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MINUTES OF THE 87TH MEETING OF THE TENTH ANGUILLA
EXECUTIVE COUNCIL HELD ON THURSDAY 29TH DECEMBER 2011

PRESENT: His Excellency the Governor, Mr Alistair Harrison

The Honourable Hubert Hughes, Chief Minister and Minister of Finance,
Economic Development, Investment, Commerce and Tourism

The Honourable Acting Deputy Governor, Dr Bonnie Richardson-Lake

The Honourable Edison Baird, Minister of Social Development, Health, Sports
and Education

The Honourable Walcott Richardson, Minister of Labour, Immigration, Lands,
Physical Planning, Human Rights, Environment, Gender Affairs and Agriculture
and Fisheries

The Honourable Evan Gumbs, Minister of Infrastructure, Communications,
Utilities and Housing

The Honourable Acting Attorney General, Mr Ivor Greene

Mrs Jewelle Fleming, Clerk to Executive Council

IN ATTENDANCE: Mr Foster Rogers, PS, MHA/LANDS
Mr Gifford Connor, DLS

ABSENT: The Honourable Deputy Governor, Mr Stanley Reid

The Honourable Attorney General, Mr James Wood

EX MIN 11/898 **CONFIRMATION OF THE MINUTES**

Council confirmed the Minutes of the 86^h Meeting held on Thursday 22nd
December 2011.

MATTERS ARISING FROM THE MINUTES

EX MIN 11/899 **EX MIN 11/880 EX MIN 11/864 EX MEM 11/376 REIMBURSEMENT OF**
TELEPHONE BILLS TO HON CHIEF MINISTER

EX MIN 11/880 of 22 December 2011 refers.

Mr Foster Rogers, PS, MHA/LANDS joined the Meeting.

Further to the above minute, Council noted the information from the Accountant General on the matter.

Council agreed that the Hon Hubert Hughes, Chief Minister should be reimbursed EC\$40,000.00 for telephone bills incurred during the period November 1997 to March 2000.

Action: PS, FIN; PS, EDICT; ACC GEN

EX MIN 11/900

EX MIN 11/894 EX MEM 11/391 PROPOSED TRANSFER OF PERMANENT SECRETARIES

EX MIN 11/894 of 22 December 2011 refers.

Council agreed that the above minute should be amended to read as follows:-

Council agreed that the paper should be deferred pending the meeting between H E The Governor and the Hon Chief Minister for further discussion on the matter at 3:30 pm on Friday 23 December 2011 and to allow the Hon Minister of Social Development ample time to study the paper.

Council discussed the matter further on 29 December 2011. As a result Ministers of Government asked that the following statements made by them be recorded:-

Hon Chief Minister

“I remain firm to my belief that the transfer of the Permanent Secretaries at this time is detrimental to the smooth process going forward especially with regard to balancing the budget and getting Anguilla back on schedule in 2012. I am no longer committed to this process going forward if the proposed transfer takes place”.

“Mrs Kathleen Rogers’, PS, FIN special expertise is in Finance and Accounts and she is therefore better suited to direct Finance and Accounts in the Ministry. Dr Aidan Harrigan, PS, EDICT is committed to Science and Economics and is not oriented to managing Treasury and financial officials. He will find that job very boring and uninteresting. I value the advice he gives me in economic strategies. I believe the two together make a perfect match”.

Hon Minister/Home Affairs

“I wish that the three recommendations as outlined in EX MEM 11/391 of 22 December 2011 and indicated below be inserted in my statement:-

- (i) the response from His Excellency as to why he views the proposed transfers as being in the best interest of Anguilla at this time.

- (ii) whether any impact assessment was undertaken prior to the proposal to transfer the Permanent Secretaries and if so wish for the same to be shared with Government and placed on public record.
- (iii) that the proposed transfers for all the reasons expressed by the Chief Minister on the issue and ventilated in the various pieces of correspondence be withdrawn.

The Minister continued, “I cannot identify an answer to any of the above. I am not in support of the transfer of Permanent Secretaries at this time, particularly to the PS, MHA/LANDS from the MHA. Mr Rogers has a volume of history with relationships to Flag Luxury Properties, Cap Juluca saga and the uncertainty of Malliouhana Spa Resort. My position in this matter has nothing to do with persons/personalities and I am not passing any aspersions on anyone. I wish to mention these two maxims, “That we don’t fix what is not broken”. “No one can serve two masters”.

