



**Board of Directors Meeting of the
Utility Regulation and Competition Office ("OfReg")
held on Thursday, 12 March 2020, 10:00 am
at its Offices, 3rd Floor Alissta Towers
General Meeting 2 of 2020**

Minutes

In attendance:

Dr. the Hon. Linford Pierson	Chair
Mr. Ronnie Dunn	Dep. Chair (Arrived during Item 1.4)
Mr. Rudy Ebanks	Non-executive Director (RE)
Mr. Paul Byles	Non-executive Director (PB) (Left meeting at conclusion of Item 6.2.4)
Mr. Gene Banks	Non-executive Director (GB)
Mr. Malike Cummings	Chief Executive Officer (CEO)
Mr. Gregg Anderson	Executive Director Energy & Utilities (EDEU)
Mr. Duke Munroe	Chief Fuels Inspector/Director Fuels Markets (CFI)
Mr. Alee Fa'amoe	Executive Director ICT (EDICT)
Mr. Sonji Myles	Deputy Director ICT/Acting Board Secretary (DDICT/ABS)
Mr. Christen Suckoo	Chief Operating Officer (COO) (by Board Directive)

Apologies

Mr. Phillip Ebanks, Non-executive Director (PE)

Dr. John Epp, General Counsel (GC/S)

Ms. Alison Maxwell, Assistant General Counsel/ Secretary (AGC/AS)

Start: 10:18 AM End: 4:16 PM

1. General

1.1 Welcome and Prayer

The Chair welcomed all to the meeting.

CFI offered a word of prayer.

1.2 Approval of Agenda

PB moved a motion to accept the Agenda as drafted. Motion seconded by RE. Motion carried.

1.3 Chair's Remarks

"CORONAVIRUS (COVID-19)



The Coronavirus Disease 2019 (COVID-19) is unleashing a devastating blow globally. Worldwide medical/scientific statistics reveal that as of Tuesday, 10 March 2020 confirmed cases of COVID-19 totaled 121,312; deaths 4,363, and recovery 66,519, which suggests that the recovery rate is high. On Wednesday, 11 March 2020 the World Health Organization (WHO) declared COVID-19 'a pandemic'. *A pandemic is the worldwide spread of a new disease that affects large number of people.*

At a hearing of the United States House Committee on Oversight and Reform yesterday (11 March 2020), Dr. Anthony Fauci, director of the National Institute of Allergy and Infectious Diseases, advised the Committee that COVID-19 is going to get much worse. He further stated that COVID-19 will continue to grow because containment measures and contact tracing have failed to prevent community spread of the virus. Yesterday, Jamaica's Health and Wellness Minister Dr. Christopher Tufton announced that Jamaica is treating its first confirmed coronavirus patient. Also, cases of coronavirus have been confirmed in three other Caribbean countries – the Dominican Republic, St. Martin and St. Barts.

While it has been reported that the Cayman Islands has no confirmed cases of the coronavirus, as of Monday (9 March 2020) five people had been tested for COVID-19 and are awaiting the results of laboratory tests from Trinidad. The Cayman Islands' Government has been actively involved in providing policies and other information to the public (including the Civil Service and other public service bodies), in an attempt to effectively address this very dangerous/contagious disease. Our CEO has also been diligent in keeping OfReg's staff updated on the policies and directives from Government.

