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MINUTES OF THE 134th MEETING OF THE TWELFTH ANGUILLA
EXECUTIVE COUNCIL HELD ON THURSDAY 27th APRIL 2023 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 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, acting Minister for SIE and acting Premier, Mr Haydn Hughes
The Honourable Attorney General, Mr Dwight Horsford
Clerk to Executive Council, Mrs Angela Hughes
- IN ATTENDANCE: 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 Sustainability, Innovation and Environment, Mrs Quincia Gumbs-Marie
The Honourable Parliamentary Secretary, Mr Merrick Richardson

EX MIN 23/116

CONFIRMATION OF THE MINUTES

Financial Specialist remained.

Council confirmed the Minutes of the 133rd Meeting of Executive Council held on Thursday 20th April 2023 and the Minutes of the Special Meeting held on Friday 21st April 2023.

MATTERS ARISING FROM THE MINUTES

Noted that in relation to Ex Min 23/106 the Attorney General's Chambers has corresponded with the Ministry of Health, to indicate that the Senior Shield programme should be underpinned by a legislative framework, to ensure that the mandate is fulfilled.

Noted that in relation to Ex Min 23/115, the AP&H Census had to be progressed using strict timelines.

EX MIN 23/119

EX MEMO 23/92 GRANTING OF PERMISSION TO THE ENTITY NAMED PLACE, TO UNDERTAKE AN ANNUAL AERIAL IMAGERY OF ANGUILLA

Financial Specialist remained. LIS Engineer, Mr Maikol Rivas and Land Surveyor, Mr Ricardo Rocks joined the meeting.

The Director of Lands & Surveys briefed Council. The Department of Lands and Surveys (DLS) manages the mapping, surveying, registration and record keeping of lands for the Government of Anguilla (GoA). To fulfil its mandate, the DLS periodically needs updated imagery to assist with making informed decisions and providing said data to its stakeholders. Satellite imagery and aerial photography both allow for such. The difference between the two is that satellite imagery is taken using a satellite and aerial photography is taken using balloons, helicopters, aircraft, unmanned aerial vehicles (UAVs) and more recently drones.

Aerial imagery was taken in 2011, since then there have been many changes to the island. In 2019 satellite imagery was taken, but this did not meet the standard required. Therefore, new imagery is needed.

The Director of Lands and Surveys has made contact with Mr Frank Pichel of PLACE regarding obtaining new aerial imagery for Anguilla and its Cays. In discussion with Mr Pichel, the DLS were informed that PLACE is currently working with the Lands Division in Turks and Caicos, where an MOU was signed with the Government to capture data across the islands.

PLACE is a non-profit data trust that helps Governments in producing and maintaining locally, very high-resolution image mapping data (both aerial and street view) at no cost. The only facts to consider would be identifying Ground Control Points, accommodation and logistics, clearing equipment through the Customs Department and the regular assistance with Immigration. There is no external cost to Government and all data produced belongs to the Government.

Council:

- 1) noted the accuracy and benefits of aerial imagery;
- 2) noted that PLACE generates income by selling the images taken to authorised members of a UK based trust. Trust members are subject to strict due diligence in order to qualify for membership. Noted that Parcel information is not shared, however, when data/images are bought a propriety interest may be acquired;
- 3) noted the draft MOU for Government partners provided by PLACE US. Noted that the governing jurisdiction is outside of the Caribbean and that MOU templates may be amended;
- 4) agreed in principle, to entering into the MOU with PLACE US, however, this is subject to the Attorney General's Chambers reviewing the MOU Agreement and Trust Agreement between PLACE US and the Government of Anguilla;
- 5) agreed that subject to a satisfactory legal review as outlined in 4 above, the Minister of Lands shall execute the MOU agreement on behalf of the Government of Anguilla;

- 6) agreed that after the review at 4 above is conducted and the MOU is signed as per 5, the Permanent Secretary, Ministry of Home Affairs, Lands and Surveys shall provide an official letter granting permission for PLACE US to undertake aerial imagery in Anguilla;
- 7) agreed that subject to the foregoing actions being completed, the Chief Surveyor may give permission to PLACE US to undertake aerial survey work and shall provide ground survey control for PLACE US; and
- 8) agreed that confirmation should be obtained as to the details of the trust, the due diligence information required in order to become a trust member, and what specific information is shared with the trust members that purchase images.

