



Parliament of Sint Maarten

Staten van Sint Maarten

To the Hon. Minister of Education, Culture, Youth and Sport
Drs. R.E. Samuel
Government Administration Building
Philipsburg

UV/048/2020-2021

Philipsburg, October 26, 2020

Re: Questions from MP G.S. Heyliger-Marten regarding the status of the Philipsburg Jubilee Library

Hon. Minister Samuel,

Herewith I submit to you questions posed by Member of Parliament, Mrs. G.S. Heyliger-Marten pursuant to article 62 of the Constitution and article 69 of the Rules of Order of the Parliament of Sint Maarten.

The letter is self-explanatory.

Yours truly,

R. Brison
President of Parliament



Grisha S. Heyliger-Marten

Member of the Parliament of
Sint Maarten

The Hon. Chairman of the Parliament of St. Maarten
Mr. Rolando Brison
Wilhelminastraat # 1
Philipsburg, Sint Maarten

STATEN VAN SINT MAARTEN	
Ingek. 22 OCT 2020	
Volgnr. S/119/20-21	
Par.	GR

Philipsburg, October 22nd, 2020

Honorable Chairman,

Hereby kindly requesting that you please forward the enclosed letter addressed to the honorable the Hon. Minister of Education, Culture, Youth Affairs and Sports, Drs. Rodolphe Samuel.

Respectfully,

Grisha Heyliger-Marten
Faction Leader UP faction



Grisha S. Heyliger-Marten

Member of the Parliament of Sint Maarten

The Hon. Minister of Education, Culture, Youth Affairs and Sports
Drs. Rodolphe Samuel
Government Administration Building
Soulaliga Road #1
Pond Island, Philipsburg
Sint Martin

Philipsburg, October 22ND, 2020

Ref: Situation regarding PJL

Honorable Minister,

I have received and perused the attached documentation from PJL Board Member Xavier Blackman. Having read the information provided and done some additional research of my own, I have concluded that there is an urgent need for the Government to look into this matter, verify the validity of the information provided, and take corrective measures if need be.

Seeing that Government is the sole/main source of funding of PJL, we owe it to the taxpayers of Sint Maarten, including the many people who make use of the PJL, to ensure that the management of these funds and the PJL as an organization are carried out in accordance with the laws of the land and the principles of good governance and accountability. This goes for other government-related entities as well.

This is even more important in light of the plans for the funding and construction of a National Library and Community Multi-Purpose Center.

Seeing the serious nature of the events described in the documentation, I am hereby requesting a work meeting in the week of November 2nd, 2020 with your person to discuss how this matter can be handled diligently and expeditiously, and if formal Parliamentary involvement is required.

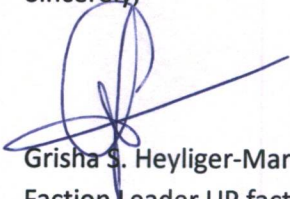
In preparation for this meeting, I would appreciate it if you could provide me with the following information:

Wilhelminastraat # 1, Philipsburg, Sint Maarten
Tel: + (1-721) 542-0812 / 542-0635 | Fax: + (1-721) 542-0306
Email: info@sxmparliament.org | www.sxmparliament.org

- Are all the financial (reporting) obligations of PJJ towards the Government/Ministry of ECYS met/up to date?
- Has the Board of PJJ provided you with written proof of the legality of Mr. Blackman's dismissal?
- What is the status of the execution of the MOU between PJJ, the Museum, and SIMARC with regards to the National Library and Community Multi-Purpose Center?

Thank you in advance for your cooperation, and I look forward to your confirmation of availability for the work meeting.

