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MINUTES OF THE 108th MEETING OF THE TWELFTH ANGUILLA EXECUTIVE COUNCIL HELD ON THURSDAY 13th OCTOBER 2022 AT 9.00 AM

PRESENT: Her Excellency the Governor, Ms Dileeni Daniel-Selvaratnam

The Honourable Premier and Minister for Finance, Economic Development & Investment and Health, Dr Ellis Webster

The Honourable Deputy Governor, Mr Perin Bradley

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 Sustainability, Innovation and Environment, Mrs Quincia Gumbs-Marie

The Honourable Parliamentary Secretary, Mr Merrick Richardson

The Honourable Attorney General, Mr Dwight Horsford

Clerk to Executive Council, Mrs Angela Hughes

IN ATTENDANCE: Financial Specialist, Mr Stephen Turnbull

ABSENT: The Honourable Minister for Social Development, Cultural Affairs, Youth Affairs, Gender Affairs, Education and Library Services, Ms Dee-Ann Kentish-Rogers

EX MIN 22/325 **CONFIRMATION OF THE MINUTES**

Hon Parliamentary Secretary and Financial Specialist remained.

Council confirmed the Minutes of the 107th Meeting of Executive Council held on Thursday 6th October, 2022.

Council held a minutes silence in recognition of the passing of Anguilla Public Servant Mr Calvin Samuels.

MATTERS ARISING FROM THE MINUTES

EX MIN 22/326 **EX MEMO 22/235 FINANCIAL STOCKTAKE – AS AT AUGUST 31, 2022 AND APPROVAL OF 2023 BUDGET POLICY PRIORITIES**

Hon Parliamentary Secretary and Financial Specialist remained.

The following persons joined the meeting:

PS, Finance, Mrs Kathleen Rogers
PAS, Finance, Ms Marisa Harding-Hodge
Budget Officer, Ms Jamila Gumbs
Debt Officer, Ms Rochelle Bryan

Council:

1) noted the report on the financial position as at August 31, 2022 from the Budget Officer;

2) the overall fiscal position:

- Overall financial position including debt amortization shows a surplus of EC$79.62 million at the end of August;

- Recurrent revenue was EC$244.07 million this is EC$81.39 million more than the original forecast, which is a positive variance of 50.03%. Overall impact on recurrent revenue for the major revenue heads are:

    - Property Tax – positive EC$2.42 million
    - Universal Social Levy - positive EC$2.56 million
    - Taxes on Goods and Services - positive EC$47.58

million
  - Excise Taxes - negative EC$1.43 million
  - Taxes on Specific Services - positive EC$23.86 million
  - Taxes on International Trade - positive EC$3.9 million
  - Sale of Goods and Services - positive EC$3.16 million

- Recurrent expenditure was EC$141.87 million which is EC$0.62 million under estimate;

- Annual capital expenditure is budgeted at EC$2 million, now revised to EC$3.75 million and at the end of August 2022 actual capital expenditure totalled EC$0.87 million and capital revenue is EC$0.83 million for the reimbursement of the CJLIA retrofit;

- Noted the analysis of the August returns showed a 97% filing compliance rate and net GST collections of EC$3.79 million;

- Noted the expenditure performance, some heads were over estimate and some were under estimate;

- Noted the revenue and expenditure report, debt amortization has not changed since July, amortization at the end of September 2022 was EC$26.64 million;

- Noted that some of the revenue over performance was due to the payment of arrears;

- Noted that the IGT credit status will be reviewed next week. Eleven businesses have submitted a request for an IGT credit for stock on hand at the GST implementation date, but it does not appear that this credit was passed on to consumers for some businesses. Businesses will have to demonstrate that the IGT credit was reflected in their selling prices and checks can be undertaken on receipts pre and post GST to confirm this. Noted that the credit exercise should be legislated and completed by the end of the financial year and any payments will be shown under the revenue refund head rather than on the IGT account;

- Noted that for expenditure the proportion of positive variance which is attributable to GST underspends should be ascertained;

- Central Government Debt inclusive of short term credit facilities moved from EC$427.92 million at the end of 2021 to EC$405.30 million at the end of August 2022. The reduction in debt is attributable to debt amortization payments of EC$22.54 million and exchange rate fluctuations of EC$0.06 million; and

- The Sinking Fund balance at the end of July 2022 is EC$2K.

