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MINUTES OF THE 78TH MEETING OF THE TENTH ANGUILLA
EXECUTIVE COUNCIL HELD ON THURSDAY 20TH OCTOBER 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, Mr Larry Franklin
- The Honourable Walcott Richardson, Minister of Labour, Immigration, Lands,
Physical Planning, Human Rights, Environment and Gender Affairs
- The Honourable Evan Gumbs, Minister of Infrastructure, Communications,
Utilities, and Housing
- The Honourable Attorney General, Mr James Wood
- Mrs Jewelle Fleming, Clerk to Executive Council
- IN ATTENDANCE: Mr Foster Rogers, PS, MHA/LANDS
Dr Wycliffe Fahie, PAS, FIN
Hon Jerome Roberts, Adviser to the Hon CM
Hon Haydn Hughes, Parliamentary Secretary
Dr Aidan Harrigan, PS, EDICT
Mr Perin Bradley, TIO
Ms Mary Clare Haskins, Crown Counsel
Ms Gina Brooks, Tourism Planner
Mr Gifford Connor, DLS
Mr Vincent Proctor, PPO
- Representatives - Fountain Beach Residences Ltd
- Mr Jeffrey Goldstein, Director
Mr Sheldon Goldstein
Mr Robert MacLellan
Mr Scott Hauser
Ms Lisa Basire
Ms Naomi Cambridge
- ABSENT: The Honourable Deputy Governor, Mr Stanley Reid
- The Honourable Edison Baird, Minister of Social Development and Education

EX MIN 11/691 **CONFIRMATION OF THE MINUTES**

Council confirmed the Minutes of the 77th Meeting held on Thursday 13th October 2011 and the Minutes of a Special Meeting held on Tuesday 18th October 2011.

MATTERS ARISING FROM THE MINUTES

EX MIN 11/692 None.

OUTSTANDING ITEM FOR EXCO

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

Action: PS, MHA; AG

EX MIN 11/693 **EX MEM 11/288 THE LIBYA (RESTRICTIVE MEASURES) (OVERSEAS TERRITORIES) ORDER 2011**

Council noted that the UK intends to issue legislation to amend the Libya (Restrictive Measures) (Overseas Territories) Order 2011 following the adoption of the UN Security Council Resolution 2009 (2011) and subsequent EU legislation concerning Libya. The FCO Legal Advisors are drafting amending legislation to cover all OTs (except Bermuda and Gibraltar). Comments from the OTs will be requested towards the end of October with a limited time period for response in order to enable the timetable for the November sitting of the Privy Council to be met. The draft legislation will be provided to the Attorney General's Chambers for comment as soon as it is available.

Action: HE; AG; MINS OF GOV'T

EX MIN 11/694 **EX MEM 11/289 DRAFT POLICY ON RENTALS OF CARS, BICYCLES AND SCOOTERS AND SHUTTLE SERVICE BY FOREIGN DIRECT INVESTORS IN HOSPITALITY PROJECTS**

Dr Wycliffe Fahie, PAS, FIN joined the Meeting.

Council agreed to the drafting of a policy which would protect local enterprise in the aforementioned niche in the market and which would also provide a comprehensive guide as to how that sector of the market should operate.

Council further agreed that FEDICT should take the lead in the drafting of the policy with input from MHA, MICUH and the AG's Chambers.

Action: PS, FIN; PS, EDICT; PAS, FIN; PS, MHA/LANDS; PS, MICUH; AG

EX MIN 11/695

EX MEM 11/290 DRAFTING OF LEGISLATION FOR A DRESS CODE FOR TAXI OPERATORS, CHARTER AND FERRY BOAT SERVICE PROVIDERS AND PORTERS

PAS, FIN remained for discussion.

Council agreed that FEDICT and ATB Officials should meet with the taxi drivers to discuss a dress code and that subsequently, the AG's Chambers should be instructed to draft the necessary legislation which among other things must specify which entity would be responsible for implementing and enforcing the above dress code.

