

Committee Minutes

The City of Edinburgh Council

Year 2011/2012

Meeting 4 – Thursday, 2 September 2011

Edinburgh, 2 September 2011 – At a special meeting of The City of Edinburgh Council.

Present:-

LORD PROVOST

The Right Honourable George Grubb

COUNCILLORS

Elaine Aitken
Ewan Aitken
Robert C Aldridge
Jeremy R Balfour
Eric Barry
Angela Blacklock
Mike Bridgman
Deidre Brock
Tom Buchanan
Steve Burgess
Andrew Burns
Ronald Cairns
Steve Cardownie
Maggie Chapman
Maureen M Child
Joanna Coleman
Bill Cook
Jennifer A Dawe
Cammy Day
Charles Dundas
Paul G Edie
Nick Elliott-Cannon
Paul Godzik
Norma Hart
Ricky Henderson
Lesley Hinds
Allan G Jackson

Alison Johnstone
Colin Keir
Louise Lang
Jim Lowrie
Gordon Mackenzie
Marilyne A MacLaren
Mark McInnes
Stuart Roy McIvor
Tim McKay
Eric Milligan
Elaine Morris
Joanna Mowat
Rob Munn
Gordon J Munro
Alastair Paisley
Gary Peacock
Ian Perry
Alasdair Rankin
Cameron Rose
Jason G Rust
Conor Snowden
Marjorie Thomas
Stefan Tymkewycz
Phil Wheeler
Iain Whyte
Donald Wilson
Norrie Work

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1 **Edinburgh Tram Project**

A Special Meeting of the Council had been called by the Lord Provost under Standing Order 6 to consider this item of business.

The Lord Provost ruled, in terms of Standing Order 22, that there had been a material change of circumstances since the Council had last considered the Edinburgh Tram Project on 25 August 2011. This related to further information about the financial implications for the Council of terminating the tram line at Haymarket. Notice of the proposed change had been given in the summons to the meeting.

The Lord Provost ruled that the following item, notice of which had been given at the start of the meeting, be considered as a matter of urgency in order that it be considered timeously.

(a) Deputations

The Council agreed to hear the following deputations:

Moray Feu Residents' Association – The deputation said that main arterial traffic routes in Edinburgh had not changed for over 100 years. However, from 1990 onwards traffic had been displaced through residential areas through the introduction of traffic management schemes. The Council's decision today on the tram route would cause further traffic displacement into residential streets. A study in 2003 had concluded that the air quality for over 130,000 households would be worse as a result of the tram scheme. Environmental impacts had not been re-appraised since then.

The deputation said that the best data on air quality should be made available now and urged the Council:

- to think again about the design of the tram
- to carry out a re-appraisal of the environmental impact of traffic displacement caused by the proposed tram route
- to ensure that the impact of pollution on city residents was factored into any decision on the route.

(Reference – e-mail dated 30 August 2011, submitted.)

Unite the Union – The deputation referred to the Council's decision on 25 August 2011 to end the tram line at Haymarket and the events which had led to today's meeting. They said there were no good options for the people of Edinburgh and Lothian Buses. They were concerned about the threat of privatisation to the company should the Council extend the route to St Andrew Square. They urged the Council to consider the disruption

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this would cause to the city and the potential damage and cost to Lothian Buses when making their decision.

(Reference – e-mail dated 31 August 2011, submitted.)

(b) Report by the Chief Executive

An update was provided on critical developments relating to the Edinburgh Tram Project which would have a material effect on the Council's decision of 25 August 2011 to build the tram route from the airport to Haymarket as phase one of a longer term, strategic plan. Recommendations were made about the future delivery of the project.