3) noted the Ministry's intention to align Cabinets agenda with how funds are allocated. The aim is to revise the process to improve accounting officer compliance and ensure that funds are used for the purposes intended by the House of Assembly. Noted that the currently identified target areas are not the only areas for spending, there will be expenditure in other areas but the priority areas seek to maintain focus. Once the priorities are finalised a call circular will be issued and Departments shall be required to detail priority areas for delivery, funds for new areas of spending will have to be requested. Noted that CARTAC specifically requested broad priorities, but these can be developed with timelines in the forward look;

4) noted concern that the identified policy priorities do not seem to account for the current economic climate and the need to ensure Anguilla's economic stability and confidence in the Government's commitment to fiscal discipline;

5) noted the MTEFP takes into consideration possible economic shocks. However, with the current cost of living crisis, which may worsen, consideration should be given to policy priorities that seek to maintain standards of living, and contingency plans that will be completed if costs rise at a faster rate;

6) noted that in order to develop a Budget Policy Statement, policy areas have to be identified and these will be recognised in the MTEFP, the target date for this is the end of November;

7) noted that consideration had to be given to adequate resourcing to support national security matters and separately to address governance matters and compliance with requirements under

the Financial Administration and Audit Act. It is necessary to strengthen the skillset of the accounting officers working on policy, to ensure engagement and critical analysis on matters and accountability for financial decisions. Noted also that the resources of the Anguilla Public Service are finite and if there is no additional investment it may be challenging to deliver the Manifesto objectives and budget priorities. Noted consideration had to be given to resources for the wider APS and those Departments which do not fall within a specific Ministry. Noted that in order to progress national development, national investment of supporting public resources has to be considered;

8) noted that accountability and enforceability are key to success, the General Orders and PSC Regulations require updating and this will better support the delivery of objectives. A paper on the state of the APS shall be submitted to Council for consideration;

9) noted that the new approach to budget priorities is commendable and approved the following policy priorities for the 2023 Budget, subject to consideration of the points raised in discussion concerning the current economic climate, national security and national investment of supporting public resources:

1. Improve health outcomes of citizens by:
    - Strengthening the health system and making health care more affordable
    - Increasing access to specialised care
    - Increasing protection of vulnerable citizens and better addressing mental health issues
    - Reducing the potential for transmitting communicable diseases

2. Improve food security and offset food imports by increasing agricultural and fisheries production;

3. Youth development through sports, reduced youth unemployment and better education outcomes;

4. Reduce income inequality;

5. Environmental priorities:
    - Improve disaster management and climate change resilience

- Reduce environmental impact and conserve resources
- Improve access to and management of water resources
- Reduce energy costs and promote the use of alternative energy sources

6. Enhance access to Anguilla and improve physical infrastructure management.

Council authorised the issue of the Action Sheet before confirmation of the Minutes.

Action: PS, FIN; PS, EDMSIE; BD; ACC, GEN; HON, DG;
HON, AG; MINS OF GOV'T

EX MIN 22/327

EX MEMO 22/236 AMENDMENTS TO INSURANCE ACT, R.S.A. C. I16 AND INSURANCE REGULATIONS

Hon Parliamentary Secretary and Financial Specialist remained. Ms Tina Bryan, Director of the FSC and Ms Charo Richardson, Deputy Director Supervision of the FSC joined the meeting.

The Deputy Director – Supervision, FSC briefed Council.

There has been no increase to the fees applicable to the insurance sector since the passage of the amendments to the Schedule of insurance fees in 2014. Such increases took effect beginning January 1, 2015 and this year marks the 8th year of the existing fees.

Since 2015 there has been a large inflationary increase in the cost of services in general. Further, the supervisory activities to be conducted have also increased and the requirements to remain compliant with international standards expanded. There have also been increased filing requirements, especially for domestic insurers, that were implemented since 2015. One major example is the filing of quarterly returns, which must be reviewed and followed up on when submission is delayed.

The Commission's activities are funded solely through fees levied for licensing, registration, approval of post-licensing applications and other implemented fees that relate to supervision. Both the inflation, increasing costs and additional burdens involved with the necessary expansion of supervisory activities are being borne by the Commission which is an untenable situation.

The Commission is proposing a general increase in the fees associated with insurance supervision, as well as the introduction of new fees that do not exist in the current supervisory regime and are not provided for in legislation, some of which are being charged. The introduction of these fees will not entirely cover the true costs of supervision outlined above. However, it will assist the Commission in better meeting some of the costs of the high standard of regulatory supervision.