CORONAVIRUS SYMPTOMS AND PREVENTION

For most people, COVID-19 infection will cause mild illness; however, it can make some people very ill and, in some people, it can be fatal. Older people, and those with pre-existing medical conditions (such as cardiovascular disease, chronic respiratory disease or diabetes) are at risk for severe disease. To prevent the coronavirus from spreading, the Centers for Disease Control (CDC) recommends washing hands with soap and water for at least 20 seconds or using a hand sanitizer if a sink is not available. The WHO advises that people should wear face masks only if they're sick or caring for someone who is sick. The following guidelines should be observed:

1. NO HANDSHAKES and AVOID LARGE CROWDS
2. CONSULT YOUR DOCTOR FOR SIGNS OF COLD, HIGH FEVER, COUGHS, ETC.



3. SOCIAL DISTANCING—KEEPING A DISTANCE OF AT LEAST SIX FEET FROM OTHERS

NB: IN VIEW OF THE EXPONENTIAL SPREAD OF COVID-19 WORLDWIDE IN THE RECENT WEEKS, I AM RECOMMENDING THAT WE DEFER OUR APRIL BOD MEETING UNTIL MAY 2020 WHEN, HOPEFULLY, THE SPREAD OF COVID-19 WILL BE UNDER BETTER CONTROL.

I close this segment of my remarks with the comments of the Hon. Premier, Mr. Alden McLaughlin regarding the COVID-19 threat. "Make no mistake, we have a most difficult time ahead and the greater the community awareness the better our chances of successfully meeting the challenges of the coming months.

Government will continue its public education campaign over the next few weeks, so please stay tuned. There are also likely to be important announcements as this is a quickly evolving situation. Our strategy is first prevention, and then, if the virus is found to be here, containment. We will need everyone's cooperation to succeed. Regards, Alden".

APPOINTMENT OF BOARD SECRETARY

Please note that section 31 (1) of the URCL (2019 Revision) and section 18 (1) of the PAL, 2017 provide that the Board may appoint a person, not being a board member, to be the Recording/ Board Secretary.

QUORUM OF THE BOARD

Please note that section 17 (1) (g) of PAL states that, "the quorum of a board shall be a simple majority of the board members who are entitled to vote", which supersedes section 23 (4) of the URCL (2019 Revision) which states "At every meeting of the Board a quorum shall consist of a simple majority of the voting plus two executive members".

CHIEF EXECUTIVE OFFICER AND EXECUTIVE DIRECTORS

As regards 'open ended contracts' that may exist, Section 30(2) of the URCL (2019 Revision) states, "The Chief Executive Officer and the Executive Directors shall serve for a term of three years and may each be reappointed by the Board for one or more subsequent terms.

As regards the recruitment and appointment of staff of a public authority, section 42 (4) of PAL, 2017 states: "Before advertising a vacancy, the chief executive officer or the designate of the chief executive officer shall establish – (a) the duties and responsibilities of the post; (b) the attributes and skills required for the post; and (c) the salary range within an



established salary grade. Section 42 (5) of the PAL, 2017 further states, "A chief executive officer shall, when compiling a shortlist, give preference to a Caymanian applicant where the Caymanian and a non-Caymanian are found to rank broadly at the same level." - ENDS.

In relation to the deferral of April's meeting, the Chair suggested and the Board agreed that all board communication would be conducted electronically via email.

2. Declaration of Interest

Dep. Chair notified the Board that he would recuse himself for Item 5.2.2 "MAB Share transfer" as he has previously advised that entity in his professional capacity.

3. Minutes of Previous Meetings and Round Robin Resolutions

3.1 Approval of the Minutes of:

Minutes - General Meeting no. 1/2020, held 16 January 2020

Minutes - Special Meeting no. 1/2020, held 13 February 2020

GB requested amendments to Items 3.3.3 and 4.1.3 of General Meeting 1/2020.

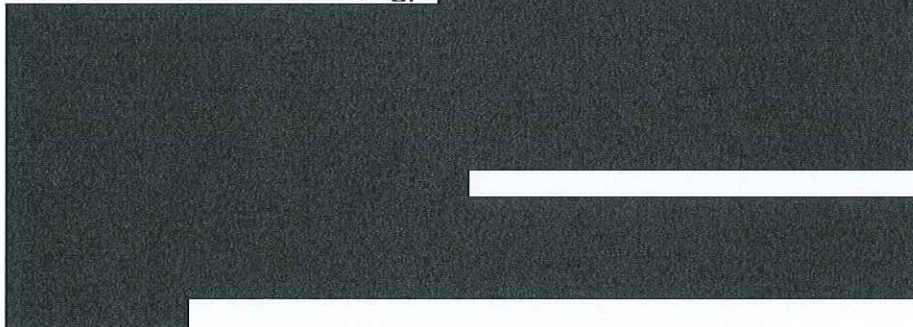
PB moved a motion to approve both sets of minutes, as amended. Motion seconded by Dep. Chair. Motion carried.