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

EX MIN 23/120

EX MEMO 23/93 APPLICATION FOR A REQUEST TO TRANSFER 100% OF SHARES IN ALIEN COMPANY — REGISTRATION SECTION WEST END, BLOCK 18011B, PARCEL 45 SL 1C – UNIT 103 AT CARIMAR BEACH CLUB CONDOMINIUM BEING 564 SQ.FT.

Financial Specialist remained.

Council agreed to issue an Aliens Land Holding Licence and to grant the request to transfer 100% of its shares to Successor Trustees of the Declaration of Trust to hold property described as Registration Section West End, Block 18011 B, Parcel 45 SL 1C, containing 564 sq. ft. located at Meads Bay, Anguilla subject to the following:

- a) payment of the following Stamp Duties:
 - (i) under the Stamp Act
5% of EC\$2,150,560.00 EC\$107,528.00
 - (ii) under the Aliens Land Holding
Regulation Act – Section 14(1)(a)
at 5% of EC\$2,150,560.00 EC\$107,528.00

TOTAL

EC\$215,056.00
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- b) the property must be used for Tourism purposes;
- c) Carimar Beach Club Limited should be the exclusive renting agent for the unit;
- d) the Licensee is required to enter into an agreement with Carimar Beach Club Limited for the management and use of the unit for at least forty-four (44) weeks in each calendar year;
- e) the Licensee shall have the right to reside in the unit for a maximum of eight (8) weeks in each calendar year without being liable for the payment of Goods and Services Tax (GST). However, if the applicants wish to live in their unit for a period longer than eight (8) weeks, then they should be required to pay GST; and
- f) 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 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 authorised the issue of the Action Sheet before confirmation of the Minutes.

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

EX MIN 23/121

EX MEMO 23/94 APPROVAL OF A BILL FOR THE NATIONAL SECURITY COUNCIL ACT, 2023

Financial Specialist remained.

The Hon Attorney General briefed Council. National security is an important mandate of the Governor of Anguilla pursuant to the Constitution. There is in existence a National Security Council (NSC) set up by the Governor, which operates without a statutory basis, but by virtue of the Governor's discretionary power to consult agencies in the exercise of her national security responsibilities. There is a need to properly establish a legal framework for this body and delineate its functions.

This Act seeks to create a structure through which the Governor may effectively discharge the national security responsibilities of that office by a mechanism of coordinated inclusion of key government agencies in the formulation of national security policy, security risk response and management. The National Security Council is the advisory body, which will aid the Governor in the performance of those functions. The Act therefore will formalise and give statutory foundation to the purpose and work of the current National Security Council, which is a loosely empanelled committee.

Council:

- 1) noted sections 2, 5 and 10 as highlighted and the effects of same. There are steep penalties for breaching secrecy. The NSC has no purview over the RAPF or Financial Investigation Unit (FIU), which are solely within the purview of the Governor and they may be required to report to the NSC. The Governor may remove persons from the NSC and the NSC meets at the Governor's discretion;
- 2) approved the Bill for the National Security Council, Act 2023; and
- 3) instructed the Attorney General's Chambers to conduct a final review and formatting of the legislation for submission to the House of Assembly for consideration at its next sitting and also for publication in the Gazette.

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

Action: SCC (Cr); HON, AG

EX MIN 23/122

EX MEMO 23/95 APPROVAL OF A BILL FOR THE CRIMINAL JUSTICE (INTERNATIONAL CO-OPERATION)(ANGUILLA)(AMENDMENT) ACT, 2023

Financial Specialist remained.

