
From: Richard Jeffrey
Sent: 22 November 2010 09:41
To: Mandy Haeburn-Little; Anthony Rush
Subject: angry draft for discussion

Draft letter to CEO of CEC,

Dear Tom,

I understand we were to have met today but diaries had to be changed. I would welcome an urgent meeting to discuss developments last week and the way forward.

As you know, when I took on this role the project was already mired in controversy and disputes. As you also know I believe that many of the issues we are dealing with have been baked into this project from the very beginning, the bulk of which were explained in my presentation to Sue Bruce (attended by Dave Anderson and Donald McGougan) on 5th November. For the record, I believe some of these issues are also the direct responsibility of tie and the management of the organisation at the time, so I am not suggesting that tie has no fault here.

I have adopted a strategy (which has evolved over time) guided by the board (which is well attended by both CEC officials and Councillors), and where possible tried to take into account the views of CEC officials and councillors expressed to me outside of the formal board meetings. I accept that this strategy has not produced the desired breakthrough on the project, but still believe it was right that we adopted the approach that we did as the alternatives would, in my view and that of the board, have produced even less desirable outcomes. In principle, I have been guided by the view that we will not be held to ransom and agree payments to BSC where we do not believe these are justified.

Last week things moved very quickly, with the public call for mediation, then the mounting political pressure to enter mediation followed by our board meeting on Wednesday and the council meeting on Thursday. I have always believed that an agreed way forward (rather than litigation) between tie and BSC offers the best hope for the project. Indeed I have discussed the concept of a 'mature divorce' with the Chairman of the consortium and others on many occasions in the past. I also believe that any final agreement will be determined in part by the relative strengths of the parties on entering any process to reach that agreement. It is my view that, because of the strategy we have adopted, we are in a much stronger contractual position now than we have been at any time in the last 12 months. I also accept that we are not in a stronger political position. Personally I am not certain that we are in a stronger contractual position now than we would be in a few weeks time, however I can see there is now a momentum behind entering a mediation process now, and this was what persuaded the board to reach the conclusion it did on Wednesday.

I explained to you in my note of Wednesday evening my concerns over the proposed emergency motion. Thursday and Friday last week were very difficult days for me and the team here. The emergency motion caused much confusion in the press, and in my team, created unnecessary press coverage, led to accusation from a councillor member of my board that I had misled them, and I am sure will have been to the delight of BSC, I also don't believe that the motion has contributed in any way to reaching a better conclusion.

I am also very concerned by the last paragraph of Nick Smith's e-mail '*I am not aware that Tom and the other senior officers have decided what strategy to adopt re both the mediation and/or the BSC/CEC meeting.*' This would seem to imply that CEC expect to direct the strategy for any mediation. We need to be absolutely clear on roles and responsibilities going forward. If CEC wish to take control of the project, or any aspect of it, then I would like this to be formally communicated to me and the board. If we do enter mediation the tactics and approach will be of critical importance, and we need to be clear who is leading this process. I am sure BSC will be very keen that CEC lead the process, and I am sure this is because they think they will get a better settlement than if tie lead the process. I am also sure that they will adopt tactics of divide and rule, and argue that tie is intransigent and inflexible, and that this is blocking and possible deal.

I believe that one of the factors that created some of the issues we now face were caused by working to a political timetable, and I am concerned that we are in danger of making the same mistakes yet again.

I have always been guided by the need to protect the public purse, and have adopted the approach that we will not be pressurised into agreeing things we do not think justifiable, sometimes this means resisting the desire to react to political or media pressure. The same principle will apply to any mediation, and in the end there may need to be a judgement on a financial settlement of the current impasse which goes beyond the pure commercial and contractual issues.

Of course, any major decisions affecting the future of the project are reserved to CEC, and that is why at the board on Wednesday I suggested CEC be involved in any mediation, but to avoid any confusion I think we need to clarify how we proceed from here.

Regards

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