3.2 Matters Arising from Previous Minutes

Item 3.3.3 of General Meeting 1/2020- Board Action Item Log (Investigation into leak of board minutes): COO provided a brief update on the progress of the investigation and confirmed that four quotes had been received from three entities. COO is in the process of writing a recommendation to be presented to the CEO (the Committee/Board will be kept apprised).

Item 3.3.3 of General Meeting 1/2020- Board Action Item Log (MOU with Ministry on Information Sharing): PB requested an update on the Progress of the MOU. The CEO confirmed that the draft MOU has been completed and was circulated to the Board.

Item 3.4 of Special Meeting 1/2020 (Explanation from the CEO on Certain HR matters at OfReg):





The Dep. Chair requested of the CEO to confirm when the instruction for the legal advice was given, as it appeared that there has been some delay in receiving the advice. The COO confirmed that the instruction was given soon after it was agreed to seek legal advice.

The Dep. Chair shared his view that the matter was a serious one and wanted to ensure that the matter was being progressed in a timely manner.

3.3 Round Robin Resolutions

None

4. Chief Executive Officer Report

The CEO gave an overview of his report. Discussion ensued.
A copy of the report was previously circulated to the Board.

Discussion Relating to Fuels

During the CEO's report on the fuels sector, the Dep. Chair queried the frequency that Significant Market Power reviews of the industry would be carried out. He noted that the Islands did not have significant new players entering and exiting the markets frequently; he therefore wanted to get an explanation of the perceived benefits of the exercise since it involved the use of consultants and costs to OfReg. CFI explained that since the two main players had been deemed dominant, there have been notable changes in the markets. Accordingly, it is necessary to conduct the assessments to be able to properly regulate the industry. CFI also confirmed that the definitions and terms of reference that result from an assessment would include the necessary triggers to inform when another assessment would be required.

RE raised concerns with a recent Office press release discussing the Rubis fuel tank leak investigation, noting that the release could have been better drafted. Discussion ensued in relation to the role and expectations of the Consumer Affairs and Public Education officer and the extent to which the Office continues to rely on an external Public Relations firm.

Discussion Relating to Board Self-Assessment and Productivity of Staff

Dep. Chair shared that the GC/S had called him a few weeks earlier and challenged him on his assessment of the Board's performance. He explained that the GC drew reference to certain obligations of the Office that had not been completed.

The Dep. Chair highlighted that many of the obligations are not to be physically carried out by the Non-Executive members but rather by the Executive members and staff, and he was concerned by the fact that it takes excessively long periods of time to complete tasks and provide proof of such to the Board. He noted that the Board's role is that of Governance and he felt members were being pulled into operational areas because work expectations were not being met.

The CEO commented that while it is his responsibility to produce reports and other work to the Board, he is often left waiting for other members of

staff to complete their roles which often take too long. The CEO shared that he is currently considering avenues of recourse to address the known failings. He noted that not having a performance management system in place somewhat limits ability for transparently holding persons accountable.

Discussion Relating to Succession Plan

The Dep. Chair questioned the CEO on the status of the succession plan development. Discussion was had surrounding the importance of succession planning for senior staff and in particular, meeting the legal requirement to have such a plan in place.

The Dep. Chair also highlighted that because the Board appoints the Executive Directors, it would be prudent for the members to be provided with details of the Executive Directors contract expiration dates to ensure sufficient advance notice to prepare for the necessary appointment processes.

