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MINUTES OF THE 110th MEETING OF THE TWELFTH ANGUILLA
EXECUTIVE COUNCIL HELD ON THURSDAY 27th OCTOBER 2022 AT 9.00 AM

- PRESENT: Her Excellency the Governor, Ms Dileeni Daniel-Selvaratnam
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 Infrastructure, Communications, Utilities, Housing and Tourism, and Acting Premier, Mr Haydn Hughes
The Honourable Minister for Sustainability, Innovation and Environment, and Acting Minister for Home Affairs, Mrs Quincia Gumbs-Marie
The Honourable Attorney General, Mr Dwight Horsford
Clerk to Executive Council, Mrs Angela Hughes
- IN ATTENDANCE: The Honourable Parliamentary Secretary, Mr Merrick Richardson
Financial Specialist, Mr Stephen Turnbull
- ABSENT: The Honourable Premier and Minister for Finance, Economic Development & Investment and Health, Dr Ellis Webster
The Honourable Minister for Home Affairs, Immigration, Labour, Human Rights, Constitutional Affairs, Information and Broadcasting, Lands and Physical Planning, Mr Kenneth Hodge

EX MIN 22/340

CONFIRMATION OF THE MINUTES

Hon Parliamentary Secretary and Financial Specialist remained.

Council confirmed the Minutes of the 109th Meeting of Executive Council held on Thursday 20th October, 2022 and the Minutes of the Special Meeting held on Tuesday 25th October, 2022.

MATTERS ARISING FROM THE MINUTES

EX MIN 22/342

EX MEMO 22/247 PROPOSED CONTINGENCY WARRANT NO. 1 FOR 2022 & SUPPLEMENTARY NO. 2 OF 2022

Hon Parliamentary Secretary and Financial Specialist remained.
The PAS, Finance, Ms Marisa Harding-Hodge joined the meeting.

The PAS Finance briefed Council. The Ministry of Finance was requested to prepare a Contingency Warrant to increase the Capital Budget in order to facilitate payments relating to the completion of the Blowing Point Ferry Terminal, material costs for the Albena Lake Hodge Comprehensive School and the access control and camera surveillance system for Government headquarters to prepare for the forthcoming OECD audit.

Therefore, the purpose of this Contingency Warrant Budget, Contingency Warrant No. 1 of 2022 is to facilitate expenditure increases to reflect additional capital expenditure needs.

As set out in Section 28 of the Financial Administration and Audit Act, a Contingency Warrant is used for expenditure for a public service which is not foreseen and therefore not provided for, or not sufficiently provided for and is also required for the public good.

The proposed Contingency Warrant expenditure will be included in the supplementary appropriation, which can be accommodated by revenue performance to date. The Supplementary Appropriation Bill will be submitted to Council shortly for approval, alongside the Medium Term Economic and Fiscal Plan. In advance of same, the following expenditure is proposed.

Supplementary No. 2 of 2022

Recurrent Expenditure

There is a request for an expedited Supplementary No. 2 of 2022, to facilitate payments for Government arrears and cost of living support in the final quarter of 2022.

Supplementary No. 2 of 2022 on the recurrent side is an increase of \$14,449,408 under the Ministry of Finance. This will cover costs as it relates to a further electricity grant (\$6.5 million) to provide support for additional cost of living costs, Senior Citizens Food Voucher (\$0.45 million) and Restricted Expenditure (\$2.0 million), this expense will cover where departments may fall short at the end of the year. An increase of \$1 amount is included to fill the position of Compliance Officer, this is a much needed position within the Ministry which desires to meet international finance compliance requirements. Moreover, there are increases within Treasury to address pending expenditure arrears, such as Deferred Salaries (\$1.94 million), University of the West Indies contributions (\$1.0 million), Caribbean Regional Technical Assistance Centre (CARTAC) (\$1.20 million) and the Eastern Caribbean Supreme Court (\$1.35 million). There is also provision to include the financing for the Anguilla Community College, amounting to \$2.11 million.

