

Information request 384801 [Communications with Council Officials]

I am quite content for this email to be released if that is the decision of CEC.

best wishes

Andy

To Mr Andy Wightman,

Our RfI Ref: 384801/SD.32/RLW

Date 15 May 2012

Dear Mr Wightman

Freedom of Information (Scotland) Act 2002 – Request for Information  
Subject : Communications with Council Officials

The City Council has received an Information Request which seeks the supply of certain e-mail's /letters to/from the following Council Officials - From 1st March 2012 - and 18th April 2012.

OFFICIALS ARE:

SUE BRUCE  
BILLY MACINTYRE  
TINA SUTHERLAND  
ALISTAIR MCLEAN.

8 E-mail exchanges have been identified, and one of these forwards a communication between yourself and a Mr Watters, as set out below. That particular communication led to a press release and then an article on TV and in at least one newspaper in which you appear to have been interviewed and photographed. (Item Published on Tuesday 10 April 2012 11:50, <http://www.scotsman.com/edinburgh-evening-news/land-expert-slams-nonsense-of-portobello-high-argument-1-2225612>)

Whilst it will be the Council's decision as to how it responds to this request, your views are being sought and will be taken into account when deciding what material is put into the public domain when responding to the request.

If you have any queries I may be contacted on.... Please remember to quote the RFI reference number above in any future communication.

Yours sincerely,

FoI Ref 367877-4615  
COMMON GOOD 18 June 2009

Dear Mr Wightman

I refer to your email request, seeking information on the Common Good assets of the former Burghs of Edinburgh and Queensferry.

As requested, I have attached the list of properties which supports the value of fixed assets in the un-audited Common Accounts for the year ended 31 March 2009. The major change from last year is the transfer of Portobello Park and Inch Park to Common Good.

Following your report on Common Good in April 2006 the Council agreed to undertake a strategic review of the Common Good arrangements and this was reported to the Council in June and September 2008. Research into the issues raised in your report resulted in six properties being transferred to the Common Good Account in 2007/08 Financial Year.

In June 2008 the Finance and Resources Committee accepted the recommendation that a full detailed review of the Title Deeds in the remainder of the Council's property portfolio, which runs into approx. 4500 entries and thousands more deeds themselves, to confirm whether or not any further Common Good property could be identified could not be justified in view of the cost implications. The cost of providing dedicated staff to carry out this exercise has been estimated at well into six figures spread over a number of years and it was agreed that a review of Common Good status would only be undertaken when there was a proposed change of use or proposed disposal of a property.

There was a further report in September 2008 to the Finance and Resources Committee. This report detailed changes to Standing Orders and Scheme of Delegation to Officers for Common Good. It also confirmed the transfer to Common Good of the 6 properties.

Following the 2007/2008 Audit of the City of Edinburgh Council by Audit Scotland, it was noted that the practice proposed by the Council did not meet with the recent LASAAC guidance note, and suggested that this was an area that the Council needed to consider further. Since then, it has been agreed that a formalisation of the Landlord / Tenant relationship between the Common Good and the Council will be undertaken and that the Council should develop robust arrangements for a more complete asset register of Common Good.

A high level criteria has been agreed to identify potential Common Good properties as the basis of a review of those deeds. The initial criteria adopted is :-

Has the Property at any time been Burgh Property?

Has the Property at any time been used by or for the Public?

Until this process is complete the Corporate Asset Management Group will continue to review the Common Good status for any property during the disposal process or when a change of use is proposed. It should be noted that the Council maintains the Common Good assets as if these were operational property with all maintenance and running costs etc. coming from the relevant Departmental Budget. Had these costs been charged against Common Good a deficit of £1 million would have been reported in recent financial years.

With regard to your request for a detailed list of non property Common Good assets, I can confirm that there are no Common Good assets identified under this category. Note 19.3 of the Council's Accounts states:-

"The Council has approximately 314,000 works of art and museum exhibits and 800 items of civic regalia".

No value is placed on these in the Council's accounts as they are not held as investments.

A GIS mapping of the assets listed on the un-audited account is being prepared and I will send a copy to you in due course. The format would be for use in ESRI Arcview and trust that this will be acceptable.

I trust this answers your request for information.

If you are not happy with this, or want to complain about the way in which we have handled your application, please write to the Director of Corporate Services, Level 2/7, Waverley Court, 4 East Market Street, Edinburgh EH8 8BG.

If, after you have received a reply from the Director of Corporate Services, you remain dissatisfied, you may ask the Scottish Information Commissioner to conduct a review. You can contact him at Scottish Information Commissioner, Kinburn Castle, Doubledkyes Road, St Andrews, Fife, KY16 8DS. Phone 01334 464 610, Fax: 01334 464 611, E-mail: [enquiries@itspublicknowledge.info](mailto:enquiries@itspublicknowledge.info).

Yours sincerely

Property Management and Development Manager

Freedom of Information (Scotland) Act 2002

Common Good Assets

Please could you provide me with details of all heritable and moveable assets forming part of the Common Good Funds of the following 2 burghs as at 31 March 2009.

