

Minutes of the Meeting of Executive Council held on Tuesday, 28th July 2020 at 9.30am in
the Council Chamber

Present: His Excellency the Governor (Dr Philip Rushbrook)
The Hon Chief Secretary (Mrs S O'Bey)
The Hon Financial Secretary (Mr D L Richards)
The Hon Attorney General (Mr A T Cansick)
The Hon C R Beard
The Hon C G Buckley
The Hon A A Green
The Hon L A Henry
The Hon D F Thomas

In attendance: Clerk of Councils (Mrs C C Johnson)
Head of Corporate Support (Mrs C A George)
Head of Governor's Office (Mr Greg Gibson)

Apologies: Head of News (Mrs K Yon)

OPEN SESSION

81.1 Welcome

The Governor welcomed all to the meeting.

81.2 Public Access to Government Information Bill (ExCo Memo 53/2020)

The Chairman of the Social and Community Development Committee (SCDC) introduced the Memorandum asking Council to consider and advise whether the Public Access to Government Information Bill, 2020, should be printed, published and presented as Government Business at the next formal meeting of the Legislative Council.

The Chairman of SCDC detailed that the Bill put the current Public Access to SHG Information Code on to a statutory basis. He detailed that the Bill does so taking into account:

- (i) Changes that arise from the different nature of legislation to a policy/code of practice.
- (ii) Changes that allow for the practical application of a Public Access to Government Information Bill ("the Bill").
- (iii) Changes needed to make sure the Code as much as practicable addresses the exemptions in the UK Freedom of Information Act 2000.

The Chairman took Members through the Memo.

The Attorney General detailed that when Elected Members met on Friday, 24th July 2020 the following changes were proposed:

1. That Clause 4 (1) is changed:
 - (i) to allow applications from those over 17 years of ages rather than 18 years of age; and
 - (ii) to allow those with St Helenian Status to apply without being in St Helena.

Executive Council advised that these changes should be made.

Executive Council Members stressed that the burden of proof of St Helenian Status must be on the applicant and the Information Request Form designed appropriately.

The Chief Secretary advised that she would liaise with the Attorney Generals Chambers on the details for the Information Request Form.

(Action: Hon Chief Secretary)

2. That Clause 6 (4) should be changed so to include a deadline of 20 days for applicants to respond to requests for further information.

Executive Council advised that the change should be made.

3. That Clause 11 (1) be changed so there is an obligation on SHG to not just record the number and type of requests but to publish these details. For the actual content of requests it would remain optional for the Information Officer to publish these.

Executive Council advised that the change should be made.

4. That Clause 10 should be amended to allow for an independent appeal mechanism.

The Attorney General detailed that Elected Members wished to see an Appeals Procedure included providing for an independent person to review decisions relating to refusal of

provision of information. He detailed that it had been suggested that the Chief Magistrate might be the appropriate position take on such a role.

After a lengthy discussion Executive Council advised that SCDC with the assistance from the Attorney General should consider and bring forward an appropriate mechanism for an independent appeal. It was noted that there would likely be additional financial implications from this mechanism.

(Action: SCDC/Hon Attorney General)

The Attorney General made a proposal for one further change that had not previously been discussed. He stated that Clause 8(3)(a) allowed for refusal of requests if more than eight hours of staff time is required. He detailed that this however does not address cumulative requests on the same issue that have the effect of going above 8 hours in total. The Attorney General requested that an amendment is made to allow for the refusal of cumulative requests amounting to more than 8 hours.

Executive Council advised that the change should be made.

Members were happy to give their support to the Bill and all the proposed changes agreeing that the final Bill need only come back to Executive Council for consideration if there were substantial changes to those discussed today; any minor changes could be agreed by email.

Concern was raised that no public consultation was planned; Members felt that the public should be given an opportunity to input towards the Bill when finalised and have some engagement. The Chief Secretary suggested that the Bill, when finalised, be published and comments invited from the public rather than another round of public consultation meetings and this was agreed. Members also recommended that the SCDC Chairman should go on radio and inform listeners of the contents of the Bill and the deadline for comments in due course. The Chairman of SCDC confirmed that he was content to this.

Following discussion, Council advised and the Governor agreed, that following the suggested changes raised by the Attorney General to the draft Public Access to Government Information Bill, 2020, the draft Bill should be finalised and made available for the public to submit comments and radio discussions held. Any significant changes should come back to Executive Council before proceeding on to the next formal Legislative Council meeting.

(Action: Hon Chairman SCDC/Hon Attorney General/Clerk of Councils)

80.3 Confirmation of Open Session Minutes of 2 June 2020

The minutes of the open session of the 2nd June 2020 were confirmed.

80.4 Matters Arising from the Open Session Minutes

80.4.1 (78.2) Development Applications – Retention of Advertisement Sign on Premises in Lower Wharf, Change of Use for Old Customs House in Lower Wharf and Erection of Zula Remembrance Monument at Jacobs Ladder Viewing Platform (ExCo Memo 36/2020)

c) Erection of Zula Remembrance Monument at Jacobs Ladder Viewing Platform

It was noted that the Clerk of Council would send an amended letter to the Planning Officer because the letter dated 9th June 2020 mentioned the wording on the plaque which Members felt was not a part of the advice sought and therefore should not have formed a condition of the development permission approval. The Minister of Arts and Crafts was still to contact SHG regarding the inscription for the plaque.

(Action: Clerk of Councils)

80.4.2 (78.6) Road Traffic (Amendment) Bill 2020 (ExCo Memo 40/2020)

The Chief Secretary advised that she was still to check with personnel from Solomon & Co Plc under the business continuity arrangements extension if the insurance would remain valid.

(Action: Hon Chief Secretary)

80.5 Confirmation of Open Session Minutes of 11 June 2020

The minutes of the open session of the 11th June 2020 were confirmed.

80.6 Matters Arising from the Open Session Minutes

There was no matters arising from the open session minutes of the 11th June 2020.

80.7 Any Other Business

There was no any other business to discuss in Open Session.

.....
P. Rushbrook
.....

Governor

.....
11-8-20
.....

Date

.....
U. Johnson
.....
Clerk of Councils
11.08.20