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MINUTES OF THE 221ST MEETING OF THE TENTH ANGUILLA
EXECUTIVE COUNCIL HELD ON TUESDAY 23RD DECEMBER 2014

- PRESENT: Her Excellency the Governor, Ms Christina Scott
- The Honourable Hubert Hughes, Chief Minister and Minister of Finance,
Economic Development, Investment, Commerce and Tourism and Minister
of Labour and Immigration and Minister of Social Development and Health
- The Hon Acting Deputy Governor, Mr Larry Franklin
- The Honourable Jerome Roberts, Minister of Lands, Physical Planning, Human
Rights, Environment, Gender Affairs and Agriculture and Fisheries and Minister
of Education, Library Services, Sports, Youth and Culture
- The Honourable Evan Gumbs, Minister of Infrastructure, Communications,
Utilities and Housing
- The Honourable Attorney General, Mr Rupert Jones
- Mrs Sonia Brooks, Acting Clerk to Executive Council
- IN ATTENDANCE: Mr Foster Rogers, PS, EDICT
Dr Aidan Harrigan, PS, Finance
Mr Leslie J Hodge, DLS
Mr Perin Bradley, Comptroller of Inland Revenue
Mrs Evelyn Apire-Hodge, Chief Executive Officer
Ms Kahlea Clifton, Engineer
Ms Jennifer Gaskin, Finance Manager
Mrs Lorna Richardson, Human Resource & Customer Service Manager
- ABSENT: The Hon Deputy Governor, Mr Stanley Reid

EX MIN 14/805 **CONFIRMATION OF THE MINUTES**

Council confirmed the Minutes of the 220th Meeting held on Thursday 11th December 2014 and the Continuation of the Minutes of the 220th Meeting held on Monday 15th December 2014. Council further agreed that EX MIN 14/751 of the Minutes of a Special meeting held on Friday 21st November should be confirmed

at the next Executive Council meeting.

Action: EXCO MEMBERS

MATTERS ARISING FROM THE MINUTES

EX MIN 14/806

EX MIN 14/771 EX MIN 14/764 EX MEM 14/446 PRINCIPAL CROWN COUNSEL (CIVIL AND COMMERCIAL)

Further to EX MIN 14/771 of 11th December 2014, Council approved for the position of Principal Crown Counsel (Civil and Commercial) in the Attorney General's Chambers to be filled on a two year basis. The successful candidate should be subject to a probationary period of six months in line with appointments to the Anguilla Public Service.

Action: AG; PS, PA; PS, FIN; PS, EDICT; BD

EX MIN 14/807

EX MIN 14/781 EX MEM 14/456 FIRST ADDENDUM TO THE MEMORANDUM OF UNDERSTANDING BETWEEN GOVERNMENT OF ANGUILLA (THE "GOVERNMENT") AND ANANYA INC (THE "DEVELOPER")

Messrs Foster Rogers, PS, EDICT and Leslie Hodge, DLS remained for discussion. Dr Aidan Harrigan, PS, Finance joined the meeting. HE the Governor absented herself from the room due to a friendship with the developer.

Council approved the draft wording to be inserted in the MoU between Ananya Inc and the Government of Anguilla.

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

Action: PS, EDICT; AG; TIO; PS, MHA/LANDS; DLS

EX MIN 14/809

EX MEM 14/450 PASSING OF BILLS FOR THE CONDOMINIUM (AMENDMENT) ACT AND CONDOMINIUM (AMENDMENT) REGULATIONS

Messrs Foster Rogers, PS, EDICT and Leslie J Hodge joined the meeting.

Council:

- (a) approved the Bills for the Condominium (Amendment) Act and Condominium (Amendment) Regulations; and
- (b) approved the Ministry of Home Affairs instructing the Attorney General's Chambers to publish the Condominium (Amendment) Act and Condominium (Amendment) Regulations in the Official Gazette subject to a final check by the AG's Chambers.

