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MINUTES OF THE 88TH MEETING OF THE TENTH ANGUILLA
EXECUTIVE COUNCIL HELD ON THURSDAY 5TH JANUARY 2012

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, Dr Bonnie Richardson-Lake

The Honourable Edison Baird, Minister of Social Development, Health, Sports
and Education

The Honourable Walcott Richardson, Minister of Labour, Immigration, Lands,
Physical Planning, Human Rights, Environment, Gender Affairs and Agriculture
and Fisheries

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: Mrs Catherine Firth, HOGO
Mr Foster Rogers, PS, EDICT

ABSENT: The Honourable Deputy Governor, Mr Stanley Reid

EX MIN 12/01 **CONFIRMATION OF THE MINUTES**

Council confirmed the Minutes of the 87th Meeting held on Thursday 29th
December 2011.

MATTERS ARISING FROM THE MINUTES

EX MIN 12/02 **EX MIN 11/899 EX MEM 11/376 REIMBURSEMENT OF TELEPHONE**
BILLS TO HON CHIEF MINISTER

The Governor indicated that he was dissociating himself from the decision on the
Chief Minister's telephone bill and made the following statement:

"I fully accept that under Anguilla's internal self-government the decision on
whether to reimburse the Chief Minister EC \$40,000 for his telephone bills from

November 1997 to March 2000 during his previous time in office is one for the elected Ministers. But I should like to dissociate myself from the decision on the grounds that too much time has elapsed and that no clear audit trail has been presented to EXCO. The original assertion in Hon Richardson's paper that at that time both personal and official calls were paid for is certainly inaccurate, as I checked it with Mr Hughes predecessor Sir Emile Gumbs and his successor Osbourne Fleming. Both told me that they paid for personal calls themselves. The Accountant-General's information also falls short of confirming the assertion. In any case, all claims for expenses should be made promptly, which by no stretch of the imagination is true in this case."

At this point the Chief Minister begged to break his silence and made the following points in response:

- he had presented his bill to the new Government a week or two after leaving office in 2000 and they had said they would pay it;
- his phone bill had been paid for his first two years as Chief Minister, and he had assumed the arrangement was being continued as Cable and Wireless did not cut him off. At any rate the Treasury had given a note verifying the practice;
- his practice had been to come into the office at 10.00am, making many international calls in his capacity as Minister for Tourism from home before that time;
- he had never had a phone at home until he first became a Minister in 1980;
- he had refused to pay his property tax to the previous government as they had refused to honour their commitment to him. So the issue had been a live issue continuously since he originally presented the bill for payment.

The Governor said that he would reflect on the Chief Minister's points.

Action: HE

EX MIN 12/03

EX MIN 11/900 EX MIN 11/894 EX MEM 11/391 PROPOSED TRANSFER OF PERMANENT SECRETARIES

EX MIN 11/900 of 29 December 2011 refers.

Council agreed that the above minute should be amended in part as follows:-

Council discussed the matter further on 29 December 2011. As a result Ministers of Government asked that the following statements made by them be recorded:-

Hon Chief Minister

"I remain firm to my belief that the transfer of the Permanent Secretaries at this time is detrimental to the smooth process going forward especially with regard to balancing the budget and getting Anguilla back on schedule in 2012. I am no longer committed to this process going forward if the proposed transfer takes place".

“Mrs Kathleen Rogers’, PS, FIN special expertise is in Finance and Accounts and she is therefore better suited to direct Finance and Accounts in the Ministry. Dr Aidan Harrigan, PS, EDICT is committed to the Science of Economics and is not oriented to managing Treasury and financial officials. He will find that job very boring and uninteresting. I value the advice he gives me in economic strategies. I believe the two together make a perfect match”.

Hon Minister/Home Affairs

“I wish that the three recommendations as outlined in EX MEM 11/391 of 22 December 2011 and indicated below be inserted in my statement:-

- (i) the response from His Excellency as to why he views the proposed transfers as being in the best interest of Anguilla at this time.
- (ii) whether any impact assessment was undertaken prior to the proposal to transfer the Permanent Secretaries and if so wish for the same to be shared with Government and placed on public record.
- (iii) that the proposed transfers for all the reasons expressed by the Chief Minister on the issue and ventilated in the various pieces of correspondence be withdrawn.

The Minister continued, “I cannot identify an answer to any of the above. I am not in support of the transfer of Permanent Secretaries at this time, particularly to the PS, MHA/LANDS from the MHA. Mr Rogers has a volume of history with relationships to Flag Luxury Properties, Cap Juluca saga and the uncertainty of Malliouhana Spa Resort. My position in this matter has nothing to do with persons/personalities and I am not passing any aspersions on anyone. I wish to mention these two maxims, “That we don’t fix what is not broken” and “No one can serve two masters”.

The Hon Minister indicated that the maxims were mentioned based on the statement made by the Hon Acting Attorney General regarding fairness. (The A/AG has since clarified that he believed it was unfair to criticize the PSs on the grounds that they lacked qualifications for their new jobs).

