

From: Antony C O Jack

[REDACTED]
Edinburgh
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Lord Hardie
The Edinburgh Tram Inquiry
1st Floor
2/4 Waterloo Place
Edinburgh
EH1 3EG

16 March 2016

My Lord,

The Edinburgh Tram Inquiry

1. I apologise for disturbing you and adding to the volume of papers. I am a lay person and am currently drafting a letter concerning the recent conduct of the City of Edinburgh Council [CEC] and Scottish Government Ministers in their ignorance of the express requirements in legislation, as enacted, as well as the manipulation of documents [I have called it tampering] put to the public and to inquiries/hearings. In looking for corroborative evidence of the persistence of such unlawful conduct by CEC over very many years, I have referred back to the events at the turn of this century, *that includes my concern over the early tram project.*

2. In the late 1990s CEC was, on occasion, not giving the full statutory notice of meetings, and further some reports for agenda items were not being made available to the public for the correct statutory period. I researched the subject and found that apart from the very few items that appeared to be genuinely matters of unforeseen urgency, there was a proportion of late submissions relating to financial matters, often to do with procurement/tendering. I then looked at the Authorities accounts/draft accounts, which were also not being published in accord with the statutory provisions. There were a number of financial issues in regard to CEC that caught my eye, and were then subject to statutory objection, including:

CEC charitable funds [mortifications, etc] appeared, and were, some tens of thousands of pounds short;
The offer of £1m to the developer of Multrees Walk if they hooked Harvey Nichols as an anchor store; and
The relocation of the Grant Westfield factory for CERT.

I recollect CERT was an acronym for 'City of Edinburgh Rapid Transport'.

3. It seemed to me at the time that the ignorance of the statutory procedures was strategically, and therefore deliberately, organised by the authorities officials to hamper opposition parties, the media, and indeed the public by way of deputation, to make comment. At the time I did not consider that this behaviour to be in the public interest, indeed such behaviour seemed to kick democracy in the teeth, *as this behaviour still does today.*

4. During that period I put several Statutory Objections to the Accounts of the City of Edinburgh Council, including a "Statutory Objection to the City of Edinburgh Council's Accounts for the Financial Year to 31 March 2001", which at page 4 included CERT. I have made a limited search of my papers, and have found three sheets that may be relevant to the terms of your Inquiry. I attach three copy pages to this letter:

The title page to my 2001 Statutory Objection dated 20 August 2001;

Page 4 of that Objection;

Letter dated 27 November 2000 from the Council Secretary to me regarding betterment.

5. It is my understanding that the Accounts Commission [AC] had a legal duty to investigate statutory objections and to report to the Authority on such an objection, however such AC reports were not open to the public. I expect however that AC or their successors [Audit Scotland] will have a record of their investigations and their reports to the Authority, and indeed of my Statutory Objections against the City of Edinburgh Councils Accounts and of the oral hearings that occurred. I would also expect the City of Edinburgh Council to have keep a record of their correspondence with me, and all the reports put to the elected members concerning CERT. In these terms I understand that your Inquiry has already made

widespread investigations, and may already have these documents in its possession, and decided whether they are material to the terms of the Inquiry. I suspect that all the documents relating to my concern over CERT are in the public record, and will be available to you

6. As may be apparent from the three attached sheets that I have managed to locate, I recollect my concerns were as follows:

Whether the failure to publish the report for the three full days prior to the Transport Committee meeting on 24 August 1998, without the Convenor intimating it to be a matter of urgency, made the expenditure of the £3.9m unlawful;

That the failure to publish the report for the full three days prior to the meeting was in a succession of such events, and can be deduced to have been entirely deliberate, and designed to hamper the opposition parties, and the media from latching on/raising concern as to what was apparently being rammed through by the majority party;

I felt at the time that it was curious that the factory was being moved at that early stage, most especially as I recollect it was in the Lord Provost's ward, and I was concerned that huge private gain, at public expense, may be achieved, and there seemed to me no evidence that there was any real likelihood of any return in terms of betterment.

It was also stated at the time [I cannot find the document that supports my recollection], that the Transport Convenor relied upon legal advice in not intimating the item as being a matter of urgency – I understand that a matter of urgency required a reason – I cannot fathom that there was any reasonable justification for the urgency. The legal advice, which was privileged, can be deduced to have been in contradiction to the statutory provisions.

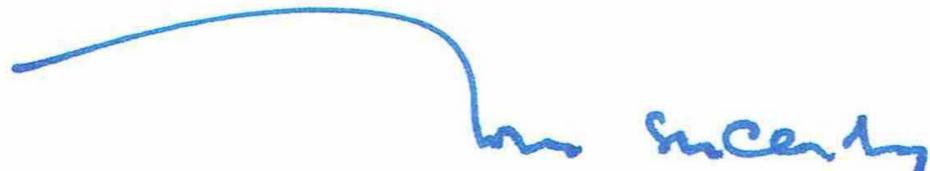
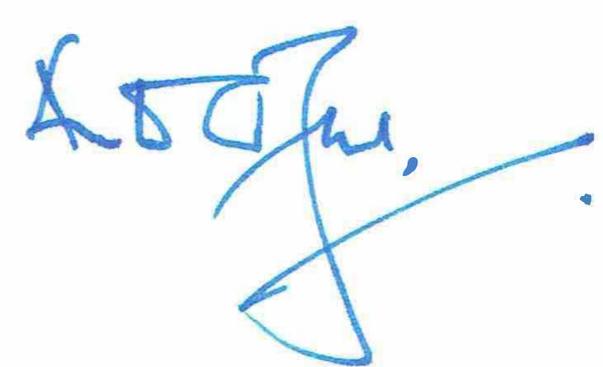
I understand that the Tram takes another route, which made the relocation of the Grant Westfield factory unnecessary.