Capital Expenditure

Under Capital Expenditure, additional funds are required within the Ministry of Infrastructure to pay outstanding fees for Road Bay Jetty amounting to \$100k. Funds are also required to meet the outstanding balance of \$200k for the airport runway sweeper. There is a need for six additional vehicles in the Government's fleet pool with a cost of \$236,370. For a baggage scanner at the Clayton J Lloyd International Airport and also walkthrough and handheld scanners for the Blowing Point Terminal Building \$407k is required. In the Ministry of Economic Development, an increase of \$53k is needed for the replacement of computers, to facilitate the efficient administration of Inland Revenue Department functions.

Council:

- 1) noted the current financial performance with January to September actuals and October to December projections as per budget. The proposed increase to the expenditure ceiling

can be supported by revenue performance to date alongside planned exemptions/concessions;

- 2) noted the information provided regarding restricted expenditure and that further information is required. Noted the restricted expenditure account is not used to charge direct expenditure but is used to vire and reallocate sums to the relevant Ministry and this will be captured in the Supplementary Appropriation;
- 3) noted the expenditure proposed in the Contingency Warrant is executed under the hand of the Minister responsible for Finance. It will need to be included in the second supplementary appropriation and require approval by the House of Assembly before the end of the financial year. A Contingency Warrant permits expenditure of up to 5% of the aggregate amount of capital appropriation, which is EC\$11 million. Key needs have been identified in order to avoid processing a large sum in this manner. Noted that the expenditure required for access controls and camera surveillance was foreseen. However, it was not foreseen that the OECD would make an onsite inspection and they are due to do this at the end of November 2022, thus there is an immediate need for this expenditure;
- 4) noted the intention of the Minister of Finance to issue a Contingency Warrant under his hand authorising the following supplementary expenditure from the Consolidated Fund:

Ministry of Social Development	EC\$613,600	Materials to support the completion of the remaining works at ALHCS Package 2
Ministry of Finance and Health	EC\$100,530	Access Control and Camera Surveillance System for GoA Headquarters
Ministry of Infrastructure	EC\$2,056,480	Funding for additional items, taxi stand, parking lot, landscaping, at Blowing Point Terminal Building

- 5) noted that the supplementary appropriation information included in the paper is presented for information in order to highlight the progress and preparation for the Supplementary

Appropriation Bill which will be submitted for Council's consideration with the MTEFP;

- 6) noted that the cost of living support is proposed to be extended. The expenditure for EC\$500 over 70's food vouchers was anticipated by the Ministry to be EC\$300k, but actual expenditure was higher at EC\$450k;
- 7) noted that Accounting Officers have been entering into agreements either directly on behalf of Government or via third party organisations that have committed unappropriated expenditures, without obtaining necessary authorisation thereby incurring unlawful expenditure commitments. Accounting Officers need to be reminded of their legal position to sign documents where resources are not in place. Legal provisions for sanctions, penalties and offences shall need to be developed. An amnesty should be considered so that all Accounting Officers can divulge any agreements they might have entered into that have created future expenditure liabilities, without any penalty. Ministers should also review their portfolios for any existing liabilities;
- 8) noted that the Valley Primary School requires a kitchen and this is estimated to cost EC\$175k; and it cannot participate in the pilot lunch programme without a kitchen. Capital expenditure has to be evaluated to understand its recurrent expenditure commitments and cannot be incurred without understanding what the wider policy is. There are uncertainties around the duration of the pilot lunch programme and how it will be funded after December 2022. There is no MOU with Government for the provision of the school feeding programme. It is currently funded through a grant provided by and agreement between the Richard Schultze Family Foundation and the Anguilla Community Foundation. Agreed that the nature of the agreement has to be ascertained and it had to be brought within proper governance and financial control. The Attorney General's Chambers shall render advice on the agreement and identify any accountability issues;
- 9) noted with respect to costs sought for the Road Bay jetty contract that Richardson's Engineering are not owed EC\$100k under the contract as they were already paid, this should be checked and the underlying dispute should be addressed. Noted that in relation to the acquisition of vehicles, there should be a wider policy objective to include electric

vehicles, even though there is no specific policy addressing usage. Also in order to prolong vehicle life, maintenance and user policies should be in place. The sum proposed for baggage scanners should be compared with expenditure under the Anguilla Programme and what has already been acquired, as a walkthrough scanner has been purchased. An audit should be completed detailing which Department is taking ownership of certain property; and

10) noted the proposed second Supplementary Appropriation that will be submitted to Executive Council at a future date alongside the Medium Term Economic and Fiscal Plan for consideration.