The Hon Attorney General briefed Council. Criterion 37 of the FATF Recommendations deals with mutual legal assistance. Specifically criterion 37.5 deals with the confidentiality of requests and information received and disseminated as a result of the request.

Anguilla has received a first draft of the technical compliance from the assessors. At criterion 37.5 the assessors note that under the Criminal Justice (International Cooperation)(Anguilla) Act “*Anguilla has not demonstrated a basis to keep confidential requests made pursuant to the CJICA.*” A review of the CJICA indicates that there is indeed no basis to keep the information confidential. Although the requisite competent authorities have kept information received and disseminated confidential, the requirement is not legislated which poses an issue with meeting the criterion. As such, an amendment to the legislation is required.

The draft Criminal Justice (International Co-operation)(Anguilla)(Amendment) Act, 2023 addresses the deficiency indicated in the first draft. Specifically, the amendment requires the confidentiality of information exchanged for the purposes of criminal proceedings or criminal investigations.

Council:

- 1) approved the Bill for the Criminal Justice (International Co-operation) (Anguilla) (Amendment), Act 2023; and
- 2) instructed the Attorney General's Chambers to conduct a final review and formatting of the legislation for submission to the House of Assembly for consideration at its next sitting.

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

Action: SCC (Cr); HON, AG

EX MIN 23/123

EX MEMO 23/96 APPROVAL OF A BILL FOR THE PROCEEDS OF CRIME (AMENDMENT) ACT, 2023

Financial Specialist remained.

The Hon Attorney General briefed Council. Criterion 37 of the FATF Recommendations deals with mutual legal assistance. Specifically criterion 37.5 deals with the confidentiality of requests and information received and disseminated as a result of the request.

Anguilla has received a first draft of the technical compliance from the assessors. At criterion 37.5 the assessors note that in relation to the Proceeds of Crime Act, “*s. 121 of the POCA effectively requires confidentiality of MLA requests received by the AAFIU for investigation or execution,*” which allows some degree of confidentiality but “*Anguilla has not demonstrated that this confidentiality extends to the applicable transmitting/receiving authority.*” A review of the Proceeds of Crime Act, specifically Schedule 3 which deals with external orders, indicates that there is indeed no basis to keep the information confidential. Although the requisite competent authorities have kept information received and disseminated confidential, the requirement is not legislated which poses an issue with meeting the criterion. As such, an amendment to the legislation is required.

The draft Proceeds of Crime (Amendment) Act, 2023 addresses the deficiency indicated in the first draft. Specifically the amendment provides for the confidentiality of information exchanged pursuant to an external request under the Proceeds of Crime Act, R.S.A c. P98.

Furthermore, the draft Proceeds of Crime (Amendment) Act, 2023 expands the definition of cash to include incomplete instruments and promissory notes and any other monetary instrument that is prescribed as cash, as per FATF’s standards.

Council:

- 1) noted that the court case concerning the legal profession needs to be brought to a conclusion, given the outcome of the Privy Council decision which was not in their favour. The Attorney General's Chambers shall take this forward;
- 2) approved the Bill for the Proceeds of Crime (Amendment), Act 2023; and
- 3) instructed the Attorney General's Chambers to conduct a final review and formatting of the legislation for submission to the House of Assembly for consideration at its next sitting.

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

Action: SCC (Cr); HON, AG

EX MIN 23/124

EX MEMO 23/97 NOMINATIONS FOR THE ANGUILLA BADGE OF HONOUR AND KING'S CERTIFICATE 2023

Financial Specialist remained.

The Hon Minister for Social Development briefed Council. The National Honours and Awards Committee met on Tuesday 11th April 2023 to consider nominations for the Anguilla Badge of Honour and King's Certificate for 2023. This is usually awarded to persons who have made great contributions to Anguilla either through participation in the Revolution or through Social Development. Executive Council noted the committee's considerations for the assessment of nominees.

