



Property & Legal Meeting

11th September 2007

Present: Andy Conway, David Cooper, Steve Sladdin, Colin MacKenzie, Nick Smith, Alan Squair

Apologies: Rebecca Andrew, Steve Hajducki, Duncan Fraser

ACTION

Time Sheets

AC advised that there remained a problem with these and TIE were giving him a difficult time over them. There was presently an £80K underspend plus it was difficult to ascertain what we were spending. There were still issues with Legal and SfC. Planning's problem was that there was only one person trained in using the Oracle System. AGS undertook to speak to Kirsty-Louise Campbell on Legal Services Time Recording.

AGS

AC advised that Ian Spence was to become a consultant in September and that Francis Newton would then be going onto Tram full time. Backfilling for his post would therefore be required - £50K may be available for that purpose.

Main Action

1. Remit of Trams Sub-Committee. CGM advised that he was working on this and that a report covering this issue was going to Council on 20 September.
2. Powers to be delegated to Andrew Holmes. As for 1. above.
3. Tram Operating Agreement. Instructions on this were required from City Development. There remained an issue as to the sanctions available to the Council on non-compliance by TIE. This will be reported to Council on 20 September as work in progress.
4. TEL Operating Agreement. Jenny Drummond is to be asked to pursue this now that she has returned to work.

JD



ACTION

5. Neil Renilson – Job Description. This has been the subject of discussions between the Chief Executive and Philip Barr. The Chief Executive is dealing with it.
6. IPG Pathways. This is with the Chief Executive.
7. Full Council approval of Tram Operating Agreement. The long-stop date for approval remains as 20 December.
8. Lease/Licence Options. This issue is addressed later under Network Rail and BAA.
9. Changes in Reporting Procedures. This is dealt with in the Council report of 20 September.
10. Reporting Diagram. Remains action for DF.

DF

Action

There are ongoing internal discussions/discussions with TIE on Transport Scotland's draft funding letter and discussions with Jerry Morrissey of TS. TS want the Council to take the lead in these discussions. DF presentation on roles and responsibilities has now taken place.

The roles and responsibilities are also addressed in the report to Council of 20 September.

External Legal Resources – the arrangements that had been made with DLA were not as yet clear. They may be asked to certify that the INFRACO/Tram Co. contract can be signed off. It is understood that the Council Solicitor's view is no longer that the appointment of independent solicitors is premature but that instead a decision has been reached that DLA are now "on board". CGM awaits a response from the Council Solicitor confirming the position.

AC indicated that he would contact the Council Solicitor with regard to the appointment of DLA

AC

Final Business Case

Lex Harrison is dealing with the drafting of this. SS raised the question of a possible compensation claim by train operators and wished to know if this was factored into the Business Case. Network Rail has mentioned this possibility at a meeting on 10 September.

Developer Contributions

DC advised that the report to be considered by Planning Committee On 4 October has been finalised. A meeting involving DC/AGS/Keith Anderson was to be arranged prior to the next meeting of the Developer Contributions Group. Andrew Holmes had indicated he wished to be involved in negotiations with Forth Ports on contributions.

The planning application from Forth Ports had now been received but had not as yet been validated. It is understood that development is now phased over a 30-year period and the implications of this for Tram funding will required to be considered. There was a need for preliminary discussions with Forth Ports to be set up. DC advised that there were no further developments in relation to the appointment of a Negotiator to deal with Forth Ports and other contributions.

Scottish Power/Telewest

Both agreements remain unsigned. Scottish Power apparently have difficulties with the agreement particularly as to the power supply to Trams. It may be that Scottish Power themselves would want to carry out work on the high voltage supply, which may have programming implications for the MUDFA works.

Willie Gallagher has requested Susan Clark to ensure that the Telewest Agreement is signed off by the end of the current week.

District Valuer

SS advised that the District Valuer had been told that the Proformas were required by the end of September.

ACTION

Leith Walk Garage

Planning have provided their comments on the location of the Sub-Station, i.e. inside the garage, but this is not acceptable to SS in terms of after-value. DC will pursue this with SH.

DC

Haymarket

Ongoing.

BAA

Susan Clark has advised that Tim Whittall of BAA is not happy with the Council's position. A three-way meeting involving BAA/CEC/TIE has been arranged for next week. The outstanding issues from the Council's point of view have been set out in an email by CGM – these relate to the termination provisions of the lease which should in the Council's view accord with statutory powers and timescales and the provisions for the hand-back of surplus land. These issues are to be discussed at the Planning & Legal Issues Group.

Shandwick Place

Ongoing.

GVD

GVD 4 was signed off on Friday 7 September.

Network Rail had apparently raised an issue as to GVD plans not being signed.

The question of whether GVDs should be proceeded with in relation to Forth Ports land was to be raised at the Planning & Legal Issues Group later in the day.

The Side Agreement with Forth Ports was apparently being revised by Dundas & Wilson (Trudi Craggs (?)). An update on this was required.

Network Rail

SS had attended a meeting on 10 September involving Mike Fitzgerald, Caroline Storrie, Alasdair Sim, Sandy Tuckerman (NR), Robert Little (NR), Jeremy White (NR) and Gordon Thomson (MacRoberts). NR had advised that they would not be prepared to grant a lease but construction would require to proceed under license. They would however first wish to resolve all technical issues. They raised the question of immunisation – potential corrosion of Network Rail equipment as heavy rail ran on AC and Tram would run on DC.

Network Rail might not be able to prove their title to the land and therefore consideration should be given to acquiring by way of GVDs.

The question of change processes at Haymarket Depot was discussed. These processes would require input from First ScotRail and may require reference to the Office of Rail Regulation. It may be necessary as part of these processes for the preferred INFRACO contractor to speak to the Depot Operator and for relevant provisions to be inserted into the INFRACO contracts. There is potential for delays to INFRACO as a result of these processes.

The “milestones” which Dundas & Wilson were to be preparing are still not available. These are now required.

A new version of the Irritancy Clause has been proposed to Network Rail. Network Rail now consider the terms to be closer to dispute resolution provisions. NR are to revert on these issues.

Asset Protection Agreement

RA is looking at the proposed surety issues but her views have not been received as yet.

N.B: NR issues are addressed in greater detail in the IPG Report.



ACTION

Prior Approvals

A programme has now been provided to CEC. This is not acceptable to CEC and TIE have been advised accordingly.

EARL/Park & Ride

The agreement was signed off on 10 September.

Issues had arisen as to car parking at Haymarket which was apparently connected to remodelling of platforms at Waverley Station. RA is to clarify whether any funding Implications would be covered by Transport Scotland.

RA

CEC Land

Ongoing.

AOB

From Legal Affairs Group – 10 September:-

1. **TIE/CEC Lease** – a meeting is to be set up Involving Alasdair Sim/Susan Clark/Trudi Craggs to discuss INFRACO requirements.
2. **Burnside Road – Stopping Up of Land Outwith the Limits of Deviation** – there has been no request for a Stopping-Up Order as yet. This may well come in along with related requests for Traffic Regulation Orders.

Next Meeting

18th September @ 10.00am – City Point – accommodation t.b.c