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SUPPORT. PROMOTE. PROTECT.

The Cayman Islands Chamber of Commerce was established in 1965 and is a non-profit organisation that exists to Support, Promote and Protect Cayman business and the wider community. We proudly represent more than 700 businesses and associations from every major industry sector and have recently expanded our operations to include a Visitors Centre.

MINUTES OF THE 4th MEETING OF THE 2012 COUNCIL ON 11th APRIL 2012 AT THE CHAMBER OF COMMERCE & VISITORS CENTRE BOARD ROOM, WEST BAY, GRAND CAYMAN, CAYMAN ISLANDS.

ATTENDING:

- Mr. David Kirkaldy, President and Chairman
- Mr. Chris Duggan, President-Elect
- Mr. Johann Moxam, Vice President
- Mr. Lendon Jackson, Secretary
- Mr. Wayne Cowan, Treasurer
- Mr. Barry Bodden, 3rd Year Councilor
- Mr. Shayne Howe, 3rd Year Councilor
- Mr. Kyle Broadhurst, 2nd Year Councilor
- Mrs. Natalie Urquhart, 1st Year Councilor
- Mr. Rory Mohammed, 1st Year Councilor
- Mr. Wil Pineau, CCE, Chief Executive Officer

1. Call to order

President David Kirkaldy called the meeting to order at 3:30 p.m. He confirmed the required quorum of 5 council members for the meeting. Chamber CEO Wil Pineau recorded the minutes.

2. Apologies

- Mr. James O'Neill, Immediate Past President (off island)
- Mr. Alan Brady, 1st year Councilor

3. Review/Approval of draft minutes from the 14th March 2012 Council meeting

The draft minutes were distributed prior to the meeting for review. A motion to accept the draft minutes without amendment was moved by Mr. Cowan, seconded by Mr. Moxam and approved unanimously. The President and Secretary will sign the approved minutes which are to be posted to the members section of the Chamber website.

4. Action items arising from the Minutes

a. Request for proposal (RFP) for health insurance plan for Chamber members

Treasurer Wayne, who chairs the committee, has called a meeting on Friday, 13th April to review another proposal that had been requested by the committee. He will provide a report at the May Council meeting.

b. Future of Cayman economic development initiative



Letter is being drafted to Deputy Governor Franz Manderson seeking his support for appointing co-chairs from the public sector to serve on the five driver groups.

c. Tariff Harmonisation Customs Codes

The CEO will contact Customs to confirm dates for training sessions for the membership.

ACTION ITEM: CEO will contact the Customs Department to confirm education sessions for membership.

d. Port Improvement projects

The CEO contacted George Town MLA Ellio Solomon to provide the Council with an update on negotiations with China Harbour Engineering Company (CHEC). Mr. Solomon will address the Council at today's meeting. The Council developed a list of questions to ask Mr. Solomon:

1. Please provide an update on the Framework Agreement with CHEC.
2. Has the Framework Agreement been completed? If yes, will the Chamber of Commerce Council be given a chance to review it and to offer comment?
3. Will the KPMG report which is reviewing the business case for the project be released to the public?
4. Will you be prepared to provide Chamber members with a full update on the status with the negotiations with CHEC?
5. Have the three main requests by the Cayman Contractors Association been addressed in the Framework Agreement?
6. What is the confirmed allocation for the addition of retail space for the planned George Town cruise berthing facility?

5. **Invited Guest:** George Town MLA Ellio Solomon, lead negotiator with China Harbour Engineering Company on behalf of the Cayman Islands Government

President David welcomed Mr. Solomon to the meeting at 4 p.m. He acknowledged his willingness to share information about the progress that has been made with developing a **framework agreement** with CHEC. He asked him to provide the latest update to the Council. Mr. Solomon said the Memorandum of Understanding with CHEC had expired on 31st March, but had been extended. He said an initial framework agreement had been confirmed. An **Environmental Impact Assessment** (EIA) for the George Town port project is expected to begin this month with a forecasted completion date of June this year.

