- 3) instructed the Attorney General's Chambers to prepare the Bill for tabling at the next session of the House of Assembly.

Action: PS, SD; HON, AG; HON, MIN SD

EX MIN 20/428

AMENDMENT TO EX MIN 20/369

Hon Parliamentary Secretary for Economic Development, Hon Special Ministerial Assistant to the Hon Minister for Social Development/ Education and Financial Specialist remained.

Council noted the request to amend EX MIN 20/369 (i), to remove entries number 21 and 22.

Council approved the proposed amendment to EX MIN 20/369.

Action: PS, HA; HON, MIN HA

EX MIN 20/429

UPDATE ON STATUTORY BODIES QUARTERLY FINANCIAL REPORTS

Hon Parliamentary Secretary for Economic Development, Hon Special Ministerial Assistant to the Hon Minister for Social Development/ Education and Financial Specialist remained. The following persons joined:

PS Finance, Mrs Kathleen Rogers
Accountant General, Mr Vonlee Harris
Principal Assistant Secretary, Ms Marisa Harding-Hodge
Finance Officer, Ms Jamila Gumbs

Further to EX MIN 20/425 the Honourable Deputy Governor briefed Council on the progress made by the Statutory Bodies in preparing their Quarterly Financial Reports.

The salient points were as follows:

- 1) the deadline of September 30, 2020 for submission of the financial reports to the FCDO has been missed;
- 2) financial reports are outstanding from:
 - a) Water Corporation of Anguilla;
 - b) Public Utilities Commission;

- Whit Monday Monday, 24 May
- Celebration of the Birthday of Her Majesty The Queen Monday, 14 June
- August Monday Monday, 2 August
- August Thursday Thursday, 5 August
- Constitution Day Friday, 6 August
- National Heroes and Heroines Day Monday, 20 December
- Christmas Day Monday, 27 December
- Boxing Day Tuesday, 28 December

Action: PS, HA; HON, MIN HA

EX MIN 20/431

EX MEM 20/206 ANGUILLA BUSINESS COMPANIES BILL AND VARIABLE CAPITAL COMPANIES BILL

Hon Parliamentary Secretary for Economic Development, Hon Special Ministerial Assistant to the Hon Minister for Social Development/ Education and Financial Specialist remained. The following persons joined: -

Compliance Manager, Ms Marejah Smith
 Director of the FSC, Ms Tina Bryan
 Deputy Director of the FSC, Ms Simone Martin

The Director of the FSC and the Deputy Director of the FSC briefed Council on the proposed Bills. The key points are as follows: -

- 1) in the light of changes to global standards over the years, the differences between the Companies Act, R.S.A. c. C65 and International Business Companies Act, R.S.A. c. I20 have essentially being removed and two separate pieces of legislation are no longer needed;
- 2) a comparative analysis with other jurisdictions was done in

order to draft new legislation tailored to Anguilla. The Anguilla Business Companies Bill is a modern company law update. It allows for a flexible framework and competitive companies' regime whilst meeting international standards and directly impacts the OECD peer review process. The Variable Capital Companies Bill is a new corporate structure that gives the jurisdiction an increased advantage in terms of offering a flexible and improved investment vehicle and increased business opportunities. Its focus is investment business; and

- 3) the jurisdiction should in due course consider enacting the draft legislation. The draft legislation is expected to be published on the websites of the Government of Anguilla, the Commercial Registry and Financial Services Commission.

Following discussion Council:

- 1) noted that insolvency had not been addressed in the Anguilla Business Companies Bill, as there is a draft Insolvency Act to address insolvency;
- 2) noted that the Anguilla Business Companies Bill has been drafted to be as responsive as possible to anticipated future requirements of industry peers;
- 3) noted that enforcement of legislation by the Companies Registry is critical;
- 4) further noted that the Anguilla Business Companies Bill comports with the new incoming Companies Registry electronic system; and
- 5) approved the publication of the Anguilla Business Companies Bill and the Variable Capital Companies Bill for the purposes of public consultation, within a 6-week period.

Action: PS FIN; HON, MIN FIN; HON, AG; MINS OF GOV'T

EX MIN 20/432

EX MEM 20/207 ANGUILLA'S RATING FOR THE GLOBAL FORUM ON TRANSPARENCY AND EXCHANGE OF INFORMATION FOR TAX PURPOSES (GLOBAL FORUM) EXCHANGE OF INFORMATION ON REQUEST STANDARD (EOIR) PEER REVIEW

Hon Parliamentary Secretary for Economic Development, Hon Special Ministerial Assistant to the Hon Minister for Social Development/ Education and Financial Specialist remained.

