



BILLET D'ETAT FOR 23-04-2008

Date: 22nd April, 2008

Members of the States:

I have the honour to inform you that a Meeting of the States will be held at 5:30pm on Wednesday 23rd April 2008 in the Island Hall. This will be preceded by the People's Meeting, which will be held on Wednesday 16th April at 7:00pm in the Island Hall.

Sir Norman Browse

President

Item 1 Audited Accounts, 2007

The following letter has been received from Mr Willmott, Chairman of the Policy and Finance Committee:-

" In accordance with Section 61 (5) of The Government of Alderney Law 2004, as amended, and the mandate of the Policy and Finance Committee, I attach the accounts of the States of Alderney and the States Water Board together with the Auditors' Reports thereon, in respect of the year ended 31st December 2007.

States of Alderney Accounts

Revenue Account

The detailed breakdown of the income and expenditure of the three committees is given in the published accounts, with the accounts 2006, original budget and revised budget (Probable Outturn) also shown for comparative purposes.

The following comments highlight in round figures some of the material differences between the accounts and the revised budget: -

General Services Committee

The General Services Committee has continued to deliver the range of public services under its mandate and although there were some variations between the individual budget heads, income was £12,000 more than the revised budget and overall expenditure was £32,000 less than budget.

However the Harbour trading loss was £51,000 more than budgeted, this being due to a combination of loss of income from visiting yachts as a result of the poor summer weather, together with a reduction in passenger vessel movements and extra unforeseen costs on crane maintenance.

The General Services Committee also fulfils the functions of the Water Board, which in 2007 returned a deficit on operating costs of £74,480, against an estimated deficit of £97,000. After interest on bank balances is added the overall deficit was £66,015. In 2006 the deficit was £105,000. As reported previously further increases in water rate will be required over the foreseeable future in order to redress the situation

Policy and Finance Committee

Expenditure by the Policy and Finance Committee was £3,000 less than revised budget. Expenditure on staff, and supplies & services was £26,500 more than estimate, however this was offset by savings on Court expenses, Promotions, and unforeseen expenditure.

Overall income was down by £4,000, due to decrease in numismatic sales and duty free receipts, however this was partly offset by increases in Court and philatelic receipts.

Overall position

The overall position on Revenue Account at the end of 2007 shows that income was £7,000 more than estimate and expenditure was £39,000 less than estimate, with the result that the use of accumulated unspent balances was £47,000 less than estimated.

Staff Pension Scheme

An extract from the report of the scheme actuary produced in accordance with Financial Reporting Standard 17 is included under Note 2. This is in effect a "snapshot" of the financial position of the scheme as at the 31st December 2007. This shows a significant improvement over the year with a reduction in the scheme deficit from £853,000, to £172,000. These projections are based on the assumption that 50% of members who joined before 1st January 2006 will retire at age 60. If this assumption were changed to 25% retiring at age 60 the projected deficit would reduce further to £25,000.

Since 1st January 2006 normal retirement age for any new members joining after that date has been changed to 65.

Capital Account

Expenditure on the Capital Account was £723,000 against £273,000 in 2006, whilst Income amounted to £1,237,706, including property transfer duties, (mainly CongÃ©), raising a total of £605,000, and property sales £122,500.

Since last year, progress on the Capital Programme has increased markedly with La Vallee Sewer and the Courthouse projects well underway and the old States Offices at St Annes House refurbished by the Alderney Gambling Control Commission for their own use. As final payments for these projects become due, capital expenditure will rise substantially in 2008.

Contracts for the Commercial Quay project have now been signed and work is due to commence in May. The contract used for the project is of a type not previously used in the Bailiwick which shares the "pain and gain" of variances from a target cost. It is also designed to engender a partnership approach and break away from the more traditional confrontational approach to civil engineering works. Both parties to the contract have a contractual obligation to immediately raise any issues that might give rise to changes in the cost or timing of the project.

Attached to the accounts is the revised five year Capital Income and Expenditure Forecast, together with explanatory notes for information purposes.

Alderney Gambling Control Commission

Revenues from licence fees in 2007 amounted to £2,545,650. After the addition of fee income and interest, and deduction of operating expenses the Commission made a surplus in the year of £1,750,041. Following distributions to the States of Alderney of £791,310 (including contribution to La Vallee Sewer of £500K, pavement improvements of £140K, and marketing costs) the net surplus for the year was £958,731.

