

Ward: Drum Brae/ Gyle
Councillor from 1984 to present
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Questions

1. I have been a Lib Dem councillor representing Drum Brae/ Gyle and previously East Craigs on the council. Almost my entire political career has been spent in opposition with various responsibilities on virtually every committee of the council over the years with the exception of Planning.

During the period 2007 to 2012 I was the Deputy Convenor of the Transport Infrastructure and Environment Committee. Responsibilities were split very clearly between myself and the convenor. I was termed 'Environment Leader' and took lead responsibility for all environmental matters: pot holes, refuse collection, street cleaning, parks, allotments, air quality, carbon reduction, recycling. The convenor led on all transport issues.
2. During the initial proposal stage for the tram project I was kept informed as a group member about progress at group meetings. The group received a number of presentations from TIE, and before it was set up by key officials and stakeholders, including the Council's and the CEO of Lothian Buses Neil Renilson. I recall close questioning of officials about the risks involved in the route, and a reassurance that the proposed route (unlike other tram projects elsewhere in Britain where there had been significant infrastructure problems)was straightforward with no tunnels etc to be constructed. We discussed the amount included in the cost envelope for contingencies and were given robust assurances that the project included a very significant sum for contingencies which was considered to be more than adequate.
3. The detailed discussion around this was undertaken in the TIE Board of which I was not a member. There was an update to the council in August, September and October 2008. A Trams Sub committee was formed, of which I was not a member, to look in detail at the arrangements. As I recall it was felt important that there was all party scrutiny / involvement in the detailed oversight of the project. Our group was kept informed of developments, but TIE board members were restricted in what they could say about the detail due to board confidentiality. I am also aware that there was some nervousness amongst some officials and councillors that involvement of the SNP group who did not want the tram to go ahead might lead to sensitive information being made more widely available given the close attention to the project by some SNP MSPs.

4. There were updates given about the disputes which had arisen with the consortium. Our group raised questions with the council Chief Executive and the CEO of TIE about them and we were assured that both TIE and the Council believed we were on strong legal ground, and that the consortium was likely to lose in court. At a point during this period there was a change of council Chief Executive, a change of Council Solicitor and a change of CEO at TIE. Their combined view was very different. The new council solicitor raised concerns about the quality of the contract and the chances of success in the courts in relation to the many disputes. He raised concerns that because it was a bespoke contract some of the issues would be dealt with as test cases in court rather than being resolved on the basis of existing case law, had it been an 'off the peg' contract.
5. Our group was extremely frustrated that the project had ground to a halt and that it appeared the TIE/Council position was less robust than we had been led to believe initially. The city was a mess of red and white barriers, fenced off areas and traffic diversions which we all wanted sorted as quickly and fairly as possible, bearing in mind the disruption citizens were facing as well as the growing costs. At this stage officials were making it clear that they felt the contract was very open to legal challenge. We were very keen to get the project moving again and welcomed the initiative to seek a mediated resolution. The settlement agreement was, I felt, 'as good as it gets' given the very difficult circumstances. There was no other option given advice we were given that if we walked away we would still be due to pay the Consortium and end up with nothing. The deal was overturned at full council by an amendment proposed by the Labour opposition to seek to embarrass the administration. They sought to end the tram line at Haymarket. This, had it been agreed, would have led not only to almost the entire revised capital cost of the tram having to be met, but also have resulted, according to business plan projections, in a year on year loss every year into the future i.e. no prospect of meeting any of the capital cost through revenue generation. In addition we had been advised that the Consortium was likely to walk away from this deal which would have led to further costs and no tram line. The Lib Dem Group strongly opposed the Haymarket option and supported the mediated deal, but lost the vote. This decision was overturned one week later at a special council meeting (2 September 2011)
6. The arms length companies TIE and TEL were frustrating delivery vehicles. It was not always possible for councillors to get the detail to allow for full scrutiny, and the information which did come out of the companies appears to have painted a more optimistic picture than was the case in fact. Board members were bound by commercial confidentiality. As councillors I believe we asked the right questions, but were not necessarily always given the fullest answers. When the new team of new council Chief Exec, new council solicitor and new TIE Chief Exec were all in place the quality of reporting improved substantially. In effect it seems that there were too many layers between councillors and the project which prevented the level and detail of scrutiny which I believe was required.
7. Reports and updates were made available at the appropriate times for decisions to be made. The background information, especially in the initial stages of the project appears to have been over optimistic. Reassurances were given which were categorical. Our questions were all answered, but with hindsight it appears they were more geared towards selling the project than giving a 'warts and all' objective view. We were not given any indication of the level of risk which the council ultimately faced, having been assured that the provision for

contingencies was more than adequate and that the line itself presented no difficult technical problems.

8. The question of who is ultimately responsible for ensuring the project was delivered on time and on budget was not entirely clear. A number of bodies had joint responsibility: the Council, TIE and bodies such as Transport Scotland. Transport Scotland played almost no role for much of the project and their lack of input is one factor which was important to the level of governance of the project. It would have been more useful to have clarity with one body ultimately responsible.
9. The bespoke contract appears to have been less robust than it should have been. It appears that it opened up the possibility of adding to the overall contract price where any change was made and that the consortium took full advantage of this. The belligerent attitude of TIE towards the consortium (and to some extent vice versa) led to the impasse. The way the project was constructed led to unnecessary delays with each element of the contract having to be completed before the next part could start. The mediated settlement amended this way of working to a partnership approach which was quicker and more efficient. The distance between councillors and the project was too far to exert sufficient pressure. The information given to councillors in the initial few years was not objective enough and questions were not answered as thoroughly as they should have been. The provision to compensate utilities was over generous and they took full advantage to extend replacement pipes and cables well into adjoining streets at the expense of the contract.
10. Use a standard contract in future. Have closer involvement of councillors in the project. Ensure that all parties in the administration are committed to such a major infrastructure project. It is very difficult to keep looking over your shoulder and worry that important objective information might be misused.
11. The main consequences are that it is taking a considerable time to get the public to appreciate the value of the tram and it will be difficult to persuade them about the value of any extension to the line (which I believe to be essential for the city's development over the next 50 years). Councillors will be more wary (which is a positive outcome). I hope officials will in future understand better that councillors need to be told the whole truth rather than given answers which seek to get us 'on side.'