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

EX MIN 14/810

EX MIN 14/804 EX MEM 14/467 PAYMENT OF DEFERRED SALARY-MS X AND MR Y*[NB: Names redacted on publication to protect personal health information]*

Council confirmed the decision taken by round robin on Thursday 18 December 2014 to approve the payment of the deferred salaries for both Ms X, Ministry of Home Affairs, and her husband Mr Y, RAPF, to enable them to meet some of the costs associated with Ms X's medical condition.

The amount due to Ms X is EC\$10,958.17 and to Mr Y, EC\$17,849.10, totalling EC\$28,807.27.

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

Action: PS, PA; PS, FIN; PS, EDICT; ACC GEN; DIR FISH; COP; PS, MHA

EX MIN 14/811

EX MEM 14/468 APPLICATION FOR ISSUE OF LICENCE UNDER THE ALIENS LAND HOLDING REGULATIONS ACT – NICOLEE HATHAWAY - REGISTRATION SECTION: WEST CENTRAL; BLOCK: 28111 B; PARCEL 27, CONTAINING 0.50 OF AN ACRE WITH A DWELLING HOUSE THEREON)

Mr Leslie J Hodge, DLS remained for discussion.

Council agreed to issue an Aliens Land Holding Licence to Nicolee Hathaway, to hold, on a freehold basis, 0.50 acre of land, located in Lower South Hill, with a dwelling house thereon situate at Registration Section West Central, Block 28111 B, Parcel 27 subject to the following:-

(a) payment of the following fees:

(i)	under the Stamp Act – 5% of EC\$403,230.00	EC\$20,161.50
(ii)	under the Aliens Landholding Regulation Act – 12.5% of EC\$403,230.00	EC\$50,403.75
	TOTAL	EC\$70,565.25

(b) with the expressed condition that the land is to be used for residential purposes and that the Licencees must not rent their dwelling house unless an application is made and written permission is obtained from the Ministry of Finance Economic Development, Investment and Trade, Commerce and Tourism (FEDICT).

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

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

EX MIN 14/812

EX MEM 14/469 APPLICATION FOR ISSUE OF LICENCE UNDER THE ALIENS LAND HOLDING REGULATIONS ACT – JOHN PATRICK CONDON AND KATHLEEN MARY BURNS (SECTION EAST END; BLOCK 99315 B; PARCEL 297, CONTAINING 0.17 ACRE)

Council agreed to issue an Aliens Land Holding Licence to John Patrick Condon and Kathleen Mary Burns, to hold, as tenants in common, on a freehold basis, 0.17 acre of vacant land described as Registration Section East End, Block 99315 B, Parcel 297 located at Sea Feathers Bay to be used as an open space, adjacent to their existing property subject to the payment of the following fees:

(i)	under the Stamp Act 5% of EC\$116,272.71	EC\$ 5,813.63
(ii)	under the Aliens Landholding Regulation Act – 12.5% of EC\$116,272.71	EC\$14,534.08
	TOTAL	EC\$20,347.71
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Council authorised the issue of the action sheet before confirmation of the Minutes.

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

EX MIN 14/813

EX MEM 14/470 EXEMPTION FROM THE WORK PERMIT REQUIREMENT

Mr Leslie J Hodge, DLS remained for discussion.

Council agreed that Mr Rafal Leszek Chajdas, a national of Poland, should be exempted from the requirement of a work permit in accordance with Section 3 (g) of the Control of Employment Act. Mr Chajdas is a Tennis Professional who proposes to work at the Anguilla Tennis Academy.

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

Action: PS, IMM; LAB COM; CIO

EX MIN 14/814

EX MEM 14/471 APPOINTMENT /REAPPOINTMENT OF MEMBERS OF THE PROCUREMENT BOARD

Dr Aidan Harrigan, PS, Finance remained for discussion.