Amendment to the primary legislation is necessary in order to implement the fees that do not currently exist in regulations. These amendments will create the requirement to seek approval for certain changes or events, where the requirement does not currently exist. The Commission has requested that prior notification filings be made for material events, and it currently processes those in a manner similar to the processing of approval applications to facilitate the exercise of due diligence and prudential analysis. This will help ensure that actions are not being taken to the detriment of the licensed entity's financial stability. While these notifications are being processed internally at a similar level of scrutiny and processing as compared to approval applications, they do not attract a processing or approval fee. The proposed amendments seek to close this gap. These include, inter alia: declaration of dividends and granting of loans.

The amendments proposed will address existing loopholes in the requirements for approval within the law that are opposed to the spirit of the Insurance Act and Regulations.

Comparative Analysis

Research has been completed to assess the current level of the Commission's fees pertaining to insurance licensees in comparison with those of comparable jurisdictions, most notably, the British Overseas Territories.

Certain filings that are currently being required are not supported by legislation. Amendments are necessary to give the necessary authorisation to these filing requirements. Other fees have been proposed, where they do not currently exist. In some cases, the language was strengthened to clarify that the Commission's prior approval must be sought, and in so doing, enabled the assignment of a specific application or approval fee, such as explicit requirement to seek approval for:

- The appointment of an auditor (section 8(5) of Insurance Act and section 3.10 of Drafting Instructions)
- The appointment of an actuary (section 8(7) of Insurance Act and section 3.11 of Drafting Instructions)
- The appointment of an insurance manager (section 8(7) of Insurance Act and section 3.9 of Drafting Instructions)
- Increase of shareholding above the 10% threshold for existing shareholders (section 12(3)(c) of Insurance Act and section 3.7 of Drafting Instructions)
- The formation of a subsidiary (section 8(11) of the Insurance Act and section 3.5 of Drafting Instructions)

In some other cases the approval requirement was already enshrined in legislation, but did not have a specific fee assigned within the Regulations, therefore falling under the "Any other approval" category, which attracted a small fee of $150. This fee, in many cases, was not reflective of the supervisory time and resources put into processing such applications. The Commission intends to conduct public consultation on the planned amendments to the fees under the Insurance Act and Regulations as required.

Council:

1) noted that the proposed changes will improve the supervisory regime, improve monitoring and oversight and enable enforcement action;

2) noted the financial implications, the fee increases will allow the Commission to increase its revenue more proportionately to the supervisory resources expended for particular

transactions and/or in accordance with the risk posed as per the Antigua model. It is anticipated that increased domestic annual licence fees will increase revenue to the Commission by US$38,000. The fees are not presumed to be prohibitive, and should not discourage potential licensees or result in licensees surrendering their license. Even if this were to happen any revenue loss should be offset by the increases. This figure does not incorporate increased revenue from post-licensing transactions, as they are much more difficult to project in volume and type. However, the increased revenue will go far in closing the gap between revenue and operating expenses of the Commission to ensure its sustainability into the future;

3) approved the drafting of amendments to the Insurance Act and associated Regulations, by the Attorney General's Chambers, to enhance the regulatory regime through regularising certain filing requirements, as well as amending the fee schedule associated with licensing and filings; and

4) approved the conduct of public consultations on the proposed amendments.

Action: PS, FIN; PAS, FIN; HON, AG; HON, PREM

EX MIN 22/328 **EX MEMO 22/237 ACTUARIAL REVIEW OF THE PUBLIC SERVICE PENSION FUND AND APPROVAL OF AMENDMENTS TO THE PENSIONS ACT**

Hon Parliamentary Secretary and Financial Specialist remained. Pension Administrator, Mrs Monifa Brooks-Gumbs joined the meeting.

The PAS Finance and Pension Administrator briefed Council. In Ex Min 21/414 Council considered the Actuarial Review of the PSPF. The paper outlines as follows:

For contributors appointed before January 1, 2004, the age of retirement is 60 years old. For contributors appointed on or after January 1, 2004, the age of retirement is 65 years old. Current contribution rates are 3% of gross salary for Public Officers and 4% for Police Officers.