Action: PS, FIN; PS, EDICT; PAS, FIN; AG

EX MIN 11/696

EX MEM 11/291 INTERIM STABILIZATION LEVY: PENALTIES AND EXEMPTIONS FOR NON-FILING OF RETURNS

PAS, FIN remained for discussion.

Council looked at the categories indicated below:-

1. Special cases where there are persons who filed when the Act was first implemented but was told by the Social Security Board that they do not have to file because they are below the threshold.
2. Non filers consisting of mainly self employed persons or employers whose employees did not meet the threshold.
3. Non filers who are above the threshold consisting of persons who would have to pay the levy based on their income being above the threshold but have not filed. This actually amounts to tax evasion and is more serious than any of the two above categories.

Council agreed that:-

- (i) in Category 1 above the special cases should not attract any penalties,
- (ii) Category 2 should pay 5% of the penalties and interest charged;
- (iii) Category 3 should not attract any relief.
- (iv) Refunds will be made to all persons who have already paid penalties based on the category under which they fall;
- (v) a grace period for the months of April 1st to October 31st 2011 will be put in place and all the relevant persons must file by November 30th 2011 to be considered for relief. Persons filing after that date will be liable to pay the full penalties and interest;
- (vi) all revised penalty payments should be made by December 31st 2011.

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

Action: PS, FIN; PS, EDICT; PAS, FIN; AG

EX MIN 11/697

EX MEM 11/292 WORK PERMIT APPLICATION REFUSALS

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

Council was consulted by the Hon Minister of Home Affairs as to the following work permits which the Minister is minded to refuse:-

<u>NAME</u>	<u>NATIONALITY</u>	<u>OCCUPATION</u>	<u>EMPLOYER</u>
Robert Joseph Love	United States	Director of Finance	Viceroy Hotel
Bevis Oral Sylvester	Tortola BVI	Reg. General Manager	Delta Petroleum

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

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

EX MIN 11/698

EX MEM 11/293 APPLICATION FOR ISSUE OF LICENCE UNDER THE ALIENS LAND HOLDING REGULATIONS ACT – MIRIMAR FINANCIAL GROUP INC.

PS, MHA/LANDS remained for discussion.

Council agreed to issue an Aliens Land Holding Licence to Mirimar Financial Group Inc. to register a charge in the amount of US\$950,000.00/EC\$2,553,790.00 against properties registered to Callix Richardson & Juliet Richardson (Block 17810B Parcel 125 being 0.50 acre & 28010B Parcels 289 & 239 being 1.00 and 0.50 acre respectively) subject to the following stamp duties:-

(i)	Stamp Duty on Licence	=	EC\$ 500.00
(ii)	Stamp Duty on Transfer @ 1% of charge (EC\$2,553,790.00)	=	EC\$25,537.90
	TOTAL		EC\$26,037.90

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

EX MIN 11/699

EX MEM 11/294 APPLICATION FOR ISSUE OF LICENCE UNDER THE ALIENS LAND HOLDING REGULATIONS ACT – HUGH MELLOR II

PS, MHA/LANDS remained for discussion.

Council agreed to issue an Aliens Land Holding Licence to Hugh Mellor II to hold a strata lot on a freehold basis located at Meads Bay, a strata lot unit of 486 sq ft (Block 17910B Parcel 59 SL 2BW, which forms part of Turtle Nest

Condominium) Development and the strata lot is registered to Richard Doncaster, at a valuation of US\$114,000.00/EC\$306,454.80 for tourism purposes, subject to the payment of the following stamp duties:-

(i)	Stamp Duty on Transfer – 5% of EC\$306,454.80	=	EC\$15,322.74
(ii)	Stamp Duty on Licence – 12.5% of EC\$306,454.80	=	EC\$38,306.85
	TOTAL		EC\$53,629.59

Council further agreed that:-

- (i) Turtle Nest (Condominium) Development should be the exclusive renting agent for the villa;
- (ii) the Licensee should be required to enter into an agreement with Turtle Nest (Condominium) Development for the management and use of the villa for at least forty-four weeks in each calendar year;
- (iii) the Licensee shall have the right to reside in the villa for a maximum of eight (8) weeks in each calendar year without being liable for the payment of accommodation tax. However, if the applicant wishes to live in his villa for a period longer than eight (8) weeks, then he should be required to pay the accommodation tax.

