

# REPORT OF THE PARLIAMENTARY STANDING COMMITTEE OF THE PUBLIC ACCOUNTS ON: THE AUDITOR GENERAL'S SPECIAL REPORT ON THE PORT ROYAL GOLF COURSE IMPROVEMENT CAPITAL DEVELOPMENT PROJECT.

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TO HIS HONOUR THE SPEAKER AND THE MEMBERS OF THE HONOURABLE HOUSE OF ASSEMBLY:

The Parliamentary Standing Committee on the Public Accounts has the honour of submitting the following Report:

## 1 Introduction

Your Public Accounts Committee (PAC) is pleased to report to the Honourable House of Assembly that we have reviewed the Special Report of the Auditor General on the Port Royal Golf Course Improvement Capital Development Project ("the Project") and have the following comments. It should also be noted that this was not a **performance audit**, and neither was it a **forensic audit**. It was a **Compliance Audit**. The audit was to examine whether the Government and the Board of Trustees appropriately managed expenditures of the Project and followed legislation and Financial instruction.

## 2 Meetings

Your PAC held a total of twelve meetings inviting the Auditor General and staff, current and former public officers, and former directors and officers of the Port Royal Golf Club. These meetings were held on the following dates:

- January 22, 2015
- February 5, 2015
- February 12, 2015

- February 19, 2015
- April 2, 2015
- April 9, 2015
- April 16, 2015
- April, 23, 2015
- April 27, 2015
- April 30, 2015
- May 7, 2016
- May 21, 2016

### **3 Witnesses**

Given this report is over one year old, PAC sought to glean essential information from the trustees and officers of the Port Royal Golf Club, and various public officers responsible for the supervision of government budgets and spending. The list below identifies the persons who provided information to PAC. Oral testimonies were held “in camera” and in public meetings.

#### **Oral Testimony:**

- Mrs. Cherie Whitter – Former Permanent Secretary – Department of Tourism
- Mr. Curtis Stovell – Former Controller of the Department of Tourism
- Mr. Marc Telemaque – Former Permanent Secretary, Department of Transportation
- Mr. Wendell Brown – Former Chairman of Port Royal Golf Course Trustees
- Mr. Bob Wilson – Former Head of Port Royal Golf Course Finance Committee
- Mr. William (Bill) Pitt – Former General Manager of the Port Royal Golf Course
- Mr. Zane DeSilva - Former Deputy Chair of Port Royal Golf Course and Member of Parliament

### **4 Findings**

It is the opinion of the Public Accounts Committee (“PAC”), there should never have been a project of this magnitude carried out without robust adherence to financial instructions. The Port Royal Golf Course Board of Trustees (“the Trustees”) questioned were not forthcoming or familiar with Government’s internal controls or governance requirements. Therefore, the Trustees were not guided by any identified processes or procedures for capital projects when it came to the protocols expected for the administration of Government’s capital expenditures and development. The scope of the Project changed throughout various stages of

refurbishment, resulting in millions of dollars in cost overruns as a project that was originally funded at less than \$5million escalated and grew into a \$24million major renovation.

According to testimony from the Port Royal Golf Club former General Manager, Board Chairman and Finance Chairman, all controls of Government finances, contractor negotiations and purchases were delegated to a private overseas consultant, Mr. Daniel Lemoine of Golf Consult Ltd of the Commonwealth of Dominica.

No business plan was produced for this capital development project; neither were documents made available for public consultation. Without any framework or transparency, taxpayers and the Government of Bermuda could not ensure the country was getting value for money and that the development supported a sustainable business initiative from an economic perspective.

## **Financial Instructions**

The former Permanent Secretary and former Accounting Officer of the Department of Tourism were repeatedly questioned on Financial Instructions. No document or confirmation of the existence of Port Royal Golf Course Financial Instructions was presented during PAC hearings. The Port Royal Golf Club Board Chairman admitted to not being aware of Government's Financial Instructions or having knowledge of any equivalent Financial Instructions at Port Royal Golf Course. It appears procurement of products and services to support the Project was carried out based on recommendation and arbitrary sole source selection. The Board was not guided by the Port Royal management when it came to protocols expected for the financial administration of Government's Capital Expenditures and Capital Development. The Board did not demonstrate that they had the required knowledge or ethical fortitude to build a procedural framework for a capital project of this magnitude. In light of this, there was a material risk that expenditures were not disbursed in a controlled and prudent manner, creating opportunities for error and the potential for fraud.

## **Accountability**

The Port Royal Golf Club General former Manager's testimony did not evidence proper oversight of processes to control the expenditure of public funds and when questioned, the former General Manager admitted 'conformity to the environment' and 'adherence to the Board's directives'. According to Board Minutes, Trustees agreed to Mr. Daniel Lemoine contracting services, signing off on invoices and payments that were not prudently spent in accordance with legislation and Financial Instructions. There was a lack of confidential reporting or otherwise to raise awareness or report unusual activity and reinforce proper oversight and

procedures controlling spend. There was also a general reluctance by the Port Royal Golf Course Management to ask the difficult questions and seek qualified guidance.

