

# MINUTES OF THE ASCENSION ISLAND COUNCIL (AIC)

## MEETING HELD IN THE COURT HOUSE,

Tuesday, 31<sup>st</sup> May 2016 at 13:00hrs

Present: (by telephone) HE Governor Lisa Phillips  
HH Administrator Marc Holland  
Walter Scott, Solicitor General  
Jamie Manson, Director of Resources  
Councillor Jacqui Ellick  
(by telephone) Councillor Keturah George  
Councillor Nicholas John  
Councillor Cyril Leo  
Councillor Caroline Yon

In attendance: Nicola Dillon, Clerk of Council

Apologies: Councillor Samantha Arms-Lawrence

### 1. Introductions

This was Governor Phillip's first formal meeting with the Ascension Island Council and she was looking forward to working with colleagues on Ascension and also visiting the island in the near future. Apologies were received from the Attorney General (AG) and Councillor Arms-Lawrence; under section 12(8) of the Island Government (Ascension) Ordinance 2008, the Solicitor General (SG) was present and able to represent the AG's office. Earlier in the month Council had attended an Away Day and had held in-depth discussions on the matters which were tabled on the Agenda.

### 2. Confirmation of Minutes

The minutes of the Island Council meeting held on 24 March 2016 were adopted with one amendment and would be published on the AIG website ([www.ascension-island.gov.ac](http://www.ascension-island.gov.ac)).

#### Formal AIC meeting, 24 March 2016

*Item 15.3, to insert the following in the final sentence: "SG further advised that".* The agreed sentence would now read: "SG further advised that where this results in litigation or compromise agreements it is normal that AIG bear those costs."

### 3. Matters Arising

#### 3.1. Cost of Grievance Procedures

Cllr Nicholas John referred to an issue that he raised during the last council meeting when he questioned the potential cost to AIG of an employment dispute. Although Council could not discuss this matter in any detail as the case was still on-going the SG confirmed that AIG had the legal responsibility and that it was quite proper that AIG would bear any costs resulting from employment disputes. Cllr John referred back to the discussion in the March meeting and indicated that regardless of the legal position of liability of AIG in employment disputes he questioned whether in cases where the Administrator is the reason for the dispute it was right that AIG and not the FCO should bear the costs; his view was that the FCO should pay all costs incurred from such cases, not AIG. Cllr Leo confirmed he shared this view and reiterated that tax payers should not be liable for the mistakes of the previous Administrator.

### 4. Airlink

The Administrator said he recently visited St Helena and was fortunate to have had a tour of the St Helena airport, which he said was very impressive. The opening of the airport had been delayed following concerns about safety issues with windshear which were identified during the Comair implementation flight. Governor Phillips told members that the St Helena Government remained committed to maintaining a link with Ascension. She said that technical experts had narrowed down a few options to identify what type of plane could land in St Helena and the next step was to find an airline with an available plane.

Cllr Yon asked whether this meant that Comair was no longer in the running to provide air service. The Governor said that although Comair had said that they could not fly a 737-800 aircraft to the island, they had not withdrawn from the process. The most suitable aircraft was an Airbus 320. The second part of the equation was to extend the RMS schedule until an Airbus could be found. The Governor said that she hoped to have some more information available soon.

Cllr George said that everyone wanted to know when the last call of the RMS would be, and when the first flight would take place. The Governor said that although this information was not confirmed yet, she reassured members that the RMS would continue a regular service in the meantime. The Administrator said that a press release issued by SHG dated 26 May had been sent to the Islander for publication, which he hoped would reassure the public that everything possible was being done to maintain services -between the islands.

Closer to home, Cllr Yon asked whether Ascension had now received permission for a plane to land at Wideawake Airport. The Administrator said that a final draft of the Wideawake Agreement had been sent to relevant authorities several weeks ago and a response was still awaited. The issue, said Cllr Yon, was that people were unable to make plans for travel and there was uncertainty about the immediate future. The Governor agreed and said that the public in St Helena felt the same way; on the positive side, there had been much progress made especially in terms of options. Councillors agreed that they would wait for the SHG announcement to find out more.

## **5. Legislation: Air Navigation (Overseas Territories) Order 2013**

Earlier in the year Council had been consulted about regulating the flying of Drones on Ascension Island. Further research since had identified that there was already an established regulatory regime in place, The Air Navigation (Overseas Territories) Order 2013, which had been extended to Ascension (and St Helena).

In his memo to Council, SG set out the restrictions which included a requirement for drones over 7kg in weight to have Air Traffic Control authority before flying in the Air Traffic Zone. Drones carrying film equipment had additional restrictions as to where they could be flown. Furthermore, drones which were used for commercial purposes required permission to operate on Ascension.

SG explained that a hobbyist drone under 7kg could be flown anywhere on Ascension without permission so long as it was outside the prohibition zone. The prohibition zone was identified by a Direction and this prohibited the use of drones within the vicinity of Wideawake airfield.