Hon Minister/MICUH

“I do not support the transfer of the Permanent Secretaries especially at a time when we have been asked to have the budget balanced by 2012. I think the Government is being taken for granted - a Government which has been duly elected. My personal view is that this is a form of strategy more or less to see Anguilla fail. The Minister asked the Governor two questions, “Do you want to see Anguilla fail? What is the real motive behind the transfers? We were not only duly elected but were widely elected. The God that I serve will see us through this. He is the one who is in control and I will continue to pray and stay on my knees”.

Hon Minister/Social Development

“Prior to the last Meeting of Executive Council held on 22 December 2011, I was not involved in any discussion with the transfer of the Permanent Secretaries. I believe had I been involved in the discussion given my experience as a member of the HoA for nearly 18 years and as a Minister of Government for several years and as a trained political scientist, I might have been able to offer certain suggestions that may have served to break the impasse between the Government and the Governor’s Office in respect of the transfer of the Permanent Secretaries in light of the fact the Constitution of Anguilla and the position of the Government in the David Anthony Carty vs Leroy Rogers case that the Government is not in a constitutional and legal position to go to Court on the issue of consultation. In that said case, the Judge cited Section 28 subsection 3 of the Constitution of Anguilla “where the Governor is directed by this Constitution to exercise any function in accordance with the advice of or after consultation with any person or authority, the question whether he has so exercised that function shall not be inquired into in any Court”. In light of the fact that Government has no constitutional and legal option available to it, in this impasse, it is my honest belief and advice that impasse can only be overcome by continued dialogue, discussion and compromise between the Governor and the Chief Minister.

At the Meeting of Executive Council on 22 December 2011, I was very much gladdened when the Governor and the Chief Minister readily agreed to meet and

discuss the impasse. In conclusion, I remain confident that these two gentlemen can meet, discuss and solve this problem in Anguilla's interest. I want to make it clear too that as a member of the Executive Council I, in no way, seek to destruct or delay the Chief Minister's request that these transfers should not take place. I believe that Anguilla demands that the Governor and Chief Minister continue to hold discussions. I believe on the basis of openness, mutual respect and compromise that a solution to this impasse can be arrived at where we will have a win/win situation".

Hon Chief Minister

"There is no question here for the Court. The matter cannot be resolved by the Court and I would not want to put Anguilla through court action. The Governor has constitutional rights because he is the head of the Civil Service. The Governor can do what is in his constitutional rights for the Civil Service but at the same time the people in Government who have been duly elected have to represent the people of Anguilla. Even though there might be no legal standing to this matter, there is a common principle that respect should be given to each other – that is reciprocal. The position is for the Governor to decide and for me to take account of going forward.

Action: H E; MINS OF GOV'T

OUTSTANDING ITEM FOR EXCO

1. EX MIN 08/761 IMMIGRATION AND LABOUR POLICY
of 11 December 2008

Action: PS, MHA; AG

EX MIN 11/901

EX MEM 11/392 FINANCIAL SERVICES ENACTMENT REGULATIONS, R.R.A. F28-1

Council approved the Financial Services Enactment (Amendment) Regulations, 2011 which was signed by HE The Governor on 29 December 2011 for gazetting on 30 December 2011.

Action: AG; DIR, FSC; PS, FIN; PS, EDICT

EX MIN 11/902

EX MEM 11/393 INTEGRATED CUSTOMS TARIFF (AMENDMENT) REGULATIONS, 2010

Council agreed that the paper should be deferred for further inquiries with the Comptroller of Customs.

Action: AG; COC

EX MIN 11/903

EX MEM 11/394 IMPLEMENTATION OF NEW FEES – POST OFFICE

Council approved:-

- (i) the implementation of a late penalty fee of EC\$20.00 to be charged on all letter box rental renewals after January 31st effective January 1, 2012;
- (ii) a daily storage fee of EC0.50 per cubic foot be charged on all packages effective February 1, 2012 held at the Post Office effective ten (10) working days after the date of receipt.

Council authorised the issue of the action sheet before confirmation of the Minutes.

Action: PS, FIN; PS, EDICT; PMG

EX MIN 11/904

EX MEM 11/395 APPOINTMENT OF MEMBER OF SOCIAL SECURITY BOARD

Council noted that a position of Board Member became vacant following the death of Mr Kirkley Carty on 13 December 2011.