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

EX MIN 11/700

**EX MEM 11/295 EXEMPTION FROM WORK PERMIT REQUIREMENT
- ANGUILLA TENNIS ACADEMY**

PS, MHA/LANDS remained for discussion.

Council agreed that Mr Lawrence Douglin, a UK National to be employed as Executive Director at the Anguilla Tennis Academy should be exempted from the work permit requirement for a period of one year in accordance with Section 3 (g) of the Control of Employment Act.

Council noted that the position for an Executive Director was advertised during the period 25 August to 8 September 2011 and that no suitable Anguillian had been identified.

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

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

EX MIN 11/701

**EX MEM 11/296 EXEMPTION FROM WORK PERMIT REQUIREMENT
- CARIBBEAN BEACON RADIO STATION**

PS, MHA/LANDS remained for discussion.

Council agreed that Ms Alecia Latoya Dunn, a Jamaican national who has been residing in Anguilla for the past eight years and who wishes to continue her employment at the Caribbean Beacon Radio Station should be exempted from the work permit requirement for a period of one year in accordance with Section 3 (g) of the Control of Employment Act.

Council noted that the position for a Radio Announcer was advertised during the period 19 September to 3 October 2011 and that no suitable Anguillian had been identified.

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

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

EX MIN 11/702

EX MEM 11/297 APPOINTMENT OF MEMBERS TO THE BOARD OF THE WATER CORPORATION OF ANGUILLA

Council agreed that the following persons should be appointed to the Water Corporation Board pursuant to Section (5) (1) of the Water Corporation of Anguilla Act R.S.A c. W4 effective November 2011:-

Name	Position	Period/Term	Area of Expertise
Ethelbert "Teddy" Edwards	Chairman	2 years	Water
Stephenson A. Rogers	Deputy Chairman	2 years	Public Health
J. Vanier Harrigan	Member	3 years	Technical, Construction Management, Event Management
Didric Webster	Member	3 years	Business
Jacqueline A. Richardson	Member	3 years	Administration
Patricia MacDonna	Member	3 years	Accounting, Business Administration

Council further agreed the allowances for the Board members as follows:-

Chairman EC\$1,300 per month

Deputy Chairman EC\$1,275 per month

Other Members (4) EC\$1,100 per month

It should be noted that the allowances of the members of the Board are paid by the Water Corporation of Anguilla and not by the Government of Anguilla.

Council also noted that Mr Ethelbert Edwards, Chairman of the Board is employed by Seven Seas, a Water Company. In the event that this Company should bid to undertake any project in Anguilla, Mr Edwards would have to resign from his position as Chairman of the Board or from the Company because of apparent conflict of interest.

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

EX MIN 11/703

EX MEM 11/298 APPLICATION FOR ISSUE OF LICENCE UNDER THE ALIENS LAND HOLDING REGULATIONS ACT - V-XIII LLC

PS, MHA/LANDS remained for discussion.

The above application was approved at a meeting of Executive Council held on Friday October 2010 (EX MIN 10/607). The application was resubmitted to amend the stamp duties payable and the name of the licensee.

Council agreed to issue an Aliens Land Holding Licence to V-XIII LLC to hold 0.28 acre of land on a freehold basis with a luxury villa thereon that is approximately 8,616 sq ft. located at Barnes Bay (Block 17810B Parcel 165), which forms part of Resorts and Residences of Anguilla Homeowners Association Ltd. a Condominium development at a valuation of US\$5,194,125.00/ EC\$13,962,846.83, in keeping with the amended Memorandum of Agreement (MOA) between Barnes Bay Development Ltd and the Memorandum of Understanding (MOU) between Government of Anguilla and SOF-VIII-Hotel II Anguilla Holdings, LLC, subject to the payment of the following stamp duty:-

(i)	Stamp Duty on Transfer – 5% of EC\$13,962,846.83	EC\$698,142.34
(ii)	Stamp Duty on Licence – 12.5% of EC\$13,962,846.83	EC\$ Exempted
	TOTAL	EC\$698,142.34

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

EX MIN 11/704

EX MEM 11/299 APPLICATION FOR ISSUE OF LICENCE UNDER THE ALIENS LAND HOLDING REGULATIONS ACT – SHELDON COHEN & NATALIE COHEN

PS, MHA/LANDS remained for discussion.