Hon Minister/MICUH

“I do not support the transfer of the Permanent Secretaries especially at a time when we have been asked to have the budget balanced by 2012. I think the Government is being taken for granted - a Government which has been duly and divinely elected. My personal view is that this is a form of strategy more or less to see Anguilla fail”. The Minister asked the Governor two questions, “Do you want to see Anguilla fail? What is the real motive behind the transfers? We were not only duly elected but were widely elected. The God that I serve will see us through this. He is the one who is in control and I will continue to pray and stay on my knees”.

Hon Minister/Social Development

“Prior to the last Meeting of Executive Council held on 22 December 2011, I was not involved in any discussion with respect to the transfer of the

Permanent Secretaries. I believe had I been involved in the discussion, given my experience as a member of the House of Assembly for nearly 18 years and as a Minister of Government for several years and as a trained political scientist, I might have been able to offer certain suggestions that may have served to break the impasse between the Government and the Governor's Office in respect of the transfer of the Permanent Secretaries; in light of the fact that the Constitution of Anguilla and the position of the Court in the David Anthony Carty vs Leroy Rogers case that the Government is not in a constitutional and legal position to go to Court on the issue of consultation.

In that said case, the Judge cited Section 28 subsection 3 of the Constitution of Anguilla "where the Governor is directed by this Constitution to exercise any function in accordance with the advice of or after consultation with any person or authority, the question whether he has so exercised that function shall not be inquired into in any Court".

In light of the fact that the Government has no constitutional and legal option available to it, in this impasse, it is my honest belief and advice that the impasse can only be overcome by continued dialogue, discussion and compromise between the Governor and the Chief Minister.

At the Meeting of Executive Council on 22 December 2011, I was very much gladdened when the Governor and the Chief Minister readily agreed to meet to discuss the impasse.

In conclusion, I remain confident that these two gentlemen can meet, discuss and solve this problem in Anguilla's interest. I want to make it clear too, that as a member of the Executive Council, I in no way seek to obstruct or delay the Chief Minister's request that these transfers should not take place. I believe that Anguilla demands that the Governor and Chief Minister continue to hold discussions. I believe that on the basis of openness, mutual respect and compromise that a solution to this impasse can be arrived at where we will have a win/win situation".

Hon Chief Minister

"There is no question here for the Court. The matter cannot be resolved by the Court and I would not want to put Anguilla through court action. The Governor has constitutional rights because he is the head of the Civil Service. The Governor can do what is in his constitutional rights for the Civil Service but at the same time the people in Government who have been duly elected have to represent the people of Anguilla. Even though there might be no legal standing to this matter, there is a common principle that respect should be given to each other – that is reciprocal. The position is for the Governor to decide and for me to take account of going forward".

The Hon Minister/MICUH pointed out to the Hon Minister/Social Development that, contrary to what he said earlier, he was present in Executive Council when the matter was first brought to Executive Council for discussion. The Hon Minister/MICUH reminded the Hon Minister/Social Development that he said

at the initial meeting that the transfer of the Permanent Secretaries did not involve him as the Permanent Secretaries in his Ministry would not be affected. He then asked to be excused and left for lunch.

Further to the Meeting of Executive Council on Thursday 5 January, 2012, the Hon Chief Minister made the following statement:-

“I still hold firm to my position that I disapprove of the transfer of the Permanent Secretaries. As a result of the transfer, the administration has been restricted and I can no longer commit myself to balancing Anguilla’s finances by 2012 as requested by Mr Colin Roberts, FCO Minister”.

Action: H E; MINS OF GOV’T

EX MIN 12/04

EX MIN 11/902 EX MEM 11/393 INTEGRATED CUSTOMS TARIFF (AMENDMENT) REGULATIONS, 2010

Further to EX MIN 11/902 of 29 December 2011, Council agreed that the Comptroller of Customs should attend the Meeting of Executive Council on Thursday 12 January 2012 for discussion.

Action: AG; COC

OUTSTANDING ITEM FOR EXCO

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

Action: PS, MHA; AG

EX MIN 12/05

EX MEM 12/01 THE NAIROBI CONVENTION ON THE REMOVAL OF WRECKS 2007

Mrs Catherine Firth, HOGO joined the Meeting.

Council agreed that the AG’s Chambers and MICUH should consult with the relevant stakeholders to look at all the issues and likely costs associated with implementation and enforcement and report back to Executive Council with a recommendation.

Action: AG; PS, MICUH; HE

EX MIN 12/06

EX MEM 12/02 MEMORANDUM OF UNDERSTANDING (MOU) ON LAW ENFORCEMENT ASSISTANCE BETWEEN THE CARIBBEAN OVERSEAS TERRITORIES AND BERMUDA

HOGO remained for discussion.

Council agreed in principle to the signing of the MoU by His Excellency The Governor and the Hon Chief Minister

provided that the other Overseas Territories are committed to signing the MoU.

Action: HE; HON CM; AG

EX MIN 12/07

EX MEM 12/03 REASSIGNMENT OF TWO (2) OF GOA VEHICLES TO THE POLITICAL DIRECTORATE

HE The Governor declared an interest because one of the vehicles will be assigned to the Orderly at the Governor's Office.