Edinburgh  
Queensferry

For heritable property could you please provide a list giving the address, a brief description and the latest valuation.

For moveable property could you please provide a list giving a brief description, location of the asset and latest valuation.

If information on heritable property is held in the form of a map I would be grateful for a copy. If electronic files are held on a Geographic Information System, I would be grateful for a copy of this data in shapefile or similar format and there would be no need to provide a paper map.

If you have any queries about this request, please do not hesitate to contact me.

Thank you.

Yours faithfully,

Andy Wightman

Request for Information 1-25617731 received 8 February 2006

Received: 10 February 2006 17:33

From: Andy Wightman

Dear Mr,

Re: East Market Street/Cranston Street

Thank you for your helpful response.

I did manage to locate the Minutes of the Council Meeting of 14 Nov 2002 on the CEC website but the Reports that are put before the Council do not seem to be available on the website before May 2003. All that appears to be available are the agendas and minutes. I searched using CEC/115/02-03/CD but found nothing. I also searched using the title of the report. Perhaps you could provide me with a weblink.

I am asking these questions because in a response I received from the Solicitors Office in July 2005 in which were listed all the properties held in the Common Good Account, the East Market Street/Cranston Street site did not appear.

I also do not see the proceeds of the sale of comon good properties appearing in the Common Good accounts. For example, in Report No. CEC/15/04-05/CD Agenda Item 8.16(b) of Council Meeting of 24 June 2004, it is reported that 7 Merchiston Park (Common Good) has been sold together with other properties. The sale of Merchiston Park yielded a receipt to the Council of £980,525 and yet I do not see this reflected in the Common Accounts for the year ended 31 March 2005 where the balance of the Fund rises by a mere £26,000.

I understand that this may be because (as confirmed in the 24 June 2004 report) all receipts are being used to offset the ROA project. However, this should be reflected in the Common Good accounts and a decision needs to be made that this is an appropriate use of the Common Good Fund. If such receipts are being used to defray the costs of the new HQ building (as Decision 10 in the Council Minutes of 14 November 2002 state, I question the propriety of this since the new HQ will not be an asset of the Common Good - indeed it will not even be an asset of CEC since it is owned by a private third party.

**I hope you can help to clarify these points further.**

Thank you.

Andy Wightman

On Friday, February 10, 2006, at 04:04 pm, wrote:

> Dear Mr Wightman,

>

> In response to your email enquiry of 8 Feb 06 I comment as follows:-

>

> FIRST

> The Council has always been aware that the former garage/depot on East Market St is on Common Good Account and accordingly as per my letter of 1 Feb 06 the apportionment of the sale proceeds will be credited to the Common Good Fund. The arrangements for this will simply involve an internal accounting once the receipt for the whole subjects has been received.

> SECOND

> The Council has been made fully aware of Common Good issues and in this regard I refer you to the Report to Council dated 17 Oct 02 entitled Rationalisation of Office Accommodation - Progress Report (par 3.32 under sub heading 'Common Good Account') which as I have previously indicated to you is freely accessible on the Councils website.

>

> Yours sincerely

>

> ----- Original Message -----

> From: "Andy Wightman" <k>

> To: <[@edinburgh.gov.uk](mailto:@edinburgh.gov.uk)>

> Sent: Wednesday, February 08, 2006 2:33 PM

> Subject: East Market Street/Cranston Street

>

>

>> Dear Mr,

>>

>> Thank you for your letter of 1 February (Your ref 20151/2/GT/IMD) in connection with my request for information contained in an email to dated 12 January 2006 about the Fit for the Future project and receipts from the sale of land at East Market Street/Cranston Street which may or may not be paid to the Common Good Account.

>>

>> Thank you for your helpful and informative reply.

>>

>> In light of your response to my SECOND question where you say that 35% of sale receipts will be credited to the Common Good Fund, can you tell me

>>

>> FIRST

>> When the decision to make this percentage credit was made and;

>>

>> SECOND

>> Did the fact that part of this parcel of land was held in the common good account form part of the information that the Council had before it when it made the decisions it made under Item 8.11(b) of the Council meeting of 30 June 2005 and Item 8.9(b) of the Council meeting of 17 November 2005 and was the Council aware of this fact?

>>

>> I ask because neither the report CEC/50/05-06/CD (30 June meeting) nor the report CEC/135/05-06/CD (17 November meeting) make any reference to this fact.

>>

>> Many thanks.

>>

>> Yours

>>

>> Andy Wightman

[Redacted]

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**From:** [Redacted] rwrightman [Redacted]  
**Sent:** 24 October 2012 13:42  
**To:** [Redacted]  
**Subject:** Portobello

[Redacted]

Been away on holiday and catching up with Portobello developments.

When you have a moment, might you clarify this for my own personal interest?