Sincerely,



Grisha S. Heyliger-Marten
Faction Leader UP faction

Cc.: Mrs. Ann A. Groen-Gumbs – 1st Acting Secretary General of Parliament



request for information

1 message

Xavier Blackman <xblackman@dibrotech.com>

Wed, May 22, 2019 at 3:45 PM

To: Joseanne Peterson <petersonjoseanne@gmail.com>

Cc: Paul Martens <paul.tc.martens@gmail.com>, Shirley Pantophlet-Gregoria <shpantophlet@outlook.com>, Jeanina Dupersoy <jeanina@aliciasinn.com>, "Martens, Paul" <Paul.Martens@sintmaartengov.org>, Irmin Hughes-Richards <director@sxmlibrary.org>

Dear Joseanne,

During our last meeting, we agreed that you, in your capacity as Treasurer, would provide documentation on recent developments and the current financial status of the PJJ to all Board members. We also agreed that you would forward to all the board members the communication to the Government regarding financial matters.

In a previous meeting, we also agreed that you would provide at least a timeline of all that needs to be completed within the financial administration. Furthermore, a separate meeting to discuss just the finances was postponed and not reconvened as yet.

I want to again emphasize that as Board members, we are all (jointly and individually) responsible and personally/legally liable for the consequences of our actions (or lack thereof). As Treasurer, you are primarily responsible for the financials within the Board. This does not mean, however, that as Treasurer you can operate in a vacuum and suffice by giving verbal explanations without providing the underlying documentation. As such, Board members have the right to request and receive all information regarding the PJJ, and the financial information is no exception. This is nothing strange or unreasonable.

For months now, I have requested information on (correspondence related to) the status of the financial administration of the PJJ, to no avail. As a result, the Board has no documentation (including the quarterly reports) based on which it can plan, take decisions, carry out its (supervisory) tasks, and give account internally or externally as required.

This situation is unfortunate, undesirable, and unacceptable from a good/corporate governance and transparency perspective, especially seeing that we are a managing Board. Furthermore, if PJJ is to become the recipient of external funding from the World Bank or others for the (re)construction of facilities, we will need to demonstrate that the PJJ is a serious and professional organization capable of at least conducting a proper, well-documented, and transparent financial administration. Having a financial manual and other things in place is meaningless if we don't adhere to the basic principles of (internal) transparency and accountability.

Since we are already approaching the ending of the first half of this fiscal year without the Board having been provided with any written information on the finances of PJJ, I am hereby making use of my right as Board member to request you to provide the following information to the Board in writing within five (5) working days:

- What is the status of the quarterly reports for 2018 and 2019, and when will the Board receive same for review?
- What is the status of the draft annual account for 2018, and when will the Board receive same for review? Have the trial balance and general ledger been finalized?
- Can the Board receive a written overview of the planning/deadlines related to all financial matters for the remainder of 2019, and if so, when?
- Has BDO been formally engaged to carry out the audit 2018? If so, can the Board receive a copy of the signed engagement letter? If not, when will engagement take place?
- Have the outstanding issues/recommendations based on the 2017 audit been adequately addressed, and if not, why not, and when will they be?
- What is the status of the (multi-annual) budget, and the (updated) budget for 2020?
- What is the status of the contract with Atlas, and can the Board receive an overview of the work carried out by Atlas for PJJ?
- What is the total amount received via fundraising during 2018 and 2019?

In the past, you have indicated that information can be provided once it is specified, so I trust that this request is sufficiently specified for you to comply with. Any additional (financial) information that you deem relevant for our functioning as a Board is of course welcome as well.

We are a team with the same objectives, so if you are unable to provide the information as requested, and/or face any other challenges which prevent you from doing so, please indicate this, so that we can jointly make sure that you get the required assistance.

I trust that I can count on your cooperation in getting the information as requested.

Thanks in advance, and kind regards,

Xavier.

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Xavier S.G. Blackman

Telephone: [+5993186719](tel:+5993186719)

E-mail: xblackman@dibrotech.com

The Chairman of the Philipsburg Library Foundation
Mr. P. Martens
Philipsburg, Sint Maarten
Per e-mail: paul.martens@sintmaartengov.org paul.tc.martens@gmail.com

Philipsburg, August 7th, 2019

Mr. Chairman,

Seeing that you did not allow me to finish making my points during yesterday's extraordinary Board meeting, I am hereby informing you as follows:

First of all, the meeting was not conducted in accordance with the PJLF articles of incorporation and bylaws. As a result, neither the meeting nor the results thereof can be considered lawful.