Council was invited to advise the Governor to enact the prohibition Direction, which was set out in the Air Navigation (Overseas Territories) Order 2013. This would provide a clear safe regulatory framework which would protect both the operator and the public and not conflict with military and civil air traffic. For clarification, Cllr Leo asked how this would affect search and rescue operations and was told that there would be exceptions. Cllr John thanked the SG for his work on this project and for listening to and taking account of Councillors views in finding a solution that suited all parties.

**Councillors took a formal vote on the Air Navigation (Overseas Territories) Order 2013 Direction and all five councillors attending were in favour of recommending the Direction to the Governor for enactment.**

**The Direction and related information would be put on the AIG website once it had been formally adopted.**

## **6. Legislation: Marriage (Ascension) Ordinance 2016**

The current Marriage Ordinance dated back to 1851 and although it had been updated numerous times, it still contained sections which were no longer relevant and in some cases discriminatory. The Ordinance which applied to Ascension under the 1951 Revised Edition of the Laws of St Helena (chapter 5) was being revised by SHG – the Ordinance which was before Council was based on this revised Ordinance but contained provisions for Ascension. The main changes included:

1. Civil marriages could take place in any approved premises (such as a private house) or suitable public place.
2. There was provision for same sex marriages.
3. The section on ‘death bed marriages’ had been updated to allow for death bed marriages to be conducted by the Registrar; in the past they could only be carried out by ministers.
4. The fees had been revised and increased slightly, with a separate rate for marriages by Registrar of non-residents, which was double the rate for residents.

SG explained that the new Ordinance would commence once the St Helena Legislative Council repealed the existing Order. Council was invited to advise the Governor to enact the Marriage (Ascension) Ordinance 2016 at the same time that the Marriage Ordinance, Cap 80 was repealed.

**Councillors took a formal vote on the Marriage (Ascension) Ordinance 2016 and all five councillors attending were in favour of recommending it to the Governor for enactment. The commencement date of the Ordinance would be delayed until the Marriage Ordinance, Cap 80 was repealed by the St Helena Legislative Council.**

## **7. Legislation: Courts (Jurisdiction) (Ascension) Ordinance 2016**

This new Ordinance arose from recommendations made in the Wass Inquiry Report. It addressed an inconsistency in current legislation which did not allow for Court orders to be enforced across the territory. The new Ordinance would now allow for court orders and sentences made in St Helena and Tristan da Cunha to be enforced in Ascension. St Helena and Tristan da Cunha had drafted similar ordinances.

Cllr Leo asked whether this would be publicised in layman’s terms to the public<sup>1</sup>. Cllr Yon felt that this would tie in with the forthcoming Police work on road traffic offences.

**All five councillors attending recommended the Courts (Jurisdiction) (Ascension) Ordinance 2016 to the Governor for enacting.**

## **8. Legislation: Road Traffic (Amendment) Ordinance 2016**

The Road Traffic (Amendment) Ordinance 2016 prohibited the use of all hand-held communication devices, such as mobile telephones and radios while driving. The amendment was prompted by the introduction of mobile phone services on St Helena and Ascension. The new provision would make it an offence to hold a mobile phone while driving; the exception to this was those in the emergency services who would not be committing an offence if holding a mobile device for work purposes while driving. Hands-free phones could still be used while driving, but if the user is not in proper control they could still be prosecuted and convicted of careless and/or dangerous driving.

**Councillors were favour of the amendment and all five members who were present recommended to the Governor that the Road Traffic (Amendment) Ordinance 2016 was enacted.**

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<sup>1</sup> A summary of the meeting appeared in the Islander on 9 June 2016

## 9. CEDAW (Convention on the Elimination of All forms of Discrimination Against Women)

At the last meeting Council supported the extension of CEDAW to Ascension, but wanted to see what further support and resources would be available to the island to support the process. Ascension was one of the few overseas territories that had followed up extending CEDAW with London. St Helena and Tristan da Cunha also intended signing up to the Convention and it was proposed that Ascension moved in parallel with St Helena to benefit from their resources. In signing up to the Convention, Ascension would be required to submit a letter of request via the Governor to the Director of the Overseas Territories, FCO. The Administrator advised that the letter should reflect the lack of resources which were available on Ascension to ensure that the FCO recognised this.

The Governor, on hearing the advice from Council, said that she had pushed for CEDAW in other countries earlier in her career and it was a significant step; it was a great pleasure to be able to say that all three islands were asking for the extension.

## 10. Election Schedule

The Island Council would be coming to the end of their three year term in November 2016; however, with the JMC (Joint Ministerial Council) timed for end of October, it was recommended that Council was dissolved earlier to allow for elections to take place before October and for representatives from the new Council to make preparations to attend the JMC.

The proposed schedule for the forthcoming dissolution and subsequent General Election was:

2 August 2016	Dissolution of Council
16 August 2016	Nominations received for the General Election
1 September 2016	General Elections

It was planned that after this meeting Council would meet formally on one further occasion in late June, and there would be one more informal meeting.

