
From: Nick Smith
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To: Alan Squair
Subject: governance

Alan

To summarise from our meeting with Finance and previous discussions:

- The previous reports to Council appear to be inconsistent with regard to the powers/responsibilities of the relevant parties to the project.
- TPB is either an "independent" body with no decision making powers (Aug 2007 report) or a sub-committee of TEL with full delegated authority (FBC and 20 Sept report). It clearly cannot be both.
- The FBC indicates that powers will be required to be devolved from TEL to TPB in due course. It seems to envisage that the powers to be passed on to TPB by TEL will be devolved to TEL via its operating agreement with CEC.
- Clearly as the Operating Agreement with TEL is not in place, it follows that TEL currently has no powers devolved from CEC and can therefore not in turn devolve any such powers to TPB.
- ie Unless there is evidence to the contrary, then it appears that currently TPB has no powers or decision making locus. However, perhaps Finance will be able to find some papers to refute this.
- In terms of the actual proposed set-up, I have not analysed the position, but assuming Finance and City Dev are happy, I'm not sure Legal has an issue provided that the powers have been properly delegated and the governance regime is robust. That said, I agree with Colin's comments on 26 Sept at 08.24 re weakening of the accountability of tie. Tie have contract with huge value, yet appear to be taking a more minor role to TEL here, even though we are still at construction phase.
- As discussed, and please note that this is simply off the top of my head and may not be borne out by the past reports etc, but one way round this may be for tie to recommend the preferred bidder to the Council, with TPB simply being passed a copy of tie's recommendation to note. A report could then go to Council on 25 Oct clarifying the new governance structure, effectively overriding the previous position.

Hope this helps.

Kind regards

Nick

Nick Smith
Senior Solicitor
Legal Services Division
City of Edinburgh Council
City Chambers
High Street
Edinburgh EH1 3YJ

(t) 0131 [REDACTED]
(f) 0131 [REDACTED]