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MINUTES OF A SPECIAL MEETING OF THE TWELFTH ANGUILLA
EXECUTIVE COUNCIL HELD ON MONDAY 31ST AUGUST 2020 AT 1.15 PM

- PRESENT: His Excellency The Governor, Mr Timothy Foy, OBE
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 (acting Premier)
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
- ABSENT: The Honourable Premier and Minister for Finance and Health, Dr Ellis Webster

UPDATE ON MOU PROVISIONS – STATUTORY BODY CONTINGENT LIABILITIES REPORT

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:

Principal Assistant Secretary, Ms Marisa Harding-Hodge

PS Finance, Mrs Kathleen Rogers

Executive Council convened on Monday 31 August 2020 to consider the report on the Statutory Bodies contingent liabilities.

Council noted that:

- (i) the Anguilla Air and Sea Ports Authority reported liabilities of EC\$16.5 million resulting from loans, long term contractual obligations and expenditure arrears. It was doubtful that financial resources to fund these obligations were available when these commitments were entered into;
- (ii) the Anguilla Community College reported liabilities of EC\$9.6 million resulting from external loans and contractual obligations. A further EC\$5.6m was reported for future projected financial deficits. A financial sustainability plan was not presented;
- (iii) the Anguilla Development Board reported liabilities of EC\$5.5 million representing onward lending loan commitments and a property lease;
- (iv) the Anguilla National Trust had no known contingent liabilities;
- (v) the Anguilla Social Security Board reported liabilities of EC\$12.1 million relating to staff pensions and long term contractual obligations for ICT. Information relating to the unfunded liability of future benefits for the Board as a whole was not presented;
- (vi) the Anguilla Tourist Board reported liabilities of EC\$4.5 million relating to contractual agreements for services;

- (vii) the Public Service Pension Fund reported a total pension fund liability of EC\$266 million of which EC\$224 million was unfunded;
- (viii) the Public Utilities Commission has one liability - a building lease – which could be adequately funded from PUC's revenues;
- (ix) the Health Authority reported liabilities of around EC\$8 million, relating to contracts for accreditation and insurances. HAA also presented an unfunded deficit of EC\$5 million projected over the next 5 years. An articulated financial sustainability plan was not presented; and
- (x) the Water Corporation reported liabilities of EC\$62.3 million relating to loans, expenditure arrears and long term contracts. It was clear that the Corporation had entered into contractual commitments without the means to meet these obligations. More worryingly, the Water Corporation is operating at a deficit. A clearly articulated financial sustainability plan was not presented. It was further noted that a PPP had been entered into without following the correct approvals processes.

Council further noted that:

- (i) the practice of lending and borrowing between Statutory Bodies must be reviewed; and
- (ii) the fact that some Statutory Bodies had increased liabilities without necessarily having means to meet the resultant costs raised questions about whether those boards had effectively discharged their fiduciary responsibilities.

Following discussion Council thanked the Ministry of Finance for the work done and agreed that:

- (i) Permanent Secretaries and Ministers should work with the Boards for which they are responsible to ensure that budgets for the remainder of 2020 were prepared by 8

September along with detailed plans to reduce contingent liabilities;

- (ii) Permanent Secretaries and Ministers should work with the Boards for which they are responsible to ensure that 2021 budgets for each Statutory Body are prepared and submitted for Council's approval no later than 30 September;
- (iii) Ministers should work with the Honourable Attorney General to understand the legal implications of problematic contracts in order to agree the best way to proceed;
- (iv) His Excellency the Governor and the Honourable Attorney General should consider – after completion of a thorough forensic audit - whether a commission of inquiry into the conduct of boards when executing contracts was required;
- (v) any arrangement entered into by a Board that was in breach of statute should be regularized retrospectively; and
- (vi) the Procurement Act should be amended to require Statutory Bodies to follow the provisions of the Procurement Act.

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

EX MIN 20/364

PROPOSED AMENDMENTS TO PART 6 “RESTRICTION ON DRIVING OR IMPORTATION OF MOTOR VEHICLES WITH TINTED WINDSCREENS OR WINDOWS” OF THE VEHICLES AND ROAD TRAFFIC ACT R.S.A. c. V10

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 Part 6 - “Restriction on driving or importation of motor vehicles with tinted windscreens or windows” of The Vehicles and Road Traffic Act R.S.A. C. V10 as outlined below:

- a) that tint may be applied to one sixth (1/6) of the size of the windscreen (sun band) on all vehicles; this will be measured from the inside of the glass down;
- b) tint of up to 35% visual penetration for front side windows;
- c) tint of up to 15% for rear side windows with no graphics permitted;
- d) rear windscreen at 15% with graphics no greater than six (6) inches from the top edge; and
- e) increase the penalty from EC\$ 5,000.00 to EC\$10,000.00 for non-compliance.

Following discussion Council:

- (i) agreed to the proposed changes; and
- (ii) instructed the Attorney General's Chambers to commence drafting amendments to facilitate the proposed amendments to The Vehicles and Road Traffic Act R.S.A. c. V10

Action: PS, MICHUT; HON, MIN MICUHT, HON, AG