5. Regulatory Matters

5.1 Energy and Utilities

5.1.1 E&U Sector Monthly Dashboard

EDEU spoke generally to the points raised in the E&U monthly Dashboard.



5.2 Fuels

5.2.1 Fuels Sector Monthly Dashboard

The Monthly Dashboard was circulated amongst the Board.



5.2.2 MAB Share Transfer approval

CFI gave a general update on the progress and stated that he would submit his recommendations to the Board for consideration via round robin.

5.3 ICT

5.3.1 ICT Monthly Dashboard

The Monthly Dashboard was circulated amongst the Board.

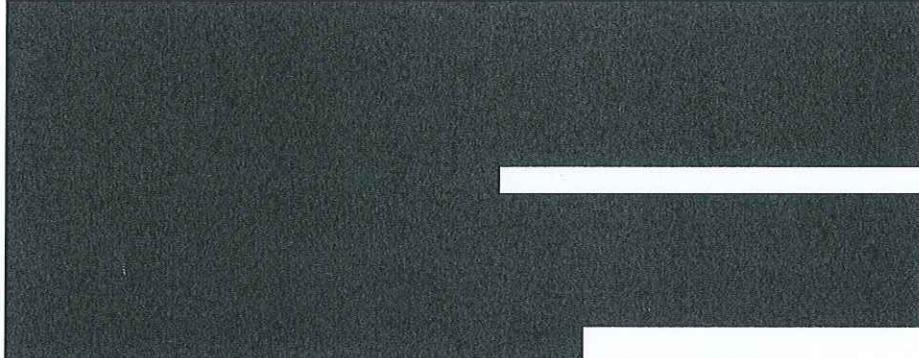
5.3.2 Consumer Protection Regulations Final Draft Determination

EDICT- Gave a brief update on the CPR and final determination.



Dep. Chair asked whether there was documented internal procedures (example an escalation process) in place to ensure that when the regulations come into force, the internal complaints function can properly manage the complaints. The EDICT agreed to document the process as necessary.

PB moved a motion to approve the Determination and Regulations. RE seconded the motion. Motion Carried.



5.4 Anti-Competitive Practices Penalties Rules, Draft Determination
(With Ministry for approval)

5.5 Truth in Advertising Rules, Draft Determination
(With Ministry for approval)

6. Board Matters

6.1 Board Administration

6.1.1 Special Meeting no. 4/2019: policies - Next Priority: General Reserve Policy.
(in meeting folder)

Dep. Chair recommended that the General Reserve Policy be renamed to "Restricted Fund Policy" which would cover all restricted funds including the General Reserve. The Board agreed.

Dep. Chair also generally shared views on how the General Reserve should be managed and where the policy needs to be further developed. Recommendations were also made to further flesh out the policy relating to other funds.

6.1.2 General Meeting 2017, complete Board Charter. (in meeting folder)

Board agreed to review and circulate recommendations to update the draft Charter because it was drafted prior to the coming into force of the Public Authorities Law and also to consider removing unnecessary wording.

6.1.3 Board Action Item Log ('BAIL') (circulated 9 March 2020)

- **Modification of Travel Policy**
Deferred to allow Board time to review document.
- **Draft MOUs with Ministries re Sharing Information**
PB moved motion to approve the MOU for sharing information with Ministries. The motion was seconded by RE. Motion Carried.
- **Advanced Fuels Ltd**

Nothing to discuss. Old BAIL item.

6.1.4 Board Self-Assessment 2019 Results

The Board agreed to have PB assess the overall summary of the assessments, after which the Board will discuss implications for improving governance going forward.

6.1.5 FC's Financial Report and Analysis.

FC gave a summary of some of the salient points in the report submitted to the Board.