Secondly, as I have pointed out to you verbally during the previous regular Board meeting, it has been established that article 7, sub g, of the PJLF bylaws is applicable to your person for multiple reasons. It is therefore incumbent on you to do the honorable thing and resign from the Board with immediate effect.

Until such time, you are hereby advised to refrain from any further actions which are in violation of the PJLF articles of incorporation and bylaws.

Thirdly, as a Board member, I am hereby requesting written proof of the legal advice you said to have sought and received from HBN Law prior to convening yesterday's extraordinary Board meeting, as well as the Board's decision to seek said legal advice.

Please provide this information to the Board prior to tomorrow's scheduled Board meeting.

I trust that you will comply with the above, in the interest of the functioning and progress of the Board, the PJL, and the Task Force. If you fail to do so, I will have no other option than to report your irresponsible conduct and actions (or lack thereof) to the relevant authorities, and request them to take the appropriate action.

Your tenure as Chairman has demonstratively harmed the functioning of the Board, the PJL and the Task Force, and also caused the risk of personal damages to the individual Board members. As a PJLF Board member who joined the Board to make a positive difference for the PJL, including the Task Force, it is my duty to prevent the current situation from continuing.

Sincerely,



Xavier S.G. Blackman

C.c. Board Members PJLF



Ministry for Public Health, Social Development & Labour

GOVERNMENT MEDIATOR

To: Mr. Paul Martens
Chairman of the Board of
Philipsburg Jubilee Library

Philipsburg, July 15th 2019

Subject: position board Philipsburg Jubilee Library; involvement Mediator collective labour dispute with WICSU/PSU being premature

Dear Mr. Martens,

I good order I received your e-mail dated July 15, 2019 in the above-mentioned topic. The board is of the opinion that WICSU/PSU did not live up to agreements and promises. Furthermore your e-mail states, and I quote; *'The PJL board does not have a conflict with the union and is more than willing to meet them. If parties cannot find common ground, then the Mediator can fulfill its role. We have not reached that situation.'* *'The board prefers to meet with the union first.'*

In reference with the above, I would like to draw your attention to the following. As I informed parties during our last meeting held on Tuesday, October 9, 2018, I did receive a request dated August 11, 2018, from the President of the WICSU/PSU, Mrs. Sophia Rismay Peterson, requesting for mediation between the for mentioned union and your board with regard of the signing of the CLA that in their opinion was completed since 2017.

Article 14b of the Labour Disputes National Ordinance stipulates (in Dutch):

Paragraph 1 (one)

1. De bemiddelaar verleent op verzoek van een werkgever of het bestuur van een vakvereniging van werknemers bemiddeling bij de onderhandelingen omtrent het aangaan van een collectieve arbeidsovereenkomst.

Paragraph 2 (two)

2. De bemiddelaar kan de werkgever en het bestuur van de vakvereniging voor zich doen verschijnen teneinde te trachten partijen met alle ham ten dienste staande middelen bij te staan bij de onderhandelingen omtrent het aangaan van de collectieve arbeidsovereenkomst.



Ministry for Public Health, Social Development & Labour

GOVERNMENT MEDIATOR

Paragraph 3 (three)

3. Partijen zijn verplicht te verschijnen en de bemiddelaar alle van hen gevorderde bijstand en medewerking te verlenen, waartoe zij redelijkerwijs in staat zijn.

So parties are obliged to appear, and to provide the mediator all of their assistance and cooperation which they are reasonably able to provide.

Failure to comply with the provisions laid down in paragraph 3 is, as I already informed you in my e-mail dated July 15, made punishable in article 16 (with a detention of up to six months, or a fine of up to ANG 12.500,-).

Should your board not appear again at the meeting at 2:30 p.m. this afternoon at our conference room, I would have to take legal action in cooperation with the proper authorities. Parties have to abide to their legal obligations in the area of mediation to promote labour peace. In addition, the authority of the position of the Mediator cannot be challenged. I sincerely hope this will prove not to be necessary.