The Commercial Quay Project has been funded by £6million from the States of Guernsey Capital Reserves with the balance of £3.5million largely being met by the AGCC reserves, which once again highlights the valuable contribution of this industry to Alderney's economy.

During the year the AGCC obtained "white listing" approval from the UK Government which allows AGCC licencees to advertise their products in the UK. The listing was crucially important to the future of the AGCC. The anticipated revenue streams from the AGCC, which are a vital part of the funding for the capital programme, now look more secure than for some time although they will always be exposed to the risk of detrimental external factors beyond Alderney's control.

Conclusion

As always the States is under pressure to deliver more services for the same or less money. Although staff numbers remain under tight control, staff costs continue to rise above the rate of inflation due to increased social security costs and other factors. Against this background it is a credit to those involved that the results have once again come in ahead of budget. However keeping the year's expenditure and income in balance has required the use of £160k of unspent balances. The remaining unspent balances of £254k will be exhausted during 2008, and early 2009. This means that in 2009 and beyond the shortfall will have to be made up from other sources. The States is well aware of the ever increasing cost of living on the Island and is sensitive to the effect increased charges and rates have on everyone, and in particular those on low and fixed incomes.

To this end the States is engaged on a review to explore every possible way of minimising the impact on occupiers rates caused by the anticipated 2009 shortfall.

I would be grateful if you would place this matter before the States with the appropriate proposition.

R G Willmott

Chairman"

The States is asked to approve of the Annual Accounts for 2007

(a) of the States of Alderney and

(b) of the States Water Board.

Item II The Alderney eGambling (Money Laundering Amendments) Regulations, 2008

The following letter has been received from Mr Willmott, Chairman of the Policy and Finance Committee:-

" I attach a copy of the above, made by the Alderney Gambling Control Commission in exercise of the powers conferred on it by sections 4(2), 10(2), 14(3) and (4), 18, 20 and 25 of the Alderney eGambling Ordinance, 2006 ("the Ordinance").

The Regulations were made on 17 March 2008 and are to come into operation on 1 May 2008. They introduce a range of revised and updated provisions for the purpose of strengthening the regulatory requirements imposed on eGambling licensees and their associates to forestall, prevent and detect money laundering and terrorist financing. They reflect revised international recommendations in respect of these matters.

As Members are aware, compliance with section 25(i)(c) of the Ordinance requires that the Regulations be placed before the States at the first opportunity, i.e. the April meeting. It will then be open to the States to annul them at that or its next meeting (although I am not aware of any reason why it should do so and will recommend that the States resolves not to annul them).

In accordance with agreed practice the Chief Executive has informed the Department for Culture, Media and Sport of these Regulations and any observations from the Department will be circulated prior to the meeting.

I would be grateful if The Alderney eGambling (Money Laundering Amendments) Regulations, 2008 are placed before the States when it next meets together with an appropriate proposition.

R G Willmott

Chairman"

The States is asked to resolve that "The Alderney eGambling (Money Laundering Amendments) Regulations, 2008" not be annulled.

Item III The Housing (Exemptions) (Alderney) (No 1) Ordinance, 2008 - Fort Tourgis

The following letter has been received from Mr Willmott, Chairman of the Policy and Finance Committee:-

" Members will be well aware of the extensive history of proposals to sympathetically develop Fort Tourgis. It has long been recognised that this is necessary if Fort Tourgis is to be preserved.

In December 2004 the States resolved to direct the Policy and Finance Committee to negotiate the sale of the freehold of that area of Fort Tourgis excluded from the Designated Area, subject to appropriate covenants and conditions, and report back, with propositions, as soon as practicable.

A competitive process was gone through thereafter, with a short list of four prospective developers making full presentations to all States Members. A preferred developer was selected but withdrew in due course. The Chief Executive was then instructed to negotiate with another of the short listed prospective developers, Verweij en Partners B.V. ("V&P") who also made a public presentation of their plans, in the Anne French Room, Island Hall. A Preliminary Declaration (the Alderney equivalent of outline planning permission) was granted to V&P by the Building and Development Control Committee on 2nd April 2007. V&P has a strong record of completed projects, primarily in, but not restricted to, Holland, including a significant number of restorations of historic buildings. A small Alderney team, including the States Engineer, has visited their offices in Holland, met with staff there and inspected a number of their projects - including two which incorporate substantial atriums, an important feature of the Tourgis design. The team was also able to meet with the mayor of Kampen, a Dutch town which is home to around fifty projects, both public and private, in which V&P has been involved (sometimes solely as architect but in a number of instances as developer).

