
From: Mandy Haeburn-Little
Sent: 09 November 2010 14:16
To: Anthony Rush
Subject: RE: urgent Board update

Too late tony – we all agreed it including our QC who witnessed how they responded

From: Anthony Rush [mailto:rush_aj@cqm.co.uk]
Sent: 09 November 2010 14:09
To: Mandy Haeburn-Little
Cc: Richard Jeffrey
Subject: RE: urgent Board update

Mandy

Please don't issue your press statement. I know you may be frustrated and angry but for David's sake as well as tie's can I suggest a more dignified (and less defamatory) statement?

Tony

“Contrary to what may be reported by Bilfinger Berger after the Court Hearing this morning, it is they who withdrew their suit against our past-Chairman without any undertaken being given by him. It can be seen that the assertions made by Bilfinger Berger to Councillors and to the press were entirely without foundation and that David Mckay was merely expressing the frustration he has had to deal with over the past two years. We at **tie** are sorry to lose him.

Under his strong leadership tie has consistently sought to protect the public purse on this project and will continue to do so. Our priority (on behalf of the people of Edinburgh) is to gain certainty on design and cost and the frustration that everyone shares about these two aspects has been well rehearsed in the public domain. As long ago as last August, following exhaustive negotiations, we put forward a compromise agreement which would have achieved these aims. Sadly this was not agreed by the three consortium members and since then, despite rigorous and prolonged discussions these two core issues have not been agreed.

It is well known that we do not play out the contract in the press by responding to what the contractor says, but we will clarify the recent reports that tie have refused mediation. It is a matter of fact the tie have encouraged and have engaged in mediation in a number of matters. We can categorically say that there is no mediation proposal on the table which we have refused.

The board has a clear strategy in place and will continue to pursue that. David's departure makes no difference to that fact. Today's Court of Session hearing does not have a bearing on what we decide to do in the future and we will not be making any further comment.”

From: Mandy Haeburn-Little [mailto:Mandy.Haeburn-Little@tie.ltd.uk]
Sent: 09 November 2010 13:42
To: rush_aj@cqm.co.uk
Subject: FW: urgent Board update

From: Mandy Haeburn-Little
Sent: 09 November 2010 13:33
To: Ailie Wilson; Alan Coyle - CEC; Alasdair Sim; Alastair Richards; Allan Jackson; Andy Conway - CEC; Bill Campbell; Bob Cummins; Brian Cox; Carol Perkins; Craig, Ian; Dave Anderson; David Mackay; Dennis Murray; Donald McGougan; Donna Rodger; Dorothy Gray; Frank McFadden; Gill Lindsay; Gordon Mackenzie; Graeme Bissett; Gregor

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Roberts; Ian Coupar; Ian Perry; Kenneth Hogg; Maggie Chapman; Mandy Haeburn-Little; Marshall Poulton; Neil Strachan; Peter Strachan; Phil Wheeler; Richard Jeffrey; Sheena Raeburn; Steven Bell; Stewart McGarrity; Susan Clark; Tom Buchanan

Subject: urgent Board update

Internal Communication

Sent on behalf of Mandy Haeburn-Little:

Dear colleagues

You may have seen some of the press reaction at the weekend suggesting that Bilfinger Berger were considering legal action against David Mackay largely around the use of the term “delinquent” which he used to describe their behaviour in the Scotsman.

Yesterday we learned that they had indeed served a summons which would be heard this morning in the court of sessions. We had plans in place for this and were happy to defend our actions on the basis that at no time did David imply, introduce or allege criminality. This was introduced by Bilfinger Berger.

We were successful in our very robust defence and we will be seeking costs.

Unbelievably BB have since issued a press statement claiming that David Mackay has backed down – this is totally incorrect . We will be countering this publicly and the press statement that we are issuing is copied below

Statement

This morning’s activity and the subsequent statement issued by Bilfinger Berger is nothing less than farcical. It beggars belief. BB’s press release is a deliberate misrepresentation of what actually happened in court and we reject it completely.

- David Mackay has not withdrawn any element of his statement and stands by every word that he said.
- At no time did David Mackay imply, make any allegations of, or introduce the subject of, criminality . The issue of criminality was introduced by BB, we do not understand why.
- It was clear from David Mackay’s statement what he was intending through his remarks and the use of the word delinquent.
- David Mackay has given no assurances about future comment.

Here is a company who made a premeditated and very personal attack on David Mackay, relaying this attack widely to press and media and unbelievably also writing to many councillors through an open circular. When faced with our robust legal defence, they not only sought to back down, they actively tried to distance themselves from defending their challenge in open court. We are concerned about the gulf between the press statements and the facts as presented by BB.

Edinburgh Trams have consistently sought to protect the public purse on this project and will continue to do so. The last few days have been a waste of time, a waste of public resources and a waste of effort and we will be pursuing BB to recover the costs we have incurred in defending this action.

Please ring me if you need anything

Mandy

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