Yours sincerely,

Ms. Marcellina I.C. Loblack
Government Mediator



Ministry for Public Health, Social Development & Labour

GOVERNMENT MEDIATOR

To: Mr. Paul Martens
Chairman of the Board of
Philipsburg Jubilee Library

Philipsburg, July 15th 2019

Dear Mr. Martens,

Once again I hereby like to draw your attention to the following.

At your request, a meeting was organized by my person in the above-mentioned matter, on Tuesday June 11, 2019, at 4:30 p.m. in the conference room in my Office at Soualiga Road #1 in Philipsburg.

Unfortunately, none of the members of the board were present.

On the other hand, the members of the board of WICSU/PSU along with shop stewards were present.

The office of the Mediator did not receive any formal correspondence from the board regarding their nonattendance to the meeting, or any sort of apologies.

To date, I did not receive a confirmation of your attendance, or should I say your board attendance to the meeting scheduled for tomorrow, Tuesday July 16, 2019, at 2:30 p.m. in our conference room.

Unfortunately, I must conclude that the board is not willing to cooperate with the efforts of the Mediator to resolve the dispute with WICSU/PSU on the position of your employees in an amicably way. The board shows a disrespectful attitude towards the important social position and task of the mediator; which is to promote stable industrial peace.

The active cooperation of your board is not optional, but a legal obligation. The entire board does not need to be present. I refer to the content of article 7 (representation) of your articles of incorporation.

The attitude of the board is not acceptable. For your information I hereby refer to the nature and scope of article 16 of the "Labour disputes National Ordinance (in Dutch; Arbeidsgeschillenlandsverordening), where not complying with said legal obligation is made punishable.

Should your board not participate again, I will have to take legal action in cooperation with the proper authorities.

I sincerely hope this will prove not to be necessary.

Yours sincerely,

Kind regards,


Ms. Marcellina I.G. Loblack
Government Mediator



The Chairman of the Philipsburg Jubilee Library Foundation
Mr. P. Martens
Philipsburg, Sint Maarten
Per e-mail: paul.martens@sintmaartengov.org paul.tc.martens@gmail.com

Philipsburg, August 15th, 2019

Mr. Chairman,

With reference to my letter to you dated August 7th, 2019, and your reply to me by e-mail on August 8th, 2019, I am hereby informing you as follows:

As I pointed out in said letter, the single decision taken by the Board on August 6th, 2019 has no legal basis and is therefore null and void (“nietig”).

As such, I am hereby urging you to provide the Board members with the information requested in said letter prior to today’s scheduled Board meeting, or as soon as possible thereafter.

Furthermore, I am (again) requesting an (urgent) update on/response to the following pending matters:

- My letter to the Board of June 28th, 2019;
- The legal basis for Mr. Lucas’ functioning as “minutes Secretary” to the Board and being compensated accordingly;
- The status of the Board’s response to the draft CLA as received from Miss Loblack on July 19th, 2019. The response by the Board is due on August 19th, 2019 as per your commitment to Miss Loblack and the Union representatives during the meeting of July 16th, 2019;
- The follow-up after the last meeting with the Minister of ECYS.
- The status of the draft request for proposal to contract an external consultant to prepare the project dossier for the NHC. During the Task Force meeting of July 30th, 2019, it was agreed that Miss Dupersoy would prepare said draft within two (2) weeks.

I trust that you will comply with the above, in the interest of the functioning and progress of the Board, the PJJ, and the Task Force.

Sincerely,



Xavier S.G. Blackman

C.c. Board Members PJJF

Bylaws of the Philipsburg Jubilee Library Foundation

ARTICLE 1 Name and seat

The Headquarters of the Foundation shall be at the office of the Philipsburg Jubilee Library and the mailing address shall be Philipsburg Jubilee Library Foundation, P.O.Box 2 St Maarten, Neth. Antilles.

ARTICLE 2 Duration

The duration shall be in accordance with the Statutes

ARTICLE 3 Purpose

In addition to the objectives, mentioned in the Statutes, the library will provide a basic condition for lifelong learning, independent decision-making and cultural development of the St Maarten society in the broadest sense of the word.