The area of Fort Tourgis available for freehold sale is as resolved by the States in 2004. It is proposed that a limited area outside the Fort be made available under lease for ancillary purposes. Car parking will be in the area known as Battery No.3.

The original offer made by V&P for the freehold was £600,000. This has been increased to £1 million.

Under a separate arrangement there is an agreement that the States of Alderney will use its best endeavours to make a joint approach with Verweij en Partners to the Guernsey Public Services Department to secure improvements at Alderney Airport. In the event of these coming to fruition it is understood between the parties that Alderney will in due course make application for £400k of the sale proceeds of Fort Tourgis to be applied to such improvements. The proposals do not include extending the runway but do envisage, among other things, improvements to/replacement of the terminal building.

The price does not include taxes, document duty and Conge - which remain separately payable.

The negotiated agreement is in the form of an option agreement for the sale and purchase of Fort Tourgis, the grant of a lease of land adjoining Fort Tourgis and the development of Fort Tourgis. There are conditions to be satisfied before the option can be completed (including the obtaining by V&P of Development Permission under Section 6 of the Building and Development Control (Alderney) Law, 2002 based on the Preliminary Declaration) and a Development Timetable is set out in the Agreement. The Airport proposal is contained in separate Heads of Terms, the objective being: "The redevelopment of the Airport (including for the avoidance of doubt the terminal building) to provide attractive modern facilities, to improve the experience of passengers using the terminal and thus their first impressions of Alderney, and other users of the Airport including airlines and private light aircraft in a way that is economically viable and sustainable."

The States is asked to agree that the Chief Executive may sign the agreement as negotiated and the Heads of Terms relating to the Airport proposal (copies have been distributed to all States Members) and to

approve the Housing (Exemption) (Alderney) No 1 Ordinance 2008. A copy of the Ordinance is attached.

R G Willmott

Chairman"

The States is asked to approve

(i) that the Chief Executive may to sign the agreement as negotiated and the Heads of Terms relating to the Airport proposal; and

(ii) "The Housing (Exemption) (Alderney) (No.1) Ordinance, 2008".

Item IV The Marriage (Residence Qualification) (Alderney) Ordinance, 2008

The following letter has been received from Mr Willmott, Chairman of the Policy and Finance Committee:-

" As Members will recall the Marriage (Alderney) Law 1923 was amended to allow the States of Alderney, by Ordinance, to fix the number of days" notice required for marriage by Special Licence. I attach a copy of the Marriage (Residence Qualification) (Alderney) Ordinance 2008 which, if approved, will reduce the period of notice from one month to three days.

Alderney is an attractive marriage venue, both for those with Island connections and those who simply find it a romantic place to marry and spend their honeymoon. The present one month requirement is not considered to serve any useful purpose in terms of checks and safeguards and is a barrier to many in fulfilling their wish to marry here. By way of comparison Members may wish to note that the period of notice required in Jersey has already been set at three days.

I would be obliged if the Marriage (Residence Qualification) (Alderney) Ordinance, 2008 is placed before the States at its April meeting together with an appropriate proposition.

R G Willmott

Chairman"

The States is asked to approve "The Marriage (Residence Qualification) (Alderney) Ordinance 2008."

Item V Public Vehicle (Amendment) Regulations, 2008

The following letter has been received from Mr Walden, Chairman of the General Services Committee:-

"I attach a copy of the above. The regulations, which amend the Schedule to the Public Vehicle Regulations, 1986, were made by the General Services Committee and came into effect on 14th April 2008. The regulations are made under powers vested in the Committee by the Public Highways Ordinance, 1966. The Ordinance provides that any regulations made under its provisions shall be laid before a meeting of the States as soon as may be after the making thereof and, if at that meeting or at the next subsequent meeting, the States resolve that the regulations be annulled, the regulations shall cease to have effect without prejudice to anything done thereunder or the making by the Committee of new regulations. The increase in taxi fares reflects two factors: RPI and the introduction of fuel duty to offset the abolition of road tax, the latter being a "one off" increase. The total increase is 7.5%, of which 4.9% is the relevant increase in RPI.