The Chief Executive's recommendations were detailed in paragraph 14(i)-(xi) of her report, as follows:

"14 That Council:

- (i) agrees that the option to build from the Airport to St Andrew Square/York Place as set out in the 30 June 2011 Council report be pursued;
- (ii) agrees to fund the borrowing required out of current and future resources as set out in the funding proposals in the 25 August 2011 Council report, but to allow the Council flexibility to adopt alternative sources if considered appropriate by the Chief Executive after consultation with Group Leaders;
- (iii) agrees that the Council's prudential funding limits be increased to take account of the funding proposals;
- (iv) authorises the Chief Executive to enter into a Settlement Agreement on an unconditional basis as to funding, but otherwise substantially on the terms of the settlement summary in the confidential appendix to the 30 June 2011 Council report, with such amendments as may be considered appropriate;
- (v) notes the risks referred to in the 25 August 2011 Council report;
- (vi) continues and accelerates preparations for tram operations in consultation with Lothian Buses;
- (vii) notes the appointment of Turner & Townsend as set out in the 25 August 2011 Council report;

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- (viii) notes that the Council will continue dialogue with the Scottish Government on a further contribution to the tram project and policy changes which could provide additional revenue resources to the Council;
- (ix) notes the works to be undertaken as part of a refreshed 'Open for Business' programme and agrees to additional revenue funds being made available, equivalent to £445,000 per annum for 2011/12 and 2012/13 to support this programme;
- (x) agrees the augmented governance arrangements set out in paragraph 9 of the report; and
- (xi) notes the traffic management and related logistical works that will be associated with the Princes Street Works."

Motion

- 1) To agree that the report by the Chief Executive presented for decision today contained material changes of circumstances to the Tram Project since the decision of the Council meeting of 25 August 2011.
- 2) Council was pleased to be able to provide additional revenue funds equivalent to £445k per annum from 2011 to 2013 for the Open for Business Programme.
- 3) To agree the recommendations by the Chief Executive, taking trams to St Andrew Square in the first instance, subject to:
 - the insertion of the following at the end of recommendation 14(v):

"and instructs the Chief Executive to continue to pursue further mitigation of risk prior to settlement and beyond."
 - the insertion of the following at the end of recommendation 14(vi):

"and ensure that these are consistent with commitments previously given in respect of service provision and fares."
 - the insertion of the following additional recommendation:

*"14(xii) ratifies Dave Anderson, Director of City Development, and Karen Kelly, Acting Director of Finance and Chief Finance Officer, as Directors of **tie**."*

- moved by Councillor Gordon Mackenzie, seconded by Councillor Dawe (on behalf of the Liberal Democrat Group).

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Amendment 1

- 1) **To agree** that the report by the Chief Executive presented for decision today contained a material change of circumstances since the 25 August 2011 Tram Report.
- 2) **To note** that following the 2007 vote in the Scottish Parliament in support of the Tram Project, the SNP Government instructed Transport Scotland to cease involvement with the then Tram Project Board. A project which at that point had incurred expenditure of just £44m and had received the backing of Audit Scotland, who described the project as having “clearly defined project management and organisation” with “sound financial management and reporting”.
- 3) **Therefore, to express** surprise but to welcome the SNP Scottish Government’s apparent belated commitment – via Transport Scotland – to support Edinburgh’s Tram project.
- 4) **To further note** however the Scottish Government’s decision to withhold the final project grant payment and to regard this as a belated and aggressive tactic which forced the Council into an intolerable level of risk and financial commitment.
- 5) **To accept, though,** that to reject this thinly veiled ultimatum, to take the trams to St Andrew Square, would be likely to lead to the cancellation of the project.
- 6) **To also note** that to agree to the SNP Scottish Government’s thinly veiled ultimatum, to take the trams to St Andrew Square, meant the Council would need to borrow at least £231million. This would increase current Council debt to an unprecedented level of some £1.5billion, with a specific cost to the revenue budget of at least £15.3million every year for 30 years.
- 7) **Further, to note** that the report to the last Council meeting stated that the final cost of building the tram line from Airport to St Andrew Square could not be guaranteed, and that there was therefore considerable concern about the potential impact on Lothian Buses’ budgetary position and their ability to maintain existing service levels.
- 8) **Thus to remain** greatly concerned that the actions proposed by the SNP Government would be likely to further increase the Council’s overall debt and lead to an ongoing reduction in services.