Council agreed to the reassignment of the vehicles as outlined in the table below:-

Make	Model	Year	Reg#	Current Ministry/Department	Proposed Ministry and a Primary User
Suzuki	Grand Vitara	2005	G29	MICUH	Governor's Office – Orderly
Suzuki	Grand Vitara	2006	G499	Inland Revenue	M.I.C.U - Minister Gumbs
Suzuki	Grand Vitara	2007	G9	MHA	MFEDICT - Advisor to Chief Minister

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

Action: PS, MICUH

EX MIN 12/08

EX MEM 12/04 SERVICE LEVEL AGREEMENT WITH THE ANGUILLA AIR AND SEA PORTS AUTHORITY FOR THE PROVISION OF AIRCRAFT RESCUE AND FIRE FIGHTING SERVICES

Council approved:-

- (i) the Anguilla Fire and Rescue Service entering into a Service Level Agreement to provide a Rescue and Fire Fighting Service to the Clayton J Lloyd Airport of Anguilla Air and Sea Ports Authority in accordance with the Air Navigation (Overseas Territories) Orders and part 139 and part 140 (Rescue and Fire Fighting Services Requirements) of the Overseas Territories Aviation Requirements;
- (ii) in principle the Service Level Agreement provided by Air Safety Support International pending finalization by the AG's Chambers;
- (iii) the Schedule to the Agreement as the basis for the payment for the services to be provided by the Anguilla Fire and Rescue Service to the Anguilla Air and Sea Ports Authority. The Schedule will be negotiated and finalised after consideration of the Anguilla Air and Sea Ports Authority 2012 Business Plan.

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

Action: AG; PS, MICUH

EX MIN 12/09

EX MEM 12/05 AGREEMENT WITH TRIAGE

INTERNATIONAL FORMEDICAL TREATMENT OVERSEAS

Council approved:-

- (i) the signing of the Agreement with Triage International for medical treatment overseas;
- (ii) the transfer of EC\$95,000 from the Medical Treatment Overseas subhead to the Claims account held by Triage International.

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

EX MIN 12/10

EX MEM 12/06 ADVERTISING OF SENIOR ENVIRONMENTAL HEALTH OFFICER POST

Council agreed that the post of Senior Environmental Health Officer in the Department of Health Protection should be advertised internally with immediate effect.

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

Action: PS, PA; PS, HSD; PS, FIN; PS, EDICT; BO

EX MIN 12/11

EX MEM 12/07 ESTABLISHMENT OF ANGUILLA CONSTITUTIONAL AND ELECTORAL REFORM COMMITTEE (ACERC)

Mr Foster Rogers, PS, EDICT joined the Meeting.

EX MIN 11/493 of 8 August 2011 refers.

Council was reminded of the membership of the Committee as follows:-

Rev. Clifton Niles	Chairman
Ms. Quincia Gumbs	Youth Representative
Mr. Whaldama Brooks	Member
Mr. Patrick Hanley	Member
Mr. John Benjamin	Member
Anguilla United Front	One Representative
Mr. Brent Davis	Anguilla Progressive Party
Ms. Dawne Richardson	Attorney General's Chambers

Council agreed that:-

- (i) the term of the ACERC should be extended for a three-month period until March 31st, 2012. During this time all additional matters must be completed, including consultations and the draft report submitted to the Executive Council;
- (ii) Mrs. Vyrone Ruan should be assigned as the Secretary to the ACERC. This position is not envisaged to be a full member of the Committee, but

the incumbent is expected to attend all Committee Meetings, and attend to all administrative matters of the Committee on a part time basis in addition to her regular duties at the Attorney General's Chambers.

Council further agreed remuneration for the Committee as follows:-

Chairman	\$2,000.00 per month
Members	\$1,000.00 per month
Secretary	\$ 300.00 per month

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

ORAL MENTION

EX MIN 12/13

UPDATE ON ANGUILLA'S BUDGET 2012

HE The Governor updated Council on the latest position with regard to Anguilla's Budget 2012.

Action: HE

EX MIN 12/14

EX MIN 11/839 EX MEM 11/360 DUTY EXEMPTION FOR FOUNTAIN BEACH RESIDENCES LTD AKA ZEMI BEACH

In EX MIN 11/839 of 8 December 2011, Council agreed that the paper should be deferred to enable the AG's Chambers to ensure that the duty exemption requested was in accordance with the MoU.

The Hon Attorney General confirmed that the conditions of the MoU were reflected accurately.

Council agreed that duty exemption should be granted to Fountain Beach Residences aka Zemi Beach (c/o Mr Jeffrey Goldstein) on the list of attached items as well as a duty refund for duties paid on items because the duty free status of the project was not yet clarified. Council approved the duty exemption and the refund on the grounds that the exemptions would be consistent with Government's policy of promoting foreign direct investment in the tourism sector.

The estimated duty loss the GoA is in excess of EC\$8,864,180.00 and the amount of the requested refund is EC\$34,412.23.

Council noted that, because the customs service charge will not be waived, revenue on excess of EC\$3,600,000.00 will accrue to the GoA.

Action: PAS, FIN; COC; FO; AG