In 1987, Sheldon Cohen and Natalie Cohen were granted an Aliens Landholding Licence for Block 99415B Parcel 348 located at Seafeathers, to hold a sub-lease in the said parcel. The application was resubmitted for an Aliens Land Holding Licence to convert their leasehold interest to a freehold interest.

Council agreed to issue an Aliens Land Holding Licence to Sheldon Cohen & Natalie Cohen to convert their Leasehold interest into a Freehold interest comprising of 0.29 acre of land with a villa thereon located at Seafeathers at a valuation of US\$52,000.00/EC\$139,786.40, subject to the payment of the following stamp duties:-

(i)	Stamp Duty on Licence @ 12½% of EC\$139,786.40	EC\$17,473.30
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(ii)	Stamp Duty on Transfer @ 5% of EC\$139,786.40	EC\$ 6,989.32
	TOTAL	EC\$24,462.62

OUTSTANDING STAMP DUTY PAYABLE

The records indicate that the Stamp Duty on the Aliens Land Holding Licence (Leasehold) issued in 1987 was not paid based on the 10% assessment value of EC\$194,440.00. Outstanding debt on Leasehold at valuation of EC\$194,400.00 is as follows:-

(i)	Outstanding Stamp Duty of ALHL Fee @ 10% of EC\$194,400.00	EC\$19,440.00
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**Overall Total Fees payable for both outstanding
balance on leasehold and freehold interest** **EC\$43,902.62**

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

EX MIN 11/705

EX MEM 11/300 INTERIM STABILIZATION LEVY ACT: COLLECTION OF REVENUE FROM LEVY TO BE CONDUCTED BY THE INLAND REVENUE DEPARTMENT

PAS, FIN remained for discussion.

Council agreed that, following discussions with the Ministry of Finance and the Inland Revenue Department, the collection of the monies from the Interim Stabilization Levy should be made directly to the Comptroller of the Internal Revenue Department.

Council authorised the AG's Chambers to make the necessary changes to the legislation to effect the above.

Action: PS, FIN; PS, EDICT; PAS, FIN; AG; CIR

EX MIN 11/706

EX MEM 11/301 REQUEST FOR EXECUTIVE COUNCIL TO REVIEW A DECISION OF THE BOARD OF THE ANGUILLA AIR AND SEA PORTS AUTHORITY (AASPA)

Council agreed that the Hon Minister, MICUH should encourage Mr Applewaite Lake, Managing Director of PAT-BAN to discuss with the Board of the AASPA the best way forward regarding the sand shipment.

Action: PS, MICUH; HON MIN, MICUH

ORAL MENTION

EX MIN 11/707

STATEMENT BY HE THE GOVERNOR ABOUT THE LAWS OF SUCCESSION TO THE CROWN

HE The Governor distributed copies of a statement he made in Executive Council on Thursday 20 October concerning plans to amend the laws governing the Royal Succession.

Action: HE

EX MIN 11/708

BRIEFING BY HE THE GOVERNOR ABOUT TRANSHIPMENT

HE The Governor briefed Council regarding an unfortunate development following on from the transhipment scheme which was introduced in 1998/99 during the present Chief Minister's previous term in office.

The Governor indicated that the Mr Colin Roberts, Director for the OTs will be writing formally to the Hon Chief Minister in more detail. (briefing by HE is attached).

Action: HE; HON CM

EX MIN 11/711

EXPULSION ORDER – ARTHUR MARSHALL

Mr Arthur Marshall, an alien from Trinidad & Tobago was on 12 October 2010 remanded into prison for theft and possession of stolen goods and was sentenced to one (1) year and eight months imprisonment.

Council agreed that Mr Arthur Marshall should be expelled from Anguilla under Section 2 of the Undesirable Persons Act, R.S. A. c U5.

Action: HE; COP; SOP; CIO