I do not know whether CEC eventually ever recovered any betterment from building the new purpose-built factory.

My interest in the political/financial oversight of the tram project was put to an end by the formation of TIE Ltd by CEC, which effectively hid accounting documents out of the public realm.

If I can assist you in any way, I am sure you let me know. I am copying this letter to those I am currently corresponding with, as I am sure they will know whom to pass it to, if it has any relevance.

Thank you.


in sincerity


Attached:

The title page to my 2001 Statutory Objection;

Page 4 of that Objection;

Letter dated 27 November 2000 from the Council Secretary to me regarding betterment.

Copy by email:

Directorate of Local Government and Communities;

Scottish Government Legal Directorate – PEAD

CEC

Statutory Objection to the City of Edinburgh Council's Accounts for the Financial year to 31 March 2001

by

Major (Retd) A C O Jack TD BA

20 August 2001

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Attachments: Documents in respect of Sections 2 and 4

1.(9) are both: quite clear, and clearly do include endowing a hospital, however worthy the hospital's cause is. **I object to the City of Edinburgh Council disbursing money from trust funds in a manner that is contrary to the Trust Fund's explanatory documents.**

3. CERT

3.1 In my statutory objections to the City of Edinburgh Accounts for the financial years to 31 March 1999 and 2000, I objected to the way the development of CERT was put forward to the Council Members.

3.2 Item 33 at the meeting of the Transport Committee 24 August 1998, was put before the Committee without the report being given 3 clear days of public access. This, in my view, is contrary to the clear and express directions given in the Local Government (Access to Information) Act 1986. Though the Council Officials choose to interpret the legislation in a different way to that in which it appears to be expressly written. Despite my letter to the Chief Executive dated 19 August 1998, expressing a view that the item should not be considered unless as a matter of urgency (as per the 1986 Act). In the event [REDACTED] the convenor, allowed the consideration of the item, without intimating that it was a matter of urgency, despite an opposition group asking for the matter to be deferred to give further time for consideration. The item allowed the expenditure of some £3.9m on the removal and building of a new factory for Grant Westfield Ltd.

3.3 The CERT Scheme that was subject to a Public Inquiry in terms of the alignment of the route in November 2000, as I understand it, is not now going ahead with both the ConCERT Group withdrawing and the other bidder's re-appraised tender being refused consideration by the Council. I further understand that negotiations between the Council and Grant Westfield, which I understand were in progress, has not in the 2000/01 financial year lead to any payment to the Council in consideration to any betterment to the Grant Westfield factory. I wish to express my concern that the City of Edinburgh Council in pushing through items at their meetings without giving opposition parties the statutory three clear days access to consider the papers involved, in a manner that is, in my view, contrary to the clear and express statutory provisions, is contrary to the public interest. **I further consider that the failure of the Council, as of 31 March 2001, to recover any of the huge sums that have been spent on this (so far) abortive scheme is a scandalous abuse of public money. I object to this.**

4. Re-Development of the St Andrew Square Bus Station

4.1 It is my view that there are a number of matters in connection to the Council's involvement to with the Redevelopment of the St Andrew Square Bus Station that are of public concern:

- 1 The disclosure of accounting documents in relation to both the 1999/00 and 2000/01 audit periods.
2. The timeous provision of the 'Holmes Report' prior to the Meeting of 1 June 2000, to allow the elected members proper opportunity to consider the matter.
3. The evident willingness prior to 27 March 1998 to contribute to a "shortfall" of £1m, known by senior council officials and Councillor Anderson.

CORPORATE SERVICES

Major Anthony C O Jack
[REDACTED]

EDINBURGH
[REDACTED]

Date: 27 November 2000

Our Ref: JWS/DH

Your Ref:

Dear Major Jack

CERT PROJECT

Your letter of 24 November 2000 to the Director of Finance has been passed to me for attention.

You refer to Report T98/5 considered by the Transportation Committee on 24 August 1998. Para 3.6 of this report indicates that a further report would be put to the Committee on the question of betterment.

I can confirm that no such report has been made. This is because the question of betterment is still under active negotiation with Grant Westfield Ltd. I am advised by the Director of City Development's staff that, if the negotiations can be concluded, a report may be submitted to the Executive in the Spring of 2001.

Yours sincerely


JOHN STURT
Council Secretary

cc: [REDACTED] Chief Accountant, Department of Finance

Copy - faxed to [REDACTED]
? will 'spring' be in the
2001-2 financial year?

jws970

[REDACTED]
COUNCIL SECRETARY

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