Council:

- 1) approved the recommendations of the National Honours and Awards Committee and the recommendations of the Ministry for the award of the Anguilla Badge of Honour for the following persons:
 - Mr Valentine Ruan (Revolution)

- Mrs Bernice A Lewis (posthumously) (Social Development)
 - Mr Seymour Hodge (Social Development)
 - Mr Evans Harrigan (Social Development)
 - Mrs Serene Carter-Davis (Social Development)
 - Mrs Judith R Gumbs (Social Development)
- 2) approved the recommendations for the award of the King's Certificate to be submitted to H.E. the Governor for the following persons:
- Mr Valentine Ruan (Revolution)
 - Mrs Bernice A Lewis (posthumously) (Social Development)
 - Mr Seymour Hodge (Social Development)
 - Mr Evans Harrigan (Social Development)
 - Mrs Serene Carter-Davis (Social Development)
 - Mrs Judith R Gumbs (Social Development)
- 3) approved the award of the Anguilla Badge of Honour to Mr Naaman Webster (Revolution) and also recommends for the award of the King's Certificate to be submitted to H.E. the Governor for Mr Naaman Webster;
- 4) assessed the submissions in support of the remaining nominees and it was determined that they did not meet the considerations as set out by the committee in Ex Memo 2023/97 at section 3, in relation to the category of social development, the committee considers:
- a) longevity of the contribution – i.e. whether there has been a consistent contribution for more than 10 years;
 - b) nature of the contribution – if the awardee was engaged in public service or business, whether he/she went above and beyond the call of duty or excelled in the area and additionally, whether he/she made meaningful contributions in other areas outside of their work; in other cases, whether the nominee has excelled in his/her chosen field and has been a good ambassador for Anguilla in that field;

- c) the extent of the contribution – i.e. to what extent has the nominee positively impacted the lives of others; and
 - d) whether the contribution can be considered remarkable in that it rises above what is expected of ordinary citizens; and
- 5) noted section 8 of the paper. It is only permissible to issue the Anguilla Badge of Honour depicting the King.

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

Action: PS, EDMSIE; HON, MIN SIE

EX MIN 23/125

EX MEMO 23/98 APPLICATION FOR DUTY AND TAX EXEMPTION BY BASS HEADS CAR CLUB

Financial Specialist remained.

Council:

- 1) agreed that duty and tax exemptions should be granted to Bass Heads Car Club who are requesting duty free concessions on material and equipment to assist with vehicle improvements for participation in the Annual Car Show in the US Virgin Islands;
- 2) noted that the estimated duty and tax loss to the Government is EC\$772.41, the applicant will be required to pay the administrative fee as usual and GST of EC\$382.92; and
- 3) instructed the Ministry of Finance to prepare a resolution of the House of Assembly pursuant to Section 77(1) of the Customs Act.

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

EX MIN 22/127

EX MEMO 22/100 APPLICATION TO HOST RAFFLE AND EXEMPTION FROM PUBLIC LOTTERIES TAX

Financial Specialist remained.

The management and staff of the M/V Captain Chrissy are introducing a raffle as part of the Anguilla Summer Festival activities. The applicant has reported that they intend to sell 5000 physical tickets and 500 digital tickets at US\$20 each, the raffle will take place on August 12.

Council:

- 1) noted that in respect of every lottery ticket sold there is a duty charged at the rate of 10% of the price of the ticket. Raffle tickets are defined as lottery tickets;
- 2) noted that the grant of the requested tax exemption may result in tax loss of up to US\$11,000;
- 3) approved the application by M/V Chrissy to host a raffle in aid of raising funds, in order to use any profits generated to give back to the community and also to make donations to the Champion of Champions boat race; and
- 4) instructed the Ministry to prepare a Regulation for consideration by the House of Assembly in accordance with section 16 of the Financial Administration and Audit Act.

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