In terms of **additional retail space** planned as part of the cruise berthing facility at the George Town port, he confirmed that the initial drawings include 50,000 square feet of additional space which will allow the Port Authority to recover some of the revenues that will be redirected from the passenger fees that would be earmarked to CHEC for the construction of the new port facilities. He noted that the allocation of the additional retail space would be decided by the Port Authority and the Cayman Chamber. President David and VP Johann



questioned this statement pointing out that it was the first time that the Chamber Council had heard about this proposed process. The Chamber leadership said such a proposal had not been reviewed nor approved by the Council and they recommended that Mr. Solomon submit a proposal in writing so that the Council could evaluate its merits. In the meantime, they asked Mr. Solomon to cease sharing this message publicly since it may appear that the Chamber was supporting the construction of additional retail space at the port without knowing or understanding the full details of the framework agreement.

Mr. Solomon agreed to stop making these statements. He said it had been the hope of Government and CHEC that the Chamber would be willing to take on this role in concert with the Port Authority. Mr. Solomon said he would withdraw that statement if the Chamber is not interested. President David said it was not a matter of whether there is interest but the principle that the Chamber Council needs to consider the request first before making a final decision. He reiterated his request for Mr. Solomon to submit a written proposal outlining the proposed terms of the arrangement so it can be considered by the Council. Mr. Solomon did confirm that CHEC will not be selecting the businesses that will be granted permission for the additional retail space.

There was general discussion about the need to provide the public with up-to-date information about the framework agreement. Mr. Solomon agreed, but said every public discussion that he takes part in on the radio or television it turns to addressing other matters outside the agreement and debating the pros and cons of selecting CHEC and whether the cruise berthing facility should be located in George Town or another location. In fact, during his television appearance on Issues 27 he informed the public that there is another private developer interested in constructing another cruise berthing pier at the Pageant Beach site which would be paid for by one of the cruise ship companies. He felt that this would not be in the best interest of the country.

Councilor Shayne, who is also a member of the Cayman Contractors Association (CCA), asked several questions regarding the CCA letter that had been sent to Mr. Solomon nearly three weeks ago. The letter, signed by CCA President Mr. Kris Bergstrom, identified three main points that the organisation urged Government to consider during the development of the framework agreement with CHEC:

1. The enforcement of CCA rates for labour;
2. The establishment of a set time period for CHEC to leave after the work is completed;
3. The requirement for CHEC to purchase materials locally.

Mr. Solomon questioned the content of the letter and the reasons why CCA released it to the public before a formal response had been received from Government. He wondered why the CCA, as an organisation that deals primarily with the issues of contractors, would be raising environmental matters and questioning the need for the project. When pressed on whether Government planned to respond to the letter and releasing the details of the framework agreement before it is confirmed, Mr. Solomon said the Premier will be releasing a public statement in the Legislative Assembly shortly to respond to the CCA letter. He encouraged the Chamber to write to the Premier seeking the details of the framework agreement and asked to



be copied on the letter. Mr. Howe, speaking in his role with CCA, stated that the organisation supports the cruise berthing project and want to be helpful, but need to receive the facts about the project. He mentioned that the membership of CCA has increased as a result of the public stance that the organisation has taken with regards to the project. Mr. Solomon said he has met with CCA on at least three occasion to discuss the project (one of these meetings was the BE INFORMED presentation about the Chamber visit to view CHEC projects in Jamaica at which several contractors were in attendance). Many of the items were discussed at these meetings but the conversation often shifted to other matters outside the project (such as the location for the cruise berthing facility, environmental matters and funding).

Mr. Solomon addressed each of the points outlined in the CCA letter:

1. Materials will be sourced locally and based on pricing in this region and not China. Materials will be sourced at “community reasonable rates” to avoid any potential abuse.
2. The majority of labour for the project will be sourced locally. CHEC will be allowed to bring in managerial and technical staff which is not available locally.
3. CHEC will not be allowed to construct temporary housing and will be renting local facilities for staff.

