



**Board of Directors Meeting of the
Utility Regulation and Competition Office ("OfReg")
held on Wednesday, 18 September 2019, 2 pm
at its Offices, 3rd Floor Alissta Towers
Special Meeting 2 of 2019**

Minutes

In attendance:

Dr. the Hon. Linford Pierson, Chair (Chair)
Mr. Ronnie Dunn, Deputy Chair (RD)
Mr. Rudy Ebanks, Non-executive Director (RE)
Mr. Paul Byles, Non-executive Director (PB)
Mr. Phillip Ebanks, Non-executive Director (PE) (by telephone)
Mr. Malike Cummings, Chief Executive Officer (CEO)
Mr. Alee Fa'amoe, Executive Director ICT (EDICT)
Mr. Gregg Anderson, Executive Director Energy & Utilities (EDEU)
Mr. Duke Munroe, Chief Fuels Inspector/Director Fuels Markets (CFI)
Dr. John Epp, General Counsel/ Secretary (GC/S)
Ms. Alison Maxwell, Assistant General Counsel/ Assistant Secretary (AGC/AS)
Mr. Christen Suckoo, Chief Operating Officer (COO) (by Board Directive)

Apologies:

Mr. Gene Banks, Non-executive Director (GB)

Start: 2:10 PM End: 3:35 PM

1. General

1.1 Welcome and Prayer

The Chair welcomed all members and raised a preliminary point of order.

[REDACTED]

The CEO said a prayer.

Redacted under Sec 23 (1) of FOI law 2020 revision Personal Information

1.2 Approval of Agenda

Motion, RE and seconded by RD: that the agenda as amended (add AOB) be adopted for this meeting. CARRIED

1.3 Remarks by Chair

On behalf of the Board of OfReg, I extend a warm welcome to Mr. Malike Cummings as the new CEO of OfReg, and also as a director of the Board



of OfReg. I was advised verbally and subsequently in writing by the Cabinet Office that Cabinet has approved Mr. Cummings appointment to the Board of OfReg in accordance with section 9 (1) (a) of the Public Authorities Law, 2017 ("the Law"). I was further advised that notwithstanding the current wording and interpretation of the Law, it will need to be amended as it was never intended that Cabinet would become involved in the appointment of the CEO to the Board of OfReg. I wish to record my thanks to Mr. Robert Lewis, the Deputy Cabinet Secretary, for his invaluable assistance in expediting the appointment through Cabinet.

Mr. Cummings I trust that you and your family are, thus far, enjoying life in the Cayman Islands, and on behalf of the Board give you the assurance that we will do whatever possible to not burden you too heavily with the business of OfReg, but we would like you to take some time for you and your family to get to know the wonderful people of these beautiful Islands. We wish you a most rewarding experience as we work together to attain the excellence we are all committed to under our Vision and Mission Statement, and in the implementation/execution of our Strategic plan.

May I also take this opportunity to thank, in particular, EDICT, COO, and MA (Capt. Echard), for arranging the smooth transition of the CEO into his office, and his family into their new home. My thanks also to EDICT for arranging a meeting on Monday morning, 16 September 2019, for the new CEO to meet all members of the staff, and I was pleased to hear the new CEO and the staff exchanged assurances of their undertaking to work together in the very best interest of OfReg. I also had the opportunity to have a 'one on one' conversation with the new CEO, during which time I was able to learn of his plans for the continued development of OfReg. I also wish to record my thanks to EDICT for arranging, on my behalf, a most enjoyable lunch with the new CEO and other senior members of staff at Agua Restaurant.

As is customary, when new members are appointed to our Board we arrange a short ceremony of orientation/on-boarding for them. Because the new CEO has already been, or will be, provided with the relevant laws and other appropriate documentation, I have requested the senior officers doing the sectoral presentations to be brief and to the point in the interest of time and efficiency. I understand, however, that he has previously held meetings with the Exco members. I will also make the following brief comments relating to the principal responsibilities of members of the Board:

1. The two principal laws that govern the overall operations of the Board are the Utilities Regulation and Competition Law, (2019 Revision) ("URC Law"), and the Public Authorities Law, 2017 ("PAL"). Members of the Board, including the new CEO have been, or will be, provided with the various sectoral Laws. The following is some brief background information on OfReg: OfReg is a multi-sector regulatory body with responsibility for the



former Information and Communications Technology Authority (ICTA); the Electricity Regulatory Authority (ERA); and the Petroleum Inspectorate. It has also been given regulatory jurisdiction over the fuel market and the water sector. The Board was initially comprised of four Non-Executive Directors (NEDs), four Executive Directors (EDs), and the Chair (9 members), with provision in the then URC Law, 2016 for the Chief Executive Officer (CEO) to vote. Under the PAL, 2017 the CEO was excluded from the privilege of voting, thus the reason for the recent appointment of an additional NED to retain the voting balance on the Board. The Board is therefore now comprised of five NEDs and the Chair with voting rights, and four non-voting Executive Directors including the new CEO. I was honoured to have been appointed by Cabinet as the first Chair of the Board of OfReg.

2. The early efforts of the Board resulted in the formulation of the Vision and Mission Statements which you will see on the TV Monitor in the reception area, and they are also prominently displayed on OfReg's website. I will seek to have the Board revise these two statements, with a view to simplifying them. Best Management Practices for Writing the Vision and Mission statements suggest that they should be simple, easy to read and cut to essentials, so that they can be set to memory and be repeated accurately. For example, for OfReg's Vision statement all that may be necessary is: "To be a leader in regulatory excellence...", and for the Mission statement: "To ensure safe, reliable, economic public utilities to businesses and the people of the Cayman Islands...". The Board also agreed on its "Code of Ethics" which establishes the norms for ethical conduct not only for members of the Board but for the staff as a whole. Further, the Board adopted "Robert's Rules of Order" as the official Procedural Manual for the operations of the Board.