Council was informed by the Hon Chief Minister/Min of Finance that pursuant to the powers vested in him by virtue of Section 1 of the Schedule to the Social Security Act R.S.A.C S45 he had appointed Mr Roosevelt Harris to replace Mr Carty as a Member of the Social Security Board effective 1 January 2012.

Council authorised the issue of the action sheet before confirmation of the Minutes.

Action: PS, FIN; PS, EDICT; ACC GEN; DIR, SS

EX MIN 11/905

EX MEM 11/396 PROCESSING OF WORK PERMITS BY THE MINISTRY OF HOME AFFAIRS

PS, MHA/LANDS remained for discussion.

Council, bearing in mind the Tax Clearance Policy but also mindful of the circumstances at Cap Juluca Hotel, agreed exceptionally that permission be given to the MHA to process work permit applications for Cap Juluca Hotel without the submission of the Tax Clearance for the period up to 31 December 2011.

Council authorised the issue of the action sheet before confirmation of the Minutes.

Action: PS, MHA/LANDS; LAB COM; CIR

EX MIN 11/906

EX MEM 11/397 MINIMUM WAGE ADVISORY COMMITTEE

PS, MHA/LANDS remained for discussion.

Further to EX MIN 10/595 of 30 September 2010, Council agreed that the membership of the Minimum Wage Advisory Committee be amended as follows:-

Employers: Mr. Calvin Richardson
Ms. Salome Lake
Dr. Lowell Hughes

Mr. Daryn Augustus
Mrs. Keisha Fleming-Lake
Mr. Vincent Proctor

Employees: Mr. Courtney Morton
Mr. Franklyn (Kelly) Richardson
Mr. Brent Warner
Mr. Wayne Hughes
Mr. David Chance
Mrs. Maureen Carty

Other: Mr. Willis Hodge
Mr. Curtis Vanterpool
Mr. Joseph Vanterpool

Council further agreed that:-

- (i) Mr Franklyn (Kelly) Richardson should be appointed as Chairman of the Committee in accordance with Section 18 (2) of the Act;
- (ii) the Committee is expected to submit its report to Executive Council by 31 March 2012.

Council authorised the issue of the action sheet before confirmation of the Minutes.

Action: PS, MHA/LANDS

EX MIN 11/907

EX MEM 11/398 ACQUISITION OF PARCEL 59, BLOCK 58715B IN NORTH REGISTRATION SECTION BEING 1 ACRE OF LAND IN EXCHANGE FOR CROWN'S LAND, PARCEL 104 (part of) BLOCK 28210B IN WEST CENTRAL REGISTRATION SECTION BEING 1¼ ACRES

PS, MHA/LANDS remained for discussion. Mr Gifford Connor, DLS joined the Meeting.

Council agreed that Parcel 59, Block 58715 B, in North Registration Section, registered to Richard A. Lloyd of P.O. Box 7728, Estate Thomas, St. Thomas United States Virgin Island as personal representative of the estate of Herman A. Lloyd deceased being 1 acre of land be exchanged for Crown's land, being part of Parcel 104, Block 28210 B in West Central Registration Section comprising 1¼ acres in accordance with plan reference LS 17/11, with both parcels open market value estimated at US\$250,000.00 or EC\$672, 050.00.

Action: PS, MHA/LANDS; DLS; PS, FIN; PS, EDICT

EX MIN 11/908

EX MEM 11/399 POSITION OF DIRECTOR OF LANDS AND SURVEYS – RE-ENGAGEMENT OF MR GIFFORD CONNOR

PS, MHA/LANDS remained for discussion.

Council:-

- (i) agreed that Mr Gifford Connor should be awarded a contract for a period of six months from 1 January 2012 to 29 June 2012;
- (ii) agreed to fifteen percent (15%) gratuity at the end of six months or part thereof. This has been approved in recognition of the fact that Mr Connor will be foregoing his pension during the term of his re-engagement and his contractual period will not be pensionable, so there should be some incentive for Mr Connor to remain employed by the Government of Anguilla.

Council authorised the issue of the action sheet before confirmation of the Minutes.

Action: PS, PA; PS, MHA/LANDS; PS, FIN; PS, EDICT; ACC GEN; DLS

ORAL MENTION

EX MIN 11/909

COMMUNICATION LEVY ACT, 2010 (ACT 10/2010): LEVY RATE REGULATIONS, 2011

H E The Governor signed the amended Levy Rate Regulations, 2011 on 29 December 2011 for gazetting.

Action: AG; PS, FIN; PS, EDICT