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9) **Therefore to agree:**

- to accept the Scottish Government's ultimatum to go to St Andrew Square;
- that if the Scottish Government wanted the City of Edinburgh Council to take the tram line to St Andrew Square, it should provide the additionally required funding;
- to use prudential borrowing to fund any currently required expenditure, but to further investigate alternative funding models, which could alleviate the pressure on the Council budget, and report such back to the Council before the completion of the initial Airport to Haymarket section;
- to request that the Council officers responsible for overseeing the delivery of the trams, along with representatives of the contractors, routinely attend the "All Parties Oversight Group" and the "Audit Committee" to report on overall project progress (thus accepting recommendation 14(x) on page 4 of the Chief Executive's report).

10) **Finally to note** that there were ongoing and significant concerns within Edinburgh's business community about the specific issues of: rates relief; general business support; and potential compensation.

11) **Thus finally to instruct** the Chief Executive to bring a separate report on the issues referred to in paragraph 10 above to the next meeting of the Policy and Strategy Committee on 4 October 2011.

- moved by Councillor Hinds, seconded by Councillor Burns (on behalf of the Labour Group).

Amendment 2

- 1) To note that the SNP has on several occasions tabled amendments calling for the Tram Project to be scrapped and one calling for a city-wide referendum all of which were defeated by the other groups on the Council.
- 2) To note that the cost of cancellation notified to the Council is £161m which would entail massive budget cuts which would have a dramatic effect on the citizens of Edinburgh.
- 3) That the option of terminating the line at Haymarket is fundamentally flawed as the information provided details that this line would incur an operating loss of between £3.1m and £4m per annum.

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- 4) To note the action of the Labour and Conservative Groups in supporting an amendment which called for such termination at Haymarket and recognises the politicking which led to this unsatisfactory decision.
- 5) To note that the people of this city have had to endure years of disruption and at least deserve a tram line that reaches the city centre.
- 6) To note that all major parties in the Scottish Parliament stated during their respective 2011 Election campaign that they would not provide any additional monies for this project.
- 7) To accept that the safest method of protecting the long term financial future of Lothian Buses is to extend the line beyond Haymarket thereby reducing the risk of annual subsidy having to be provided for the tram line.
- 8) To note the abject failure of the Non-Executive Directors appointed to TIE to provide stringent governance to this project.
- 9) Taking all the above circumstances into account, to agree that the Haymarket option is not financially viable and has been roundly ridiculed in the media after the Council decision of last week.
- 10) Given all the circumstances detailed above, to agree that the people of this city at least deserve a tram line from the Airport beyond Haymarket to St Andrew Square.
- 11) To accept all of the report's recommendations, with the addition at the end of recommendation 14(ii) "and subject to ratification by the Finance and Resources Committee".

- moved by Councillor Cardownie, seconded by Councillor Elliott-Cannon (on behalf of the SNP Group).

Amendment 3

- 1) To note as a matter of public record that the Conservative Group had consistently sought to ensure best value for the taxpayer by requesting greater public scrutiny of the financial aspects of this project and more robust governance arrangements through the Council.
- 2) To note with concern the increased contribution anticipated from the Tram operator and its implication for Lothian Buses' future viability.

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- 3) To note that the many uncertainties identified in the report included the Scottish Government's position on the extension of concessionary travel to the Edinburgh Tram Project.
- 4) Accordingly, to instruct the Chief Executive:
 - a) to negotiate a binding cost for termination of the existing contractual arrangements; and
 - b) to conclude negotiations with the Scottish Government over application of the concessionary travel scheme and other government related funding mechanisms referenced in the report; and
 - c) to develop an alternative funding package for any future tram line construction following termination of the current contractual arrangements.
- 5) To note that the roles within the proposed new governance structure were not described in detail and to agree neither the new structure nor the appointment of Turner & Townsend until that detail had been reported and agreed.
- 6) To note the works proposed within the refreshed 'Open for Business' programme.