3. Part 3 of the URC Law as amended by Part 3 of PAL, provides direction for the operation of OfReg's Board. I will not go through the individual sections of these Parts but highly recommend its reading as a priority. The structure of Board Members, and the duties and responsibilities of Board members are outlined under this part. The quorum of the Board consists of a simple majority of the voting members (plus two executive members) currently five members. Members are reminded that membership of OfReg's Board carries with it the responsibility of attending Board Meetings as a priority. Section 22 (1)(d) of the URC Law, stipulates that "The Cabinet shall terminate the appointment of any Members who has been absent from three consecutive meetings of the Board without the consent of the chair."

4. Regulatory training is a priority of OfReg. Accordingly, during the recent budget preparation I requested financial provision for four of our Board Members, who had expressed their desire to attend the Public Utility Research Center (PURC) Training program during the 2020/2021 financial year. The training is held bi-annually at the University of Florida in Gainesville. In addition, to ensure that OfReg operates within the principles



of regulatory excellence, it is highly recommended that members of the Board and other senior officers attend the workshop which is facilitated by the Deputy Governor and supported by the Cabinet Office for both the civil service and Statutory Authorities and Government Companies (SAGCs). This workshop which focuses attention on Policy Development and Implementation of Best Practice, has been provided locally to Government Ministries, and Portfolios, and to SAGCs such as CIMA, and also regionally (in Monserrat). This interactive workshop would be complimentary to one previously held for OfReg by the 'Portfolio of the Civil Service' (POCs), by Mr. Grahame Jackson, which covered "Purpose, Challenges, Opportunities and particularly team building", similar to the SWOT Analysis (which is comprised of "Strength, Weaknesses, Opportunities, and Threats). In this connection, the SWOT training is, however, more meaningful at a regulatory level when the SWOT/PESTLE Analyses are combined. (PESTLE is the acronym for "Political, Economic, Social, Technological, Legal and Environmental" influences.) This combination would provide a systematic and thorough evaluation of an entity, such as OfReg. POCs also provides valuable training through Mr. Peter Gough who is highly regarded as an expert on PAL. The combined three training programs are highly recommended to OfReg by our Cabinet Office.

5. Members of the Board are also reminded that the Board does not act as a negotiating party between OfReg and their licensees and/or potential licensees. In the event that Board Members are approached to intervene in the midst of ongoing negotiations, they should inform such individuals that they may have a right of appeal to the Board if they are dissatisfied with the decisions of OfReg's Executive Officers, and/or the option to seek Judicial Review. I have in the past received representation from licensees and potential licensees, and I have explained the procedure to be followed. Of course, these companies will also attempt to seek the political involvement of Cabinet Ministers.

6. We appreciate that OfReg is peculiar in its scope of responsibility, being the only multi-tiered public authority in the Cayman Islands, comprised of sectors which directly affect the general public. As a result, OfReg is regularly the focus of negative media attention. To address this problem, I am inviting Board members to consider how we may best inform the public of our plans to address controversial issues which arise from time to time. This would therefore include more transparent reporting of OfReg's activities, as appropriate, to the public.

7. In closing, let me say how fortunate we are to have such a professional group of talented members serving on this Board, and we look forward to OfReg moving from strength to strength, which is possible only when/if each of us work in unity with each other.



2. Declaration of Interest: None

3. Board Matters

3.1 **Board Administration**

3.1.1 On-boarding process of CEO Mr. Malike Cummings

The Chair noted that the CEO took up his duties on 15-09-2019. He referenced the letter from Cabinet to the CEO dated 17-09-2019 wherein the CEO was appointed to the Board of Directors.

The Non-Executive members of the Board were formally introduced to the CEO.

The CEO confirmed that in his first two days in office he had met with the staff as a group and with each of the Executive members and had been briefed. Meetings with other senior members of staff were scheduled for the days ahead.

3.1.2 Presentation by EDICT (immediate past ACEO) on meeting with Caucus

The EDICT reported that he and the Chair had met with Caucus on 02-09-2019 to better inform them of the origin, recent history and current issues relating to [REDACTED] enforcement issues. After the Chair provided the context, EDICT repeated the presentation made to Caucus for the benefit of the Board and it was placed in the Board papers folder. The collection of outstanding royalties [REDACTED] and regulatory fees [REDACTED] was ongoing, and notice was taken of the cost associated with actions for collection. Redacted under Sec 19 (4) Public Authorities Law Regulatory decision

4. Any Other Business

4.1 **Amendment to Public Authorities Law (PAL)**

The Cabinet Office indicated to the Chair that it was not the desire of Cabinet to be involved in the appointment of the CEO to the Board of Directors, and it conceded that, as PAL was now written, it had to make the appointment. PAL was to be amended to make it clear that the CEO was *ex officio* a member of the Board.

4.2 **Reporting Ministers**

The Chair reported that Minister Hew felt he should have been made aware earlier of the Hurley's TV/Cayman 27 situation. Since that time, the Chair and COO have undertaken a close review of reporting lines and Ministerial responsibilities. COO sought now information (by email) from the Executives on their engagement with various Ministries. Perhaps an MOU between the relevant Ministries and OfReg concerning the provision of information was appropriate.



4.3 Vote of Gratitude

Motion, RD and seconded by PB: that the members now express their appreciation for the good work of those who acted in the role of CEO during the past 12 months (CFI, EDEU, EDICT). CARRIED

5. Adjourned

A handwritten signature in black ink, appearing to read "M. C. ...".

Date: 10/10/19