**All five councillors supported the timetable and were happy to advise the Governor to this effect.**

## 11. Legislation: Fisheries (Conservation and Management) (Commencement) Order 2016

Following Council's advice in November to approve the Fisheries (Conservation and Management) Ordinance 2015, the contracted printers Printech, experienced difficulties in processing work and there was a backlog of Ordinances. The Fisheries (Conservation and Management) Ordinance 2015 was one of these Ordinances which was affected and this had resulted in uncertainty on whether the Ordinances enacted during this period had come into force. The SG said that insofar as the Fisheries Ordinance, there should not be any doubt on the commencement date. The order was thus intended to bring legal certainty.

**All five Councillors supported the Fisheries (Conservation and Management) (Commencement) Order 2016 and recommended to Governor that it be enacted.**

## 12. The Future of Ascension (Cllr Cyril Leo)

At the last meeting Cllr Leo introduced a private members memorandum looking at the Future of Ascension. The memorandum sought "self-determination and development for political, social and economic advancement for the Electorate of Ascension Island". The debate arose from correspondence from Cllr Leo to Minister Duddridge on 6 November and his subsequent response in which the Minister referred to the work that was being done on the future of Ascension Island. At the last meeting the SG advised Cllr Leo that the decisions sought in his memorandum did not represent the views of the Ascension Island Government; however, this did not preclude the Council from taking these views forward as a councillor-led initiative.

At the last meeting there was discussion about what the Minister meant in his letter when he referred to the Territory as being the Territory of St Helena, Ascension and Tristan da Cunha; which led Cllr Leo to suggest writing to the Councils from these islands to get their support for the following undertaking: "That the United Kingdom, without further delay, must honour its obligations to the Electorate of Ascension according to Chapter XI, Article 73 of the United Nations Charter and according to the UK's 2012 White Paper on the Overseas Territories".

Cllr Yon asked whether AIG had been told by the FCO what the future model of Ascension was. She said that Cllr Leo was looking at the commitments made in the White Paper and was asking the UK Government to honour them.

The Administrator said that the Minister's statement in his letter to Cllr Leo was referencing the terminology used in the White Paper. In the context of the White Paper, where it stated that: "Each Territory has a unique community, and it is for the Territory to shape its own community", the Minister said that the Territory referred to Territory of St Helena, Ascension and Tristan da Cunha rather than Ascension itself.

Governor Phillips said that having read Cllr Leo's letter to her predecessor on 26 November she did not agree with his interpretation of the Minister's letter. She had been to see the Minister in London and could confirm that FCO was working on the future of the island.

Cllr Yon said that there was no consultation; it was easy to make words suit a situation. She felt that it was better to get the news and move to a point where everyone knew what was going on. She fully supported Cllr Leo's stance, which was a better alternative to the current false model of democracy.

Cllr Leo referred to a letter from the then Acting Governor, Sean Burns, in response to his letter in November, which referred to work that was being undertaken, which would require a significant degree of engagement with the local population and Council. He hoped that this would happen soon and that people would get involved and would be listened to.

The Administrator said that he would take these messages back to London.

**In respect of Cllr Leo's memorandum, Cllr Leo told members that he would wait to hear back from the FCO on their plans for the Future of Ascension.**

Cllr John questioned whether Ascension should still hold an election if we did not have democracy as he felt we would be deceiving the electorate. SG replied that there had been no intention of deceiving the electorate as the Constitution and local laws made it clear what the powers and limitations the elected Island Council has. Cllr John referred to the instruction received from the Minister in October which went against Council's previous advice to the Governor and enforced a 50% Marine Protected Area (MPA); this was an example of the limitations of the Island Council and the lack of democracy on Ascension.

**The Administrator concluded the discussion by referring to the approach suggested by Cllr Leo (to consult the FCO) and he said that he would take members' concerns back to the FCO.**

**Cllr Yon reminded Council of her question (raised at the last meeting) about the proposed timeframe in which the work would be completed.**

## **13. Any Other Business**

### **13.1. Policing**

The Administrator referred to Council's discussion at their recent Away Day in relation to concerns about policing. He told members that the Chief of Police, Trevor Botting, had since held an internal staff meeting and his team was in the process of drafting a drink driving plan, which would

be followed by a community meeting. He hoped to have a copy of the plan within the next week.

Cllr Yon said that she felt uncomfortable that some of her fellow councillors seemed to be advocating for the Police to turn a blind eye and to certain laws being broken. She wanted to make her position clear that she didn't support this view.

### **13.2. Youde case (Cllr Leo)**

Cllr Leo thanked his fellow councillors for bringing this up at the Away Day. He told members that in making his representation on behalf of the Youde family he was not questioning the Entry Control Ordinance, but asking for the Administrator/Governor to exercise discretion. The Governor said that she had received Cllr Leo's letter and was considering her response.

### **13.3. Summary of Council proceedings (Cllr George)**

Cllr George asked whether a brief summary of the morning's proceedings could be released in advance of the minutes, which usually followed later. The Administrator confirmed that he planned to produce a summary which would be publicised island-wide.

In her closing comments the Governor said that she found the meeting a very useful forum and was very interested in the comments which had been raised by members.

The meeting finished at 14:45pm.

**Nicola Dillon**  
**Clerk of Council**