I would be obliged if the Public Vehicle (Amendment) Regulations, 2008 are laid before the States when it meets in April together with an appropriate proposition.

W Walden

Chairman"

The States is asked to resolve that "The Public Vehicle (Amendment) Regulations, 2008" not be annulled.

Item VI The Smoking (Prohibition in Public Places and Workplaces) (Alderney) Law, 2008

The following letter has been received from Mr Willmott, Chairman of the Policy and Finance Committee:-

"A number of Guernsey/Alderney Projets de Loi submitted for Royal Sanction have been returned by the Ministry of Justice following concern over the definition of the word "enactment". The definition is largely in standard form, has been used for some time in the drafting of Bailiwick Laws (including the Guernsey equivalent of the Smoking (Prohibition in Public Places and Workplaces) (Alderney) Law, 2007) and includes reference to "any Act of Parliament". Its inclusion was intended to take account of the situation where in any particular case the States wished to make local legislative provision where an Act of Parliament covering the same matter applied in the Bailiwick. In that event, it would be necessary to disapply the provisions of that Act from Guernsey/Alderney to the extent that it would be superseded by Guernsey/Alderney legislation.

The point has been taken that the reference to an "Act of Parliament" contained in such a definition provision, together with the power by Ordinance to amend or repeal such an enactment, might on a literal construction of the wording give the States power to amend or repeal an Act of Parliament. In short, the point is a constitutional one and has nothing to do with the subject matter of any of the returned Projets (those returned to Guernsey are the Animal Welfare (Enabling Provisions) (Guernsey) Law, 2006, the Competition and Trading Standards (Enabling Provisions) (Guernsey) Law, 2007 and the Road Traffic (Parking Fees and Charges) (Enabling Provisions) (Guernsey) Law, 2007).

The Smoking (Prohibition in Public Places and Workplaces) (Alderney) Law, 2007 was approved by the States at its meeting held on 21st March 2007. The interpretation section (section 4) contains the following provision: "enactment" includes any Law, Ordinance, Act of Parliament and Order in Council". The Law Officers have drafted a fresh Projet which it is understood will overcome the Ministry of Justice's concerns. The States is asked to rescind its resolution of 21 March 2007 approving the Smoking (Prohibition in Public Places and Workplaces) (Alderney) Law, 2007, and to approve the Smoking (Prohibition in Public Places and Workplaces) (Alderney) Law, 2008, which substitutes a definition of "enactment" as follows:

All the Projets returned by the Ministry of Justice are what are termed "enabling" legislation. It remains the case that the basic prohibition set out in section 1 of the Law cannot come into effect until the States so provides by Ordinance (section 6(2)), that different days may be appointed for different provisions or different purposes and that the States may provide by Ordinance for exemptions for any premises, or class or description of premises, from the provisions of the Law.

I would be obliged if the Smoking (Prohibition in Public Places and Workplaces) (Alderney) Law, 2008 is placed before the States at its April meeting together with appropriate resolutions.

R G Willmott

Chairman"

The States is asked to resolve to rescind its resolution of 21st March 2007 approving the Projet de Loi entitled "The Smoking (Prohibition in Public Places and Workplaces) (Alderney) Law, 2007" and to approve the Projet de Loi entitled "The Smoking (Prohibition in Public Places and Workplaces) (Alderney) Law, 2008" and to request the President to seek the Sanction of Her Most Excellent Majesty in Council for it to have the force of law in the Island of Alderney.

Item VII The Evidence in Civil Proceedings (Guernsey and Alderney) Law, 2008

The following letter has been received from Sir Norman Browse, President of the States of Alderney:-
"Please find enclosed a letter from the Bailiff, dated 31st March 2008 seeking approval of the above law.
I would therefore be obliged if you would debate this matter at your meeting on 23rd April, 2008 and give your approval as set out in the letter.

Sir Norman Browse
President"

The States is asked to approve of "The Evidence in Civil Proceedings (Guernsey and Alderney) Law, 2008".

(Note: A copy of the Projet de Loi may be seen in the States Office, Island Hall and the Library.)

Item VIII Questions and Reports

Issued Friday 11th April 2008