6.2 Board Committee reports

6.2.1 Risk and Audit Committee (Mr. Abraham Mathew (Chair) RD, PB and PE)

Dep. Chair - confirmed that the committee met on 7 March 2020 and will endeavor to meet at least three times a year. He summarized the meeting as set out in the report submitted in the board papers. The committee noted that there was a need for greater internal controls from a risk management perspective and also noted the absence of a HR manual and noted the importance of getting the manual in place as quickly as possible.

Dep. Chair- spoke to the need for OfReg to establish a risk register identifying risks and mitigating measures. The risk register will be a useful tool for the Risk and Audit Committee to monitor the organisation's progress and strategy for managing risks. PB also supported the establishment of a risk register.

6.2.2 Public Relations Committee (RD, Chair, PB, PE, RE and CEO)

Some discussion was had regarding structure and aim of the committee. Dep. Chair confirmed that he would work towards arranging the first meeting of the committee.

6.2.3 Interim Investigation Committee (GB, PB, PE, COO)

-RFP regarding examination of OfReg IT System software

COO will finalise review of quotes and agreed to keep the Board updated on the progress.

6.2.4 Innovation Committee (PB, Chair, PE, RE, EDEU, EDICT)

PB confirmed that the committee met. He generally reiterated what the mandate of the committee is. He spoke about prioritizing initiatives, such as the undersea cable because of its critical nature and how the Office could move forward. Discussion ensued regarding the risk of not promoting the subsea cable initiative.

Board resolved to have each sector prepare SWOT analysis for their sectors to tease-out and detail the important innovation needs for the country and what items would be covered by the innovation fund.

As a general statement, PB said that when OfReg is considering innovation in each sector, it should be considered objectively without considering the current legal framework in order to identify what is ideal for the country and then consider what is needed to realise the ideal innovative things.



6.2.5 Remuneration and Human Resource Committee (PE (Chair) RD, RE, PB and EDICT)

6.2.5.1 Employee Policy Manual Presentation

RD confirmed that the HR committee met on several occasions. One matter being focused on is the Employee handbook. He summarized that there were issues that the committee identified with the handbook that could be remedied by approving a proper HR Manual. Accordingly, the committee has resolved to outline a draft HR Manual that will be presented to the Board when completed.

6.2.6 Finance Committee (RD, Chair, PB, FC)

Nothing to report as committee has not met.

7. New Business

7.1 Appointment of Board Secretary and Assistant Board Secretary

Board resolved to appoint Alison Maxwell AGC as Secretary to the Board and Sonji Myles DDICT to act as Assistant Board Secretary to fill in as Board Secretary in any absence of the Secretary. Additionally, the Board agreed that the GC should no longer have full access and control of the Board papers.

7.2 Review of [REDACTED]

Deferred for next meeting or round robin after CEO obtains legal advice.

7.3 2020 Annual Plan- deferred

7.4 2018 Annual Report

Shared with Board for review.

7.5 Draft 2019 Annual Report- deferred

CEO- expects to present draft to the Board week beginning 16 March 2020.

7.6 OfReg Succession Plan- discussed briefly above.

8. Any Other Business

8.1 Outline Business Plan for OfReg Office facilities

COO Confirmed that this remains a work in progress.

8.2 Update on Fuels Market Definition and Assessment and Licensing

Discussed above.

8.3 Functionality of [REDACTED] and usage

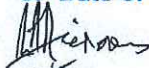
Several Board members shared concerns with recurring issues with [REDACTED]. Issues included inability to access files and folders. Board agreed that only papers relevant to specific meeting items should be included in the meeting folders.

8.4 Executive Assistant Support for Board Committees.

Dep. Chair raised the need to have an Executive Assistant appointed to assist with minute taking, and logistical needs of the various Board committees. The CEO and COO agreed to look into having support available.



9. **Date of next meeting:** 14 May 2020 at 10:00 am.


Chair:

Date: 2 April 2020

Reviewed by CAP 23 Nov 2020. No redaction needed under the FOIA/DPL laws