Council agreed:

- (a) the reappointment of the following persons for a 2 year period, 2014 – 2016;
 - (i) Dr. Wycliffe Fahie as a member and Chairperson;
 - (ii) Mrs. Kathleen Rogers as a member and Deputy Chairperson;
 - (iii) Ms. Dawne Richardson as a Member;
 - (iv) Mr. Calvin Ruan as a Member.
- (b) the appointment of three (3) other Board members by early January in line with the requirements of the Public Procurement and Contract Administration Act, 2012;
- (c) that the allowances for all Board members would remain as currently.

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

Action: PS, FIN; CHIEF PROC OFF; CHAIR PROC BD

EX MIN 14/815

EX MEM 14/472 PUBLIC UTILITIES COMMISSION'S 2013 ANNUAL REPORT

Council:

- (i) noted the Public Utilities Commission's 2013 Annual Report;
- (ii) authorised the Minister with responsibility for Communications to table the Public Utilities Commission's 2013 Annual Report at the next sitting of the Anguilla House of Assembly.

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

Action: PS, MICUH; HON MIN MICUH

EX MIN 14/816

EX MEM 14/473 GUARANTEE FOR THE CROCUS BAY REVERSE OSMOSIS (RO) DESALINATION PLANT FROM THE GOVERNMENT OF ANGUILLA (GOA) FOR THE WATER CORPORATION OF ANGUILLA (WCA)

Dr Aidan Harrigan, PS, Finance and Mr Foster Rogers, PS, EDICT remained for discussion.

The Officials below from the Water Corporation of Anguilla joined the meeting.

Mrs Evelyn Apire-Hodge, Chief Executive Officer
 Ms Kahlea Clifton, Engineer
 Ms Jennifer Gaskin, Finance Manager
 Mrs Lorna Richardson, Human Resource & Customer Service Manager

: Council noted the request from the Water Corporation of Anguilla that the Government of Anguilla guarantee monthly invoice payments and the capital investment of the Crocus Bay Reverse Osmosis desalination plant, on behalf of the Water Corporation of Anguilla.

Council agreed:

- (a) that the authority provide further detail on the request, including information about the proposed developer, terms of the proposed contract, and estimated operating cost of the plants inclusive of water and electricity. Scenarios should be prepared demonstrating at different levels of customers the level of risk that GoA was being asked to accept. This should be provided for further EXCO consideration; and
- (b) that the Water Corporation of Anguilla should present a business plan for 2015 to Council in January 2015 to enable decisions to be made on the proposed request. The business plan should include the latest financial accounts including bank balances.

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

Action: PS, MICUH; PS, FIN; PS, EDICT; CEO WCA

EX MIN 14/817

EX MEM 14/474 OFFSET THE GOVERNMENT OF ANGUILLA (GOA) DEBT OWED TO THE WATER CORPORATION OF ANGUILLA (WCA) AGAINST THE WATER CORPORATION OF ANGUILLA DEBT OWED TO THE GOVERNMENT OF ANGUILLA

Dr Aidan Harrigan, PS, Finance and Mr Foster Rogers, PS, EDICT remained for discussion.

Council asked that the PS Finance and the Water Corporation of Anguilla meet to verify the amount owed to Government of Anguilla by the Water Corporation of Anguilla, and vice versa. PS Finance should then advise Council on the merits of the Water Corporation's Proposal.

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

Action: PS, MICUH; PS, FIN; PS, EDICT; CEO WCA

EX MIN 14/818

EX MEM 14/475 CONCLUSION OF NEGOTIATIONS WITH THE U.S. RE FATCA AND AUTHORIZATION FOR THE MINISTER OF FINANCE TO SIGN THE AGREEMENT BETWEEN THE GOVERNMENT OF ANGUILLA AND THE GOVERNMENT OF THE UNITED STATES OF AMERICA TO IMPROVE INTERNATIONAL TAX COMPLIANCE AND TO IMPLEMENT THE FOREIGN ACCOUNT TAX COMPLIANCE ACT

Mr Leslie Hodge, DLS remained for discussion. Mr Perin Bradley Comptroller of Inland Revenue joined the meeting.

