

ADDITIONAL STATEMENT BY DAVID HARVIE IN SUPPORT OF PETITION 896 TO THE LOCAL GOVERNMENT AND TRANSPORT COMMITTEE FOLLOWING THE HEARING ON TUESDAY 14th NOVEMBER 2006.

We consider it vital that local authorities are held to be much more publicly accountable and responsive to public opinion in matters of Common Good assets and Listed Buildings.

MAIN ISSUES:

- IDENTIFICATION OF ASSETS
- PROTECTION OF ASSETS
- OBLIGATIONS ON COUNCILS
- PUBLIC PARTICIPATION IN DECISION-MAKING
- PUBLIC ACCESS

Although the first point is not part of Petition 896, it is a logical precursor of the remaining points; in the sense that the three petitioners do not regard themselves as being in competition, and as the committee is considering the three Petitions together, I assume that there is general agreement that the above issues are not in any way contradictory.

We are especially concerned with the issue of public participation in decision-making. Clearly, councils are empowered to take decisions on behalf of the community as a whole, and it would be unreasonable to demand increasing layers of public participation in all aspects of decision-making. However, with respect to Common Good assets, there is a clear and unusual public interest (albeit presently ill-defined), and we deplore the lack of any obligation on councils to involve the public in decisions relating particularly to any proposed disposal. The only obligation upon them under the 1994 Act (as Terry Levintahl, Director of the Scottish Civic Trust, noted in his letter of support dated 9th January 2006) is so vague as to be meaningless.

At present, the community may only discover such intentions by accident and may further discover that the **only opportunity to object** involves becoming party to legal action in a Sheriff Court or the Court of Session. Such situations inevitably place individual members of the community under considerable stress and at **severe financial risk**, since local authorities will always seek to recoup costs

against objectors who lose in court. A common outcome of such a situation is the withdrawal of the objections in the face of such unacceptable pressures. This is a wholly unacceptable and inequitable situation - **these are not issues of private gain but of public benefit.**

We consider that similar obligations should be placed on local authorities with regard to listed buildings in their ownership. While there may be no Common Good issue - although who can really be sure . . . ? - buildings claimed not to be in the common good account may stand on land which is (or should be). The entire system appears to be almost casual in its operation and subject to different interpretation from authority to authority.

Buildings or other structures that have been 'listed' by Historic Scotland have, **by definition**, already been assessed as being of either local or national importance in respect of their historic or architectural merit. It should be no easy matter, nor should there be any 'back-door' procedure, for a local authority to dispose of such heritage structures without satisfying a clearly defined process which should involve the local community and probably Historic Scotland. Even when disposal may be agreed, public access ought to form part of any disposal negotiation.

On the face of it, the vital issues can be expressed in relatively simple terms. But it appears that there may be two critical questions of a legal nature which we are not qualified to attempt to define - 1) what is 'the public interest' (and, in the present context) should its definition necessarily be at the discretion of individual local authorities?),

and 2) what is the meaning of the term 'public ownership'?

We believe that the discussion of these issues by the Director of the Scottish Civic Trust in his letter to the Public Petitions Committee of 9th January 2006 gives exemplary guidance, which we urge the committee to accept and build upon.

We believe that the egalitarian principle of assets being held 'for the benefit of the community' is one that has been allowed to wither on the vine. This is a fine principle that, were it to be readopted and supported with vigour, would return rights of involvement to the community and result in a more sustainable economic, cultural and social environment for all of Scotland's communities.

David Harvie

On behalf of West Dunbartonshire Heritage Ltd, 15th November 2006