- moved by Councillor Balfour, seconded by Councillor Jackson (on behalf of the Conservative Group).

Amendment 4

- 1) To reaffirm support for a fully integrated, publicly owned public transport system for the capital city of Scotland.
- 2) To understand that, although the decision of a majority of councillors on 25 August was for a tram line from Airport to Haymarket only, a letter from Transport Scotland refusing further payment for this line was a material change in circumstances and effectively made this decision financially unviable.
- 3) To understand that cancellation of the tram project was likely to cost at least £161m in compensation to contractors over a short period, which was likely to devastate Council finances requiring very large increases in Council tax and/or sale of council assets and/or significant withdrawal of Council services and redundancies.

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- 4) To understand that in contrast to cancellation, continuing with a line from Airport to St Andrew Square could be financed through prudential borrowing which would require payments of up to £15m over 30 years, however to regret the possible impact on delivery of other Council services in future.
- 5) To recognise that utility diversions had been a main cause of escalating cost and to recognise previous calls by Green Councillors for further work to reduce risk and uncertainty of cost; however also to note the likelihood of punitive legal action by contractors should scope and funding not be in place by today, 2 September.
- 6) To express concern that there were still risks and no maximum cost for the line to St. Andrew Square and furthermore a lack of contingency in case the project went even further over budget than current risk estimates allowed; however to conclude that there was presently no prudent alternative other than to authorise proceeding with the line to St Andrew Square and therefore to agree recommendations 14(i)-(iv) by the Chief Executive on the understanding that approval was for funding of up to £776m and to notes recommendations 14(v)-(xi).
- 7) To request the Chief Executive to actively investigate alternative funding mechanisms to contribute towards payment for the project including a tourist 'bed-tax' as operated in other cities and to actively pursue actions to drive down costs in order to keep the project within the proposed new budget and report on these to Council.
- 8) To welcome the extension of funding to support businesses along the tram route but to call for a further report, within two cycles, exploring the role of the planned redevelopment of Princes Street and other potential incentive schemes and initiatives to support the city centre's business and residential communities.
- 9) To acknowledge the concerns of various groups about air quality issues in different areas of the city and to agree to monitor and take action to mitigate the negative impacts of increasing traffic and report on these regularly to the Transport, Infrastructure and Environment Committee.
- 10) To restate the call for a public inquiry, in line with the Green amendment of 30 June 2011, into what caused cost overrun and delays in delivering the project.

- moved by Councillor Burgess, seconded by Councillor Johnstone (on behalf of the Green Group).

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Voting

In terms of Standing Order 31(1), the vote was taken by calling the roll.

First Vote

In a first vote between the motion and the amendments, the voting was as follows:

For the motion:

Lord Provost Grubb; Councillors Aldridge, Coleman, Dawe, Dundas, Edie, Lang, Lowrie, Gordon Mackenzie, MacLaren, McKay, Peacock, Snowden, Thomas and Wheeler – 15 votes

For amendment 1:

Councillors Ewan Aitken, Barry, Blacklock, Burns, Child, Cook, Day, Godzik, Hart, Henderson, Hinds, Milligan, Munro, Perry and Wilson – 15 votes

For amendment 2:

Councillors Bridgman, Brock, Buchanan, Cairns, Cardownie, Elliott-Cannon, Keir, McIvor, Morris, Munn, Rankin, Tymkewycz and Work – 13 votes

For amendment 3:

Councillors Elaine Aitken, Balfour, Jackson, McInnes, Mowat, Paisley, Rose, Rust and Whyte – 9 votes

For amendment 4:

Councillors Burgess, Chapman and Johnstone – 3 votes

Second Vote

As there was no overall majority, amendment 4 which had received the fewest votes fell and, in a second vote, the voting between the motion and amendments 1, 2 and 3 was as follows:

For the motion:

Lord Provost Grubb; Councillors Aldridge, Coleman, Dawe, Dundas, Edie, Lang, Lowrie, Gordon Mackenzie, MacLaren, McKay, Peacock, Snowden, Thomas and Wheeler – 15 votes

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For amendment 1:

Councillors Ewan Aitken, Barry, Blacklock, Burns, Child, Cook, Day, Godzik, Hart, Henderson, Hinds, Milligan, Munro, Perry and Wilson – 15 votes

For amendment 2:

Councillors Bridgman, Brock, Buchanan, Cairns, Cardownie, Elliott-Cannon, Keir, Mclvor, Morris, Munn, Rankin, Tymkewycz and Work – 13 votes

For amendment 3:

Councillors Elaine Aitken, Balfour, Jackson, McInnes, Mowat, Paisley, Rose, Rust and Whyte – 9 votes

Not voting – Councillors Burgess, Chapman and Johnstone – 3

Third Vote

As there was no overall majority, amendment 3 which had received the fewest votes fell and, in a third vote, the voting between the motion and amendments 1 and 2 was as follows:

For the motion:

Lord Provost Grubb, Councillors Aldridge, Coleman, Dawe, Dundas, Edie, Lang, Lowrie, Gordon Mackenzie, MacLaren, McKay, Peacock, Snowden, Thomas and Wheeler – 15 votes

For amendment 1:

Councillors Ewan Aitken, Barry, Blacklock, Burns, Child, Cook, Day, Godzik, Hart, Henderson, Hinds, Milligan, Munro, Perry and Wilson – 15 votes

For amendment 2:

Councillors Bridgman, Brock, Buchanan, Cairns, Cardownie, Elliott-Cannon, Keir, Mclvor, Morris, Munn, Rankin, Tymkewycz and Work – 13 votes

Not voting – Councillors Elaine Aitken, Balfour, Burgess, Chapman, Jackson, Johnstone, McInnes, Mowat, Paisley, Rose, Rust and Whyte – 12

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Fourth Vote

As there was no overall majority, amendment 2 which had received the fewest votes fell and, in a fourth vote, the voting between the motion and amendment 1 was as follows:

For the motion:

Lord Provost Grubb; Councillors Aldridge, Bridgman, Brock, Buchanan, Cairns, Cardownie, Coleman, Dawe, Dundas, Edie, Elliott-Cannon, Keir, Lang, Lowrie, Gordon Mackenzie, MacLaren, McIvor, McKay, Morris, Munn, Peacock, Rankin, Snowden, Thomas, Tymkewycz, Wheeler and Work – 28 votes

For amendment 1:

Councillors Ewan Aitken, Barry, Blacklock, Burns, Child, Cook, Day, Godzik, Hart, Henderson, Hinds, Milligan, Munro, Perry and Wilson – 15 votes

Not voting – Councillors Elaine Aitken, Balfour, Burgess, Chapman, Jackson, Johnstone, McInnes, Mowat, Paisley, Rose, Rust and Whyte – 12

Decision

To approve the motion by Councillor Gordon Mackenzie.

(References – Act of Council No 3 of 25 August 2011; report no CEC/41/11-12/CE by the Chief Executive, submitted.)

Declaration of Interests

Councillors Gordon Mackenzie and Wheeler declared a non-financial interest in the above item as Board members of **tie** and TEL.

2 Appointment of Director of Corporate Governance.

The Lord Provost ruled that the following item, notice of which had been given at the start of the meeting, be considered as a matter of urgency in order that it be considered timeously.

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Decision

To appoint Alastair Maclean to the post of Director of Corporate Governance, subject to any necessary pre-employment checks relevant to the post.

(References – Act of Council No 2 of 30 June 2011; report no CEC/42/11-12/CE by the Chief Executive, submitted.)