The services of the library are provided on the basis of equality of access for all, regardless of age, race, sex, creed, language or social status.

ARTICLE 4 Finances

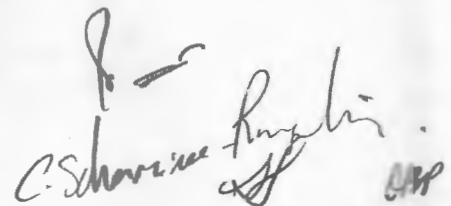
The financing of the library shall be the responsibility of the Government of the Island Territory of St Maarten, as stipulated in the "Regeling Subsidiëring Philipsburg Jubilee Library Foundation" of 1993.

In addition, all legal means are to be sought for funding.

The Board shall ensure that correct and complete books and records of accounts are kept.

All books and records of the foundation may be inspected by any board member or his agent or attorney for any proper purpose at any reasonable time.


The books of the foundation shall be audited by an auditing firm on an annual basis in accordance with the stipulations by the Island Government of St Maarten.


C. Schuurman
CSP

Bylaws of the Philipsburg Jubilee Library Foundation

ARTICLE 5 Board

- 1) The Board shall be composed of the President, Vice-President, Secretary, Treasurer and an odd number of officers no less than one (1) and not more than five (5). An incomplete board maintains its authority. To maintain a balance of representation on the board, a variety in age, background, capacity and ability shall be aimed at.
- 2) Board members are appointed by the Board. Any vacancy shall be filled as soon as possible.
- 3) The Board elects by secret ballot from among its members a President, Vice-President, a Secretary, a Treasurer and an acting Secretary-Treasurer.
- 4) Board Members are appointed for a maximum period of four (4) years. Not eligible is (s)he who has not reached the age of twenty-five (25), or has reached the age of seventy-five (75).
- 5) Board members relinquish office according to a to be determined scheme of descend as to guarantee a continuation of the expertise. A board member, retiring according to the scheme of descend, can be re-appointed right away.
- 6) A maximum consecutive period of twice four years is to be maintained.
- 7) A person ceases to be a board member
 - a) upon death;
 - b) upon relinquishing the seat by informing the Board in writing;
 - c) upon relinquishing the seat according to the scheme of descend;
 - d) upon bankruptcy or moratorium;
 - e) upon being in a ward of state;
 - f) upon dismissal as stipulated by law;
 - g) upon committing an act which is harmful to the organization;
 - h) upon not attending four (4) consecutive board meetings without notice.

 Ashworth
DHP

Bylaws of the Philipsburg Jubilee Library Foundation

Article 6 Meetings

1. Board meetings shall be held *once* in each quarter of a year.
2. Additional meetings may be called as outlined in the constitution.
3. In case of war, strained (inter)national relations, or if so determined by the entire board this may not apply.
4. Meetings shall take place in the boardroom of the Philipsburg Jubilee Library, unless another venue has been determined.
5. A quorum is reached when a simple majority of the board members is present.
6. When a quorum is not reached a meeting with the same agenda shall be called within two (2) weeks and decisions taken will be binding.
7. The board meeting is presided over by the president, or in case of his (her) absence by the vice-president. In case both persons are absent the meeting decides who will chair the meeting. Until such moment (s)he who has the most seniority (in reigning years) shall preside.
8. Each board member shall be entitled to one (1) vote on each matter submitted to a vote.
9. A decision is considered taken when the absolute majority of those present and voting is in favour.
10. If a draw occurs, the chairperson decides.
11. Voting on matters is done orally, while voting on persons is done in writing (not signed). The chairperson can decide that also voting on matters can be done in writing.
12. Minutes will be taken during all meetings; these will be dealt with in the first meeting thereafter; chairperson and recorder sign the minutes for approval .
13. Decisions can also be taken outside of the regular meetings by the Daily Board and/or, if all board members are provided with the opportunity to cast their vote. A decision has been considered taken if the majority votes in favour. Decisions taken outside of the meeting are recorded by the secretary of the board, ratified in the first board meeting thereafter, and added to the minutes of this meeting.