## **Government**

Former Permanent Secretary and former Accounting Officer gave testimony, both opining that they were “doing what they were asked to do”. There is no evidence to support any queries raised about the escalation. There is little evidence of written approvals or legislative protocols. It was difficult to ascertain from the above mentioned civil servants whether they knew the Financial Instructions were not being followed or whether they were not aware of the role they played as guardians of the public purse.

### **Conflicts of Interest and Self-Dealing:**

**‘Self-dealing is the conduct of a trustee, an attorney, a corporate officer, or other fiduciary that consists of taking advantage of his position in a transaction and acting for his own interests rather than for the interests of the beneficiaries of the trust, corporate shareholders, or his clients.’**

There were numerous conflicts of interest and self-dealing references in the Port Royal Board Minutes. Approvals to carry out work or purchase goods and services at Board meetings or via emails were made without any tender or RFP (Request for Proposal). For example; The Board produced Minutes outlining recommendation for a finder’s fee payment to be made to an external vendor who then remunerated a \$10,000 commission to a Board Member. As outlined in the Auditor’s Report, “this is inappropriate behavior by Board Members who have a fiduciary responsibility to avoid the appearance of actual or perceived conflicts of interest.” There was no documentation to support the Trustee’s prior relationship with the vendor or any documented arrangements for financial incentives. The nature of the circumstances were not questioned, challenged or scrutinized by Port Royal Golf Course Management or Government Accounting Officers.

## **Cost Overruns**

Development costs were not capped. For the PGA, “costs were not a consideration.” (WB April 30/46). The Government of the day wrote and passed the Golf Course (Consolidation) Act restricting external borrowing and yet the Minister of Finance, on two occasions, signed off on

external borrowing after the golf course renovation project exceeded the Ministry of Tourism's budget. This again reinforces the lack of provisions made in the Budget for this spending. It appears no funds had been budgeted or appropriated through the established parliamentary process for these expenses. No supplementary appropriations were sought to cover these costs after the budget had been delivered to Parliament.

No one questioned the wisdom of taking out an external bank loan to cover costs. Adding to this, no procedures or protocols were put in place to control Board spending of the loan. There's no record of the \$7.5 million in the budget book, so there was no government oversight for the disbursement of these funds.

The Board of Trustees of Port Royal Golf Course had complete control of the renovations project, while the former General Manager was "the follower". If they said "paint the wall white, he would paint the wall white". The Trustees undermined the authority of the former General Manager. The project should have been managed and overseen by the Department of Works and Engineering, and the former General Manager who was the most senior employee of Port Royal.

## **5 Recommendations**

Given the findings, the Committee has made the following recommendations:

- a. Your PAC recommends that there should be a new business case written that demonstrates this capital development will support Port Royal Golf Club on an economically sustainable path, going forward.
- b. Port Royal Golf Course Financial Instructions must be upgraded and better aligned with Government's Financial Instructions.
- c. Financial Instructions should be followed and documented when hiring consultants and certifying that all goods and services have been duly received, verified and appropriately approved before payments are made.
- d. The PAC Committee expects all future Board and Executive bodies of Port Royal Golf Club to maintain essential records that will provide a full account of all funds expended, and assets held under its control.
- e. When managing projects of this scale, Government, the Board and Management of Port Royal Golf Course must have a complete financial picture of the project's status at all times, so that sound decisions can be made.

- f. The Government and Board must provide more aggressive oversight on projects to ensure that the projects are delivered on time and within budget.
- g. Government must apply greater scrutiny before approving all cost overruns prior to committing to making further payments.

## Conclusion

The PAC would like to acknowledge the extensive contributions of former Committee Members, Mr. E. David G. Burt, JP, MP and Mr. N.H. Cole Simons, JP, MP; and the advice and assistance provided by the former Auditor General, Mrs. Heather Jacobs Matthews, and her professional staff during our deliberations; as well as the sterling work done on behalf of the Committee by Deputy Clerk to the Legislature, Mr. Clark W Somner.

### ALL OF WHICH IS RESPECTFULLY SUBMITTED:

Hon. Wayne L. Furbert, J.P., M.P. – Chairman

Ms. Susan E. Jackson, J.P., M.P.

Ms. Lovitta F. Foggo, J.P., M.P.

Mr. Glen C. Smith, J.P., M.P.

Mr. Jefferson C. Sousa, J.P., M.P.

Ms. Leah K. Scott, J.P., M.P.

Mr. Michael A. Weeks, J.P., M.P.

Dated: 3<sup>rd</sup> February 2017