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MINUTES OF A SPECIAL MEETING OF THE TENTH ANGUILLA
EXECUTIVE COUNCIL HELD ON FRIDAY 21ST NOVEMBER 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 Honourable Deputy Governor, Mr Stanley Reid

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 Jewelle Fleming, Clerk to Executive Council

IN ATTENDANCE: Mr Foster Rogers, PS, EDICT
Ms Marisa Harding-Hodge, TIO

EX MIN 14/747 **EX MEM 14/433 APPEAL AGAINST PLANNING PERMISSION –
IMOGENE CONNOR**

Following a site visit by Members of Executive Council on Thursday 13th
November 2014 to the property located at Lockrum, Council agreed that the appeal
against the refusal of planning permission for Mrs Imogene Connor to construct an
Apartment at Lockrum, Anguilla on Block 38510B Parcel 103 should be allowed.

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

Action: PS, MHA/LANDS; PPO; DLS

EX MIN 14/748

EX MEM 14/434 FORMAL EXPRESSION OF INTEREST TO JOIN THE TEN ISLAND CHALLENGE

Council authorised the Hon Chief Minister to submit a formal expression of interest, to join the Ten Island Challenge, to Sir Richard Branson and the Carbon War Room on behalf of the Government of Anguilla.

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

Action: PS, MICUH; MINS OF GOV'T

EX MIN 14/749

EX MEM 14/435 PUBLIC UTILITIES COMMISSION 2015 BUDGET

Council approved:-

- (i) the Public Utilities Commission's Work Plan for 2015; and
- (ii) the Public Utilities Commission's Budget of EC\$898,000.00 for 2015.

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

Action: PS, MICUH

EX MIN 14/750

EX MEM 14/436 REVIEW OF DRAFT MEMORANDUM OF UNDERSTANDING BY CORITO BAY HOLDINGS

Mr Foster Rogers, PS, EDICT and Ms Marisa Harding-Hodge, TIO joined the Meeting.

Council considered the draft Memorandum of Understanding between Corito Bay Holdings and the Government of Anguilla and agreed the recommendations from the MoFEDICT as set out in the attached document.

Council authorised the Hon Chief Minister to sign the MoU between Corito Bay Holdings and the Government of Anguilla on behalf of the Government of Anguilla.

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

Action: PS, EDICT; TIO; PS, FIN; MINS OF GOV'T; PS, MHA/LANDS

EX MIN 14/751

APPEAL BY GGII OF ANGUILLA LTD. AGAINST THE DECISION OF THE LAND DEVELOPMENT CONTROL COMMITTEE UNDER SECTION 7 OF THE LAND DEVELOPMENT (CONTROL) ACT

Her Excellency, Governor Christina Scott, presided at a meeting of Executive Council ('EXCO') held on 19 November 2014 at which it heard an appeal by GGII of Anguilla Ltd ('GGII') against the decision of the Land Development Control Committee ('LDCC') under Section 7 of the Land Development (Control) Act ('the Act').

Decision of the LDCC

On 19 September 2014 the LDCC decided to refuse planning permission by GGII for a proposed waste to energy plant using pyrolysis.

The reasons given by the LDCC for refusing planning permission were:

- i) The proposed development and in the position intended would have adverse impacts on the surrounding residential communities who are strongly reliant on rain water harvesting for domestic use;
- ii) The liquid residue discharged from the plant can be toxic in nature and damaging to the environment. Therefore to allow the operation of such a plant without a detailed management plan on the method of disposal of the residues would be considered negligent.

The decision was communicated to GGII in writing on 26 September 2014.

The appeal

On 30 September 2014 GGII appealed against that decision to EXCO under section 7 of the Act. EXCO agreed a final written procedure for the hearing of the appeal on 5 November 2014. This was then communicated to the parties, an earlier draft procedure having been submitted for their comment.

In accordance with that procedure, written submissions and documentary material in support were served by both parties (GGII and LDCC) upon EXCO by 14 November 2014 and thereafter.

The documentary material relied upon by parties included: correspondence; Environmental Impact Statement and Environment Impact Assessment (summary and full version); minutes of round table discussion and town hall meetings; memos and reports from various ministries and departments of the Government of Anguilla; and submissions from non-statutory and non-governmental organisations.

On 19 November 2014 oral representations were made on behalf of both parties by representatives to the meeting of EXCO at which the Governor presided. Questions were posed by Her Excellency, after agreement by EXCO, of both parties following their representations.

Further correspondence and material was provided by both parties on 21 November 2014.

EXCO deliberated in private on 21 November 2014 having considered the oral representations and documentary material of both parties.

The Appeal Decision

Having deliberated, EXCO decided by a majority as follows:

- (a) The appeal is allowed and the decision of the Land Development Control Committee to refuse planning permission is reversed.
- (b) Planning permission is granted to GGII only on the conditions that the proposed plant satisfies:

- i) standards to be set by the Government of Anguilla in respect of the quality of its air emissions (those standards being at least as, if not more, stringent than the guidelines provided for air quality by the World Health Organisation); and
 - ii) guidelines and safety standards set by the Government of Anguilla in respect of the quality its discharged liquid residue (those standards to include those for 'Category C' or 'grey water' in respect of the quality of waste water produced) and the manner in which the residue is to be treated, handled, processed and disposed of (in accordance with an agreed detailed management plan).
- (c) Furthermore, the grant of conditional planning permission is without prejudice to GGII satisfying the further lawful requirements in order to operate the plant, including the obtaining of necessary permits, licences, memoranda of understanding and undertaking of any other legal process as applicable etc.
- (d) The grant of conditional planning permission is NOT to give rise to any undertaking nor expectation that Government of Anguilla will approve any of the aforementioned legal requirements for the operation of the plant. Each of those requirements will be considered independently and on their own merits.

Reasons for the Decision

1. Ministers declared that their primary concern was the impact of the proposed plant upon the environment and the health of the residents of Anguilla.
2. EXCO considered that the two conditions on which planning permission is granted are such that they address and meet the concerns raised by the LDCC in their two reasons for refusal.
3. Moreover, it is to be noted that the reasons for refusal provided by the LDCC are directed to the operation of the proposed plant. The conditions of planning permission and the requirement to satisfy all other relevant legal obligations and processes before being permitted to commence any operation of the proposed plant provide further reassurance in this regard.
4. Furthermore, EXCO decided that the conditions on which planning permission is granted may have the potential to create positive environmental and health benefits for the residents of Anguilla. If the proposed plant were to come into operation it may lead to an improvement in the overall air and water quality for the residents of Anguilla through a reduction in terms of pollutants and toxins in air emissions and liquid residue produced by the generation of electricity.

Action: EXCO MEMBERS