A handwritten signature in black ink, appearing to be 'C. Schaner'.

OBP

Bylaws of the Philipsburg Jubilee Library Foundation

Article 7 Representation

The representation shall be according to the statutes.

Article 8 Fiscal year

The fiscal year of the foundation shall be the calendar year.

Article 9 Amendments of the charter and liquidation of the foundation

Amendments to the constitution shall be in accordance with the stipulations thereof.

Article 10 Amendments to the Bylaws

Board members may propose amendments or new Bylaws at any time. A proposed amendment or new Bylaw shall become effective when it shall have been approved by a majority of the board members present at a meeting.

If a vote at a meeting is ordered, at least one month's written notice shall be given to the board members of the text of the proposed amendment or new Bylaw.

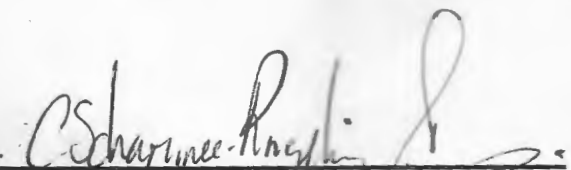
Approved in the meeting of Wednesday, November 22, 2000



O. Bryson Pantophlet,
President



H.J.J. Schaminee,
Treasurer



Ch. Schaminee,
Member



R. Hoeve,
member

Honorable Minister W. Smith
Minister of Education, Culture, Youth Affairs and Sports
Government Administration Building
Pond Island, Philipsburg
Sint Maarten

Philipsburg, August 19th, 2019

Excellency,

With reference to the attached documentation, which can be considered self-explanatory, I would like to inform you of the situation which has developed, and the events which have unfolded within the Board of the Philipsburg Jubilee Library Foundation (PJLF), and between PJLF and the joint Task Force during the last months.

Additional documentation in the form of minutes of meetings, e-mails, and WhatsApp exchanges are also available to provide substantiation for said developments and events.

Since my appointment as Board member in May of 2018, I have consistently reminded my fellow Board members of the fact that, as a collective with joint responsibilities and liabilities, the Board needs to act in accordance with the principles of good governance, general norms of good conduct, proper communication, transparency, accountability, as well as the legal requirements outlined in the Civil Code, the articles of incorporation and bylaws of the PJLF, and the subsidy ordinance at all times.

Despite my efforts to ensure that the Board conducts itself in this manner, including offering suggestions and assistance where and when needed, certain Board members have ignored these efforts, and continue to consistently fail to live up to their obligations, and engage in unprofessional, unlawful, and unethical conduct.

By doing so, they are putting the functioning of the PJJ, its staff, and the service to the public at risk. They also seriously impede the efforts to establish the new joint facilities for the PJJ, Sint Maarten Museum, and SIMARC, unnecessarily create personal liabilities for their fellow Board members, and jeopardize the reputation of the PJJ and its stakeholders. The attached letters issued by the Government Mediator are clear examples of this.

The initiative of the Chairman to have me dismissed as Board member is the direct result of my insistence on the Board abiding fully by all rules and regulations. My constructive criticism was seen by him as “annoying”, “bothersome” and “hampering the functioning of the Board”. Instead of addressing the issues that I brought forward in an objective and professional manner, he moved to have me dismissed as what I consider to be an act of personal retribution.

This situation within the Board cannot continue. By means of this letter, I am therefore informing you that, in the interest of all the stakeholders of the PJJ, including the Board members of the PJLF, I have decided to take legal action based on article 5, sub 7, g, of the bylaws of the PJLF.

Despite the fact that the PJLF is a private entity, I believe it is incumbent upon me to inform you directly about these developments in your capacity as Minister and portfolio holder representing the entity which fully subsidized the PJL.

If you wish to discuss this matter further with me or the entire Board, I will make myself available at your discretion.

Trusting to have informed you adequately, I remain,

Respectfully,

A handwritten signature in blue ink, consisting of several overlapping loops and a long horizontal stroke extending to the right.

Xavier Blackman
Board member PJLF

C.c.: Board Members of PJLF

Attachments: 6