He said the conceptual drawings include two piers which allow berthing for four ships including an Oasis class vessel on each pier. The transportation for the cruise passengers will be incorporated into the new facility and work will be done to control traffic and for the pedestrian component of the project for George Town. The cargo facility will also be expanded.

Mr. Solomon confirmed that KPMG has been hired by the Port Authority to complete a value for money assessment and to evaluate the framework agreement. He said Government has given no guarantees to CHEC.

When asked about the procurement process once the project is confirmed, Mr. Solomon said this would be handled through the Government systems.

The President thanked Mr. Solomon for answering the Council’s questions. He said the Chamber has not commented on the project publicly until more information has been obtained. This respectful advocacy approach was started during IPP James O’Neill’s term and he has continued with this approach. Mr. Solomon respected that approach and recommended that the Chamber Council may wish to consider hosting forums on the subject similar to the Candidates Forums leading up to the elections. In this way, he can respond directly to questions rather than being sidetracked with issues that do not relate to the project.

Mr. Solomon left the meeting at 5 p.m.

6. **CEO Report (10th March – 5th April 2012)**

The report was distributed to the Council prior to the meeting for review. The CEO raised the matter of the court case involving a former employee, Mr. Robert Schultz, of the Chamber Pension Plan. He assured the Council that the charges relate directly to the Pension Plan and



not the operations of the Chamber. The Chamber's financial controls are outlined in the Chamber's Operations Manual which has been reviewed and approved by the Treasurer and the Executive Committee. PE Chris raised the matter of the Chamber appointments to the Pension Plan and asked if there was any formal interaction that the Council had in the decisions taken by the Pension Trustees. The Council appoints two trustees to represent their interests on the Board of Trustees. The Council can request reports and meet with the appointments to share its concerns or information on any matters of importance. The Council recommended that the Chamber appointed trustees are invited to attend the next meeting.

ACTION ITEM: Chamber Trustees will be invited to attend the next Council meeting in May.

7. Any other business

- a. **Junior Achievement:** Secretary Len, who serves as one of the Chamber's representatives on the JA Board, informed the Council that during the interviews for Company of the Year he asked the Presidents of the various JA companies if they understood the procedures for licensing a business in the Cayman Islands. No one knew the procedure or even was aware of the requirements. He said it would be worthwhile to include information about the procedure as part of the programme. He would bring this matter to the attention of the JA board.

ACTION ITEM: Sec. Len will raise this matter with the JA Board.

- b. **Labour Law amendments:** Councilor Barry asked if the Chamber was asked to respond to amendments to the Labour Law which expanded the provision for severance pay. This matter was proposed in November 2011 but there was minimal effort to obtain public comment. He suggested providing information about the Labour Law and its amendments to the membership. The CEO said there are courses that are held to inform members about the Immigration, Labour, Pensions and Health Insurance Laws. More courses are planned and it would be good idea to seek information sheets from the Labour Department that can be released to the membership.

ACTION ITEM: The CEO will contact the Labour Department to seek information about recent changes to the Labour Law that can be shared with the membership.

- c. **Action on advocacy issues:** PE Chris commented that there has been no progress by Government to appoint the daylight savings time committee or the Sunday Trading. He said the membership supports these items and there have been public statements made that the Chamber is addressing these matters. He believed the Chamber lost credibility with its members if it did not pursue these matters until they were completed. This is a common problem for many associations that lobby for legislative changes. One approach used is for the organisation to draft the legislation and then present it to Government. The Council supported this approach for the Sunday Trading and the Daylight Savings Time. Councilor Kyle volunteered to assist with this



process and would seek assistance from a small group to complete the drafting for presentation after the next election since some Council members believed that these legislative matters is not likely to be top priorities for the current Government.

ACTION ITEM: PE Chris and Councilor Kyle will recommend a group of people to draft legislation for Sunday Trading and Daylight Savings Time.

8. Next meeting: Wednesday, 9th May 2012, Chamber conference room, Governors Square, 3:30 p.m.

9. Adjournment

The meeting adjourned at 5:20 p.m.

Approved by:

David Kirkaldy
President & Chairman

Lendon Jackson
Secretary