Reading the paper for Council, I don't understand 3.3.13

Inner House ruled that CEC has no powers under 1973 Act to appropriate inalienable CG

Moreover, Lanarkshire cases ruled that there is no locus for the courts as 75(2) does not cover appropriation

So what precisely is to be gained by seeking authority from the courts under s.75(2) to appropriate the site?

best wishes

[Redacted]

20/11/2012

[Redacted]

From: Andy Wightman [Redacted]  
Sent: 19 September 2012 14:09  
To: [Redacted]  
Subject: Re: Portobello

Tuesday or Wednesday?

[Redacted]

On 19 Sep 2012, at 13:55 [Redacted] wrote:

[Redacted]

I refer to the above. I wonder if it might be useful for the two of us to meet up and discuss the recent judgement, and matters which have appeared in the press of late.

I'm in and out of meetings the next few days, but perhaps next week?

regards

[Redacted]

Legal, Risk and Compliance | The City of Edinburgh  
Council | Level 3 Waverley Court | 4 East Market Street | EH8 8BG [Redacted]

[Redacted]

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20/11/2012



[redacted]  
From:

Sent: 12 October 2012 23:06

To:

Subject: Re: Private and Confidential

[redacted]

Happy to help. Private & Confidential terms

First question

I have not come across any explicit reason why they should but I was sent some record of the negotiations between Edinburgh & Portobello which I have uploaded to

[http://www.andywrightman.com/edin/porty\\_edin1.JPG](http://www.andywrightman.com/edin/porty_edin1.JPG)

repeat with porty\_edin2.jpg etc all way to 9

You will probably have seen this and more

The letters are discussing the forthcoming merger. I understand that people of Portobello opposed the merger and the Town Council (who supported it) used this unhappiness with the populace to drive a hard bargain. Two of the things they wanted were a park and a public hall (s.75)

I have not read the documents in detail and there will be more material in the archives but it appears from reading between the lines that Portobello were not content with an assurance that new Town Council would stick to its promise and demanded it be incorporated into the statute. Moreover, at some stage they will have negotiated the drafting of the act and probably insisted on "acquire, dedicate and thereafter maintain" so as to ensure Edinburgh stuck to the agreement. That's my reading of the limited material I have.

On the second question, no I have not as far as I can recall come across the rational for the 1933 act but this should all be in the minutes of the council. There should be extensive minutes and letters discussing the proposed statute and why it was deemed necessary.

Best wishes

Andy

[redacted]

On 12 Oct 2012, at 16:30

[redacted] wrote:

Andy

I hope you're well.

I expect you have been following Portobello High School matters with some interest.

20/11/2012

I have a favour to ask, although I fully appreciate you will be busy on other matters, and might not be able to assist anyway, or indeed wish to!

However, as part of our review of the Park's common good classification there are two matters it would be useful to get your view on.

Firstly, have you ever come across the reason why the Edinburgh Extension Act of 1896 included a duty to dedicate the park to public use, and not simply to provide it? Obviously this dedication was then, in essence, replicated in the feu disp to the Council of 1898.

Secondly, we know that the 1896 provisions were repealed by the Edinburgh Corporation Order Confirmation Act 1933, but from your research in the past have you ever come across the reasoning behind the 1933 Act and why it was enacted?

We're conducting our own research anyway, but your thoughts would be useful in case you have looked into this previously.

[Redacted]

Regards

[Redacted]

[Redacted]

Interim Legal Manager | Legal, Risk and Compliance | The City of Edinburgh Council | Level 3 Waverley Court | 4 East Market Street | EH8 8BG [Redacted]

[Redacted]

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[Redacted]

**From:** Andy Wightman [Redacted]  
**Sent:** 12 March 2012 15:13  
**To:** [Redacted]  
**Subject:** Re: Waverley Market

Look forward to it.

[Redacted]

On 2 Mar 2012, at 11:34, [Redacted] wrote:

Likewise, I'll look into this and revert.

Regards

[Redacted]

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**From:** Andy Wightman [Redacted]  
**Sent:** 02 March 2012 10:31  
**To:** [Redacted]  
**Subject:** Waverley Market

[Redacted]

Good to meet you yesterday.

I have read the Official Report and note the following comment by Bill Miller

Col 657

Bill Miller: I should clarify that the council still owns the ground on which the shopping centre sits. We are talking about a long ground lease; the shopping centre itself was built by a developer. If the bill as it stands were to be passed, the council would lose ownership of the ground, which would mean that we would have to look at the bill's provisions to find out whether this particular case would be covered and what compensation, if any, would be paid.

As it has transpired, the council leased out the ground but took what is called a grassum—a lump-sum capital payment—in advance of taking annual rental. That commonly happens, but for different reasons. Given that the rental is peanuts and that the compensation mentioned in the bill would be based on that, the money side of things is not so relevant.

Bill stated that the Council leased out the land and took a grassum. We both know a grassum was paid in 1989 when the sub-lease was sold by the Council but I am not aware that a grassum was paid when the ground was leased out in 1982 as Bill Miller states.

Please can you clarify?

best wishes

[Redacted]

20/11/2012



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