The Principal Assistant Secretary briefed Council on Anguilla's Second Round Global Forum Exchange of Information on Request Standard (EOIR) Peer Review. Highlighting the major issues that arose in the current review which resulted in a down grade in Anguilla's compliancy rating from Partially Compliant to Non-Compliant.

Anguilla is a party to a multi-lateral agreement which subjects it to review by the Global Forum in relation to its compliance with international standards on transparency and EOIR. In 2014 Anguilla was rated Partially Compliant, although there was less experience in terms of reporting.

On September 1st 2020, the Global Forum published peer review reports - Anguilla's rating was revised to Non-Compliant, due to a number of major deficiencies highlighted during the review period. One of which was the Mossack Fonseca data breach matter. EU Ministers of Finance met on 6th October to confirm the addition of Anguilla to the EU blacklist due to the downgrade in EOIR rating.

To improve this rating, legislative and regulatory amendments will be necessary in order to comply with the OECD Global Forum Recommendations on Transparency and Exchange of Information for Tax Purposes as set out in the 2016 Terms of Reference on EOIR. The legislative amendments proposed will allow Anguilla to move closer to compliance pending enactment of a comprehensive updated Companies Act.

Usually a supplementary review can be requested 1 year after the report is issued. In special cases an immediate review can be requested. Anguilla intends to submit a request immediately for a supplementary review, to be scheduled for June 2021. At this stage the target would be a Largely Compliant rating, because opting for an earlier review only to receive a Partially Compliant rating would still lead to Anguilla being blacklisted. Once a supplementary review is granted, the jurisdiction cannot be blacklisted.

Council:

- 1) noted the proposed amendments to the legislation. There is a balance to be achieved between being competitive as a jurisdiction and having adequate safeguards in place in law;
- 2) noted that public consultation should include the wider public in addition to industry groups and stakeholders;
- 3) approved the following Bills for public consultation, within a 4-week period:
 - a) Limited Liability Company (Amendment) No. 2 Act, 2020;
 - b) Companies (Amendment) (No.2) Act, 2020;
 - c) Company Management (Amendment) Act, 2020; and
 - d) International Business Companies (Amendment) No. 2 Act, 2020, with an adjustment to include a provision requiring specified accounting records to be transferred to a custodian in Anguilla upon voluntary dissolution of an IBC;
- 4) agreed that the Ministry of Finance should continue to work on the review of the Trust Act and Trade Business Occupations and Professions Licensing Act to consider introducing beneficial ownership requirements. A paper should be presented to Executive Council by December 3, with public consultation following thereafter; and
- 5) approved in principle the Draft Action Plan to address recommendations from the EOIR Review.

Action: PS FIN; HON, AG; HON, MIN FIN

EX MIN 20/433

EX MEM 20/208 OECS ONLINE IMMIGRATION AND CUSTOMS FORM

Hon Parliamentary Secretary for Economic Development, Hon Special Ministerial Assistant to the Hon Minister for Social Development/ Education and Financial Specialist remained.

The Honourable Minister for Home Affairs briefed Council on the use of the OECS Online ED Form. The Ministry confirms that there are a number of benefits to be derived from use of the OECS Online ED Form, particularly during the COVID-19 pandemic.

Anguilla moves towards the second phase of re-opening on November 1, 2020 and the safety of officers in the line of duty remains paramount. Being able to complete an Online ED Form will eliminate the need for front line officers to handle ED Forms completed by passengers. It will also allow Immigration/Customs departments to receive advanced information on passengers, which allows for security screening prior to arrival on island. This initiative will improve efficiency at the ports of entry and enhance the travel experience by creating a more seamless and faster process on entry.

Council endorsed the development of an Online ED Form.

Action: PS, HA; HON, MIN HA

EX MIN 20/434

EX MEM 20/209 FINANCIAL UPDATE – SEPTEMBER YTD

Hon Parliamentary Secretary for Economic Development, Hon Special Ministerial Assistant to the Hon Minister for Social Development/ Education and Financial Specialist remained.