Action: PS, FIN; PAS, FIN; HON, PREM; MINS OF GOV'T

EX MIN 22/343

EX MEMO 22/248 AMENDMENT TO THE BANKING BUSINESS VESTING ORDERS – TRANSFER OF BANKING BUSINESS FROM FIRST CARIBBEAN INTERNATIONAL BANK (ANGUILLA) LTD (FCIB) TO NATIONAL COMMERCIAL BANK OF ANGUILLA LTD (NCBA)

Hon Parliamentary Secretary and Financial Specialist remained.

The PAS Finance briefed Council. The FCIB (Barbados) and NCBA have entered into an agreement for the NCBA to acquire the former FCIB Anguilla's branch loan portfolio pursuant to a Purchase and Sales Agreement made on June 27, 2022. The FCIB (Barbados) has applied to the ECCB for the issuance of a Banking Business Vesting Order in relation to the vesting of this portfolio to NCBA. The ECCB has reviewed this application and has made a recommendation to the Minister of Finance for the banking business vesting order to be issued. Sections 174 to 176 of the Banking Act 2015 outline the process by which a Bank Vesting Order can be effected. Specifically, Section 174 deals with the execution by the Minister of Finance of a Banking Business Vesting Order. A draft vesting order has been prepared. As per section 176 of the Banking Act the transfer to and vesting in NCBA of the banking business of FCIB (Anguilla) may be exempted from the payment of Stamp Duties under the Stamp Act.

Council:

- 1) noted the financial implications. For a variation of charge, 1% of the value of the charge is paid, the Ministry is advised that in this situation, where there is no variation, a flat fee of EC\$20 per charge is payable. NCBA has advised that there are a total of 83 charges to be executed, therefore, the total value of the Stamp Duty exemption is EC\$1,660.00. The purchase price of the loan portfolio is \$650k with an overall portfolio value of \$4.5 million. The Department of Lands was consulted in relation to this matter and they made reference to a previous decision of Council, to remove the Stamp Duty applicable on the transfer of charges between lending institutions (Ex Min 13/204). Instead a nominal fee of EC\$200 was proposed. This proposed nominal fee is to ensure that loans can be transferred between institutions with minimal transaction costs. In the previous transfer of the banking business of NBA and CCB to NCBA Ltd, Section 176 of the Banking Act was applied to exempt this transaction from Stamp Duty;
- 2) in accordance with Section 174, sub-sections (1 to 3) of the Banking Act 2015, the banking vesting orders shall be reviewed by the Attorney General's Chambers to transfer to and vest in NCBA, the banking business vesting orders of FCIB, as set out in the draft vesting order;
- 3) the Department of Lands & Surveys shall check and confirm the legal basis for the EC\$20 flat fee per charge;
- 4) approved the exemption of Stamp Duty on the transfer of assets in accordance with Section 16 of the Financial Administration and Audit Act and requested the Attorney General's Chambers to draft the regulation to be presented to the House of Assembly. There is no basis for same under the Banking Act 2015; and
- 5) authorised the Minister of Finance to issue the Bank Vesting Orders in accordance with Section 174 (3) of the Banking Act 2015.

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

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

EX MIN 22/345

EX MEMO 22/250 APPLICATION FOR ISSUE OF LICENCE UNDER THE ALIENS LAND HOLDING REGULATION ACT – REGISTRATION SECTION NORTH, BLOCK 59018 B, PARCEL 280 CONTAINING 0.45 OF AN ACRE

Hon Parliamentary Secretary and Financial Specialist remained. PS Home Affairs, Dr Aidan Harrigan and Director of Lands & Surveys, Mr Leslie Hodge joined the meeting

Council agreed to issue an Aliens Land Holding Licence to hold on a freehold basis, property situate in Registration Section North, Block 59018 B, described as Parcel 280 being 0.45 of an acre of vacant land to construct a solar farm, subject to the following:

- (a) payment of the following Stamp Duties:
- | | | |
|-------|--|-----------------------------|
| (i) | under the Stamp Act – 5%
of EC\$349,466.00 | EC\$17,473.30 |
| (ii) | under the Aliens Land Holding
Regulation Act – 4%
of EC\$349,466.00 | EC\$13,978.64 |
| (iii) | Refundable Deposit
under the Aliens Land Holding
Regulation Act – 10%
of EC\$349,466.00 | <u>Waived</u> |
| | TOTAL | <u>EC\$31,451.94</u> |
- (b) the Licensee be granted an exemption from the refundable deposit, on the grounds that the Solar Farm forms part of the project;
- (c) an application for full Planning Permission is required before any development commences and shall detail all matters relating to the site;
- (d) with the express condition that the land is to be used for the

sole purpose of a Solar Farm as approved in Planning Application No. 22/0291;

- (e) the Licensee shall fully comply with the terms and conditions as stipulated in the Memoranda of Understanding (MOU) dated 20th June, 2020, with the Government of Anguilla;
- (f) the Licensee shall, during the period of construction, permit the authorised officers or agents of the Government of Anguilla access to the land to inspect the site and works on site; and
- (g) the Licensee shall fully comply with the laws of Anguilla in force from time to time including the Land Development Control Act, the Property Tax Act, the Building Regulations, the Labour Relations Act 2018 and the Control of Employment Act Regulations, the Social Security Act, the Immigration and Passport Regulations and any statutory modification or re-enactment thereof and any rules or regulations made there under.

Council:

- 1) noted that the applicant has already been granted an ALHL to own 2 acres of land for use as a solar farm and there is no basis upon which to deny this application. However, while this ALHL application was approved there are a number of actions to be taken forward by the Ministry of ICUHT;
- 2) noted the comments of the PS MICUHT as extracted in the paper concerning solar farms and the wider impact on the electricity supplier. Noted that the renewable energy proposal is not new. Electricity bills for some businesses have increased and they wish to find ways to reduce costs. In instances where land is already owned by a party wishing to develop a solar farm, there is no need for the person installing the solar farm to seek the grant of an ALHL from Council; and

- 3) noted that MICUHT does not have a policy on the disposal of batteries used for solar power. The Ministry of SIE is to include a battery disposal plan as part of the change of land use policy.

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

Action: PS, HA; PS, EDMSIE; PS, MICUHT; DLS; HON, MIN HA;
HON, MSIE; HON, MIN MICUHT

EX MIN 22/346

EX MEMO 22/251 APPLICATION FOR ISSUE OF LICENCE UNDER THE ALIENS LAND HOLDING REGULATION ACT – REGISTRATION SECTION SOUTH CENTRAL, BLOCK 38510 B, PARCEL 45 CONTAINING 0.65 OF AN ACRE

Hon Parliamentary Secretary and Financial Specialist remained.

Council agreed to issue an Aliens Land Holding Licence to hold on a freehold basis, property situate in Registration Section South Central, Block 38510 B, described as Parcel 45 being 0.65 of an acre located at Lockrum, Anguilla for residential purposes with a dwelling house thereon, subject to the following:

- (a) payment of the following Stamp Duties:
 - (i) under the Stamp Act – 5%
of EC\$6,895,233.00 EC\$344,761.65
 - (ii) under the Aliens Land Holding
Regulation Act – 5%
of EC\$7,446,314.00 EC\$372,315.70
- TOTAL EC\$717,077.35**

- (b) the property must be used for residential purposes;
- (c) the Applicant shall be granted an exemption from

Government's Policy restricting aliens to the purchase of no more than half an acre of land, on the grounds that the land is alienated;

- (d) the Licencee must not rent their dwelling house without first notifying the Ministry of Economic Development & Investment, in order to rent the said property; and
- (e) the Licensee shall fully comply with the laws of Anguilla from time to time including the Land Development Control Act, the Property Tax Act, the Building Regulations, the Labour Relations Act (2018) and the Work Permit Regulations of the Control of Employment Act, the Social Security Act, the Immigration and Passport Regulations and any statutory modification or re-enactment thereof and any rules or regulations made there under.

Action: PS, HA; DLS; HON, MIN HA