Council:

- (i) noted that, on Friday 21st March 2014, EXCO approved the negotiation of an intergovernmental agreement (IGA) with the US with regard to FATCA (EX MIN 14/189 refers;)
- (ii) noted that, on 21st March 2014, EXCO agreed to make available the resources to facilitate the drafting of the Foreign Account Tax Compliance Act (United States of America) (Implementation and Enforcement of Inter-Governmental Agreement) Bill 2014. The bill is the overarching legislation to explicitly provide for the collection of FATCA-relevant information and for that information to be passed on to Inland Revenue for transmission to the U.S. Authorities; and
- (iii) noted that the United States has indicated that the main text of the IGA is not open for substantive negotiation;
- (iv) noted that implementing and administering FATCA requirements, including Inland Revenue's obligations set out in the IGA, will have significant impacts on Inland Revenue who will become the intermediary for data transfer between Anguillian financial institutions and the United States' Internal Revenue Service (IRS);
- (v) authorised the Chief Minister and Minister of Finance to sign the FATCA IGA on behalf of the Government of Anguilla, once the text was been vetted and formatted by the AG's Chambers;
- (vi) endeavoured to pass the Foreign Account Tax Compliance Act (United States of America) (Implementation and Enforcement of Inter-Governmental Agreement) Bill 2014 into law as soon as practical;
- (vii) agreed that the Ministry of Finance issue a press statement announcing that Anguilla has formally concluded negotiations with the U.S. re FATCA.

Council expressed sincere thanks to the Attorney General's Chambers for their assistance.

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

EX MIN 14/819

EX MEM 14/476 REQUEST FOR APPROVAL OF THE TELECOMMUNICATIONS SPECTRUM FEE REGULATIONS, 2014.

Council approved the following subject to vetting by the Attorney General's Chambers:-

- (i) the approval of the Telecommunications Spectrum Fees, 2014;
- (ii) that the payment details for invoicing as outlined in Appendix 3 (Footnotes to the Schedules) attached will be included in a "Spectrum Fee Payment Policy Manual".

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

Action: PS, MICUH; EXEC CHAIR PUC; PS, FIN; PS, EDICT; ACCT GEN;
CIR

EX MIN 14/820

EX MEM 14/477 ASSESSMENT OF INDUSTRY LEVY (TELECOMMUNICATIONS) REGULATIONS, 2014 AND ANNUAL LICENSE FEE REGULATIONS, 2014

Council approved the following subject to vetting by the Attorney General’s Chambers:-

- (i) the Annual Licence Fee Regulations, 2014;
- (ii) the Assessment of Industry Levy (Telecommunications) Regulations, 2014.

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

Action: PS, MICUH; EXEC CHAIR PUC; PS, FIN; PS, EDICT; ACCT GEN; CIR

EX MIN 14/821

LETTER FROM THE ANGUILLA NATIONAL TRUST

Council noted the letter from the Anguilla National Trust Re: Protected Areas in Anguilla, the case of Fountain National Park.

Action: MINISTER ROBERTS

ORAL MENTION

EX MIN 14/822

MAINTENANCE OF THE PHOTOCOPIERS

The Hon Minister of Home Affairs expressed concern that there are persons coming from St Maarten to fix the Government of Anguilla photocopiers when there are persons on island who can do the same. Council tasked the Hon Acting Deputy Governor to look into the matter and report back to Council next week.

Action: HON DG (Ag)

EX MIN 14/823

MEETING OF EXECUTIVE COUNCIL

Council agreed that the next regular Meeting of Executive Council will be held on Wednesday 31 December 2014 at 9 am, if the meeting of the House of Assembly had concluded by then.

Action: EXCO MEMBERS

EX MIN 14/824

MEETING OF THE HOUSE OF ASSEMBLY

Council agreed that the next meeting of the House of Assembly should be held on Monday 29 December 2014.

Action: SPEAKER HOA; CL HOA