Council noted the report on the financial position as at September 30, 2020, from the Finance Officer. The overall fiscal position remains challenging:

- Overall financial position including debt amortization shows a deficit of \$9.04 million at the end of the third quarter;
- Recurrent revenue inclusive of the financial aid grant payment of EC\$30.65 million was EC\$175.63 million this is EC\$19.32 million less than the original forecast. Overall percentage impact on recurrent revenue for the major revenue heads as a result of the COVID-19 pandemic are:

- o Property tax -5.63%
 - o Interim Stabilisation Levy -13.16%
 - o Taxes on goods and services -30.82%
 - o Customs duties and related charges -35.20%
 - o Licences -12.57%
 - o Fines, fees and permits -13.78%
- Recurrent expenditure was EC\$156.86 million which is EC\$13.44 million below estimate although this is partially due to delays in some payments;
 - Capital revenue is EC\$0.893 million;
 - Capital expenditure is EC\$5.04 million;
 - Operating bank accounts are overdrawn by EC\$14.40 million;
 - Central Government Debt inclusive of short term credit facilities moved from \$486.53 million at the end of 2019 to \$462.09 million at the end of September 2020. The reduction in debt is attributable to debt amortization payments of \$23.66 million and disbursements on the ACC Loan of \$2.50 million;
 - Since 2016 the \$330.28 million Banking Resolution debt declined by EC\$21.31 million to \$308.97 million at the end of September 2020; and
 - By the end of the year a shortfall of \$5.57 million is projected for the Sinking Fund.

Council noted:

- 1) that a proportion of recurrent revenue relates to the payment of accommodation tax arrears;
- 2) that approximately EC\$3.50 million revenue support has been foregone as a result of duty and tax exemptions, deducted in accordance with the terms of the MOU;

- 3) that it may not be necessary to acquire all of the land originally earmarked for the Blowing Point Port Development;
- 4) the clarification that the expenditure budget for 2020 of \$248 million was established by all departments being scaled back to 2019 levels, totaling approximately \$212 million and the difference (\$36 million) being allocated to COVID-19 response measures. Cash flow restrictions and expenditure arrears have contributed to the Government of Anguilla recurrent expenditure underspends in 2020;
- 5) that no financial aid payment has been received for August although it is expected that this should be forthcoming in the following week; and
- 6) that a request has been made for financial assistance from the UKG to fund debt amortization payments once the Sinking Fund is depleted.

Following discussion Council agreed that His Excellency the Governor will correspond with the Police Welfare Fund to indicate the manner in which pension funds should be allocated. Persons can only claim against the fund proportionately to their length of service in Anguilla and not for service completed in another jurisdiction.

Action: PS, FIN; PS, EDCITENR; BD; ACC GEN; MINS OF GOV'T

EX MIN 20/435

EX MEM 20/198 LEASE OF CROWN LAND TO ANGUILLA AIR AND SEA PORTS AUTHORITY (AASPA) FOR CLAYTON J LLOYD INTERNATIONAL AIRPORT

Hon Parliamentary Secretary for Economic Development, Hon Special Ministerial Assistant to the Hon Minister for Social Development/ Education and Financial Specialist remained.

The Hon Minister of Home Affairs and Lands briefed Council. The matter concerns the regularisation of AASPA sub-lease holdings of Crown lands at the Clayton J Lloyd International Airport.

Council:

- 1) agreed that the Department of Lands & Surveys/Registrar of Lands, Anguilla Air and Sea Ports Authority (AASPA) and the Attorney General's Chambers will work together to prepare documentation:
 - a) to allow AASPA's leasehold interest in Registration Section South Central, Block 38813 B, Parcel 190 to be registered;
 - b) to terminate the lease held on Parcel 190/1 and rectify the register to create a sub-lease of Parcel 190/2;
 - c) to ensure that all outstanding rents are regularised and paid forthwith or in the alternative that a payment plan subject to Executive Council's approval be entered into to cover the outstanding rents due to the Government of Anguilla, in the amount of EC\$38,576.59, as detailed below;
 - d) to confirm that rent paid to the Government of Anguilla by Lloyds Aviation Services Ltd in the amount of EC\$2,500.00 will be transferred to AASPA;
 - e) to facilitate the payment of outstanding rents owed to the Government of Anguilla by Trans Anguilla Ltd. for the period May 2007 to October 2009 in the sum of EC\$20,748.52 and detail the terms of repayment; and
 - f) to facilitate the payment of outstanding rents owed to the Government of Anguilla by T34 Holdings Ltd for the period of 2007 to 2009 in the amount EC\$17,828.07 and detail the terms of repayment;
- 2) instructed the Attorney General's Chambers to prepare documentation sufficient to clear erroneous rent arrears recorded at the Inland Revenue Department as due and payable by Anguilla Air Services. Therefore, regularising the Anguilla Air Services account such that it is compliant with

Section 115 of the Anguilla Air and Sea Ports Authority Act and Executive Council Minute 13/173; and

- 3) instructed the Attorney General's Chambers to prepare a revised schedule of the leasehold property interests of the AASPA as it relates to Blowing Point Port, Sandy Ground Port and Clayton J Lloyd International Airport.

Action: PS, HA; PS MICUH&T; HON, AG; HON, MIN HA;
HON, MIN MICUH&T