Key results of the actuarial projections of the PSPF under Best Estimate assumptions are:

i) The current combined contribution rate of 6% is below the cost of estimated expenditure in 2021 by almost 3% of pensionable salaries. Benefit costs relative to pensionable salaries will keep increasing to over 24% in 2055.
ii) At the current contribution rates and investment strategy, Fund assets will be depleted in 2028 if no changes are made to contribution and benefit rules.
iii) The partially funded financing approach for the PSPF is considered appropriate. Using an open group method to determine the Plan’s funded level as of December 2020, actuarial assets (current assets plus the present value of future contributions over 35 years) are 44% of the present value of future liabilities. **Actuarial liabilities exceed actuarial assets by $275 million.**
iv) The introduction of the Social Security pension offset as provided for in Section 41(2) of the Pensions Act has a material impact on PSPF benefit costs and long-term sustainability. However, the PSPF will still not be sustainable at the current 6% combined contribution rate.

The review makes the following recommendations:

1) Establish a formal funding policy that will determine when and by how much contribution rates should be increased.
2) Implement the Social Security pension offset as provided for in Section 41(2) of the Pensions Act at the earliest opportunity and amend this section so that only the portion of the Social Security pension earned during PSPF/Government of Anguilla service is used in determining the offset amount.
3) Expand the options for the investment of Fund assets while ensuring consistency with expected cash flow needs.
4) Confirm the Board’s authority regarding the granting of pension increases as outlined in Section 64 of the Act and decide whether pension increases in line with wage increases are reasonable.
5) Consider amendments such as a lower benefit accrual rate (now 1.25% per annum) and a higher retirement age (now 65) as options for reducing long-term costs.

The PSPF Board has accepted all the recommendations of the review, save for the implementation of the offset. The Board at its July 13, 2022 meeting declined to implement the Social Security offset. Of primary concern was fairness to contributors, given that they would have contributed to both funds and thus are entitled to the maximum benefit based on such contributions from each Fund. The Board noted that there is already a maximum pension allowable under the Pensions Act, which limits what can be earned/paid as a pension. It was also noted that pensions paid are not inflation adjusted. The Board was concerned about pensioners being able to maintain a reasonable standard of living.

In addition, contributions to the Social Security System by public servants are not solely based on their salaries from the public service. The cap would therefore disadvantage persons contributing from other sources of employment.

The Act has been operational for more than 10 years and during that time the interpretation and applicability of certain provisions of the Act, has been the subject of some concern. Areas that were not previously considered or not adequately considered by the Act have also been identified. Following a more comprehensive review of the Act it has been determined that certain amendments should be made to the Act to address recognised shortcomings and concerns noted by or communicated to the PSPB.

It is proposed that the implementation of all legislative changes to the Pensions Act be progressed simultaneously with input from stakeholders including contributors and union associations.

The actuarial reviews were laid before the HOA but the development of implementation plans was outstanding. It is proposed that the implementation of the actuarial recommendations for the Pension Fund be a stepped process.

Development of a Funding Policy

a) Effective January 1, 2022, employer contribution rates would be increased by 1% to 4%.

b) Effective January 1, 2023, a further 1% increase to employer rates would take effect.
c) Effective January 1, 2024, both employer and employee rates would be increased by 1%. The resulting contribution rate to be Employer 6% and Employee 4%.

Expansion of Investment Options to issue steady cash flow

a) The Board has decided to continue the loan programme to contributors. This programme is beneficial to both the Pension Fund and contributors alike, providing a higher rate of return than Term Deposits and the ability to borrow at lower rates of interest, respectively.
b) Explore options for investing in Regional Government Bonds.

Council:

1) noted the Actuarial Review of the Public Service Pension Fund as at December 31, 2020 and the associated recommendations of the PSPF Board. The intention is to ensure the long term viability of the fund by ensuring that it has a sound financial and actuarial basis, thereby offering adequate and affordable income protection;

2) noted that the Board does not agree with the proposed offset because of the increases in the cost of living and how this may affect pensioners standard of living. However, Council noted that the offset was required under law, but had not been correctly administered;

3) noted the Ministry’s indication that the proposed recommendations from the actuary would have to be bought into effect with legislative amendments. In addition to the amendments required to address the 2020 Actuarial Review other amendments are proposed to the Pensions Act, to address other issues as identified in a comprehensive review of the Act;

4) approved the following schedule of increases in Employer

Contributions to the PSPF as follows:

a) 2023 - Employer Contributions increased to 5%
b) 2024 - Employer Contributions increased to 6%

5) noted prior to the drafting of the proposed amendments that the PSPF, in collaboration with the Ministry of Finance, conduct public consultation sessions with stakeholders in relation to all of the Actuarial Review recommendations including the pension offset; and not only the proposed amendments to the Pensions Act; and

6) noted the proposed PSPF implementation plan as attached. Noted that work continues on the SSF Implementation Plan.

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

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