
From: Rebecca Andrew
Sent: 08 March 2007 14:13
To: Donald McGougan
Cc: Hugh Dunn
Subject: FW: Draft CEC Financial Contribution Paper

Donald,

Please see attached email from Duncan Fraser.

The way forward that seems to be emerging is that the group chaired by Keith Anderson will look at how section 75s can be optimised.

There will probably also be a need for a group to optimise Capital Receipts as well, although this might be part of the remit of the Council's Corporate Asset Management Group, on which Hugh sits.

There is also the need for monitoring the total £45m contribution and looking at cash flow and borrowing requirements. This will need input from both the Section 75 and Capital Receipts group, as well as information from TIE on expenditure requirements. Finance needs to be involved here.

Regards,

Rebecca

From: duncan fraser [mailto:duncan.fraser@edinburgh.gov.uk]
Sent: 08 March 2007 11:25
To: Graeme Bissett
Cc: Rebecca Andrew; David Cooper; William Miller; Colin MacKenzie; Stephen Sladdin; Alan Squair
Subject: Re: Draft CEC Financial Contribution Paper

The current emerging picture is as follows:-

- set up a Section 75 Group, which reports to the Property and Legal WG, who in turns reports to the TPB
- the terms of reference are to agreed at the first meeting and in principle would demonstrate how the section 75's can be optimise to the satisfaction of both CEC and TS
- invite consultants Michael Greig and Andy Carson or others as appropriate who would support and report to the Section 75 Group, but not be members of the group
- The proposed chair for the Section 75 Group would be Keith Anderson
- Members of the Group to be agreed and could include Stuart McGarety, Graeme Bissett, David Cooper, Alan Square- the intention would be to keep this a small group, however others may be co-opted if necessary
- CEC currently seeking legal advice from the QC with the aspiration of enabling developments built after the tram to be included for section 75 contributions. Also an amendment to the local plan is to be taken to Council, to enable this change in policy to be enacted
- Establish a framework for negotiations- using as a base the Leed's based formulae and developing this further

I am revising an overall paper in the meantime, however this highlights the current thinking on the way forward, which I believe capture the key intent of the group, draws on the extra resources and demonstrated to SE/TS that every effort has been made to maximise the section 75.

I would welcome your comments and how best we report this to the next Board

----- Original Message -----

From: Graeme Bissett
To: 'duncan fraser'
Cc: 'Linda Nicol' ; 'David Cooper' ; 'Keith Anderson'
Sent: Wednesday, March 07, 2007 1:56 PM
Subject: RE: Draft CEC Financial Contribution Paper

Duncan, I'd appreciate knowing where we are going with this following our last discussion. The TPB will be on us again shortly (20/3) and I am conscious that I have not been back in touch with Linda, David and Keith. Hopefully you are all in communication and it is just poor old tie who are out of the loop.

I look forward to hearing from you.

Regards
Graeme

Graeme Bissett

m : [REDACTED]

From: duncan fraser [mailto:duncan.fraser@edinburgh.gov.uk]
Sent: 21 February 2007 15:59
To: Graeme Bissett
Cc: david cooper; Andy Conway; alan squair; Alan Bowen; Colin Mackenzie; Stephen Sladdin; William Miller
Subject: Re: Draft CEC Financial Contribution Paper

Thank you for your response. This is not the decision I would have made on the basis that the comments formed the basis of revising the paper. tie (geof Duke) has been holding meeting proprty meeting with planning, property and legal reps from CEC and others since summer 2006. This raises the question of whither this is the appropriate group to take the section 75 forward or form a new group.

I will discuss this with the various groups and come back to you with a proposal. Finally be assured that the offer of more resources from third parties is welcome, where it enables delivery.

----- Original Message -----

From: Graeme Bissett
To: 'duncan fraser'
Sent: Wednesday, February 21, 2007 1:39 PM
Subject: FW: Draft CEC Financial Contribution Paper

Duncan, this was the basis on which the paper was put forward.

Regards
Graeme

Graeme Bissett

m : [REDACTED]

From: Alan Bowen [mailto:alan.bowen@edinburgh.gov.uk]
Sent: 13 February 2007 15:36
To: Graeme Bissett
Cc: 'duncan fraser'
Subject: Re: Draft CEC Financial Contribution Paper

Indeed Graeme.

We would have no objection to you presenting the material to The Board.

Alan Bowen
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Strategic Services
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City Development Department
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----- Original Message -----

From: Graeme Bissett
To: 'Alan Bowen'
Cc: 'duncan fraser'
Sent: Tuesday, February 13, 2007 2:56 PM
Subject: RE: Draft CEC Financial Contribution Paper

Thanks Alan. It is for CEC to take the view on how it wants to proceed. The group described is intended to help the cause, not take decisions. My concern is that I am now hearing very different views from within CEC about the best way forward. To avoid wasting any more time, I will report back to the Tram Project Board and to the TEL Board (next Tuesday), with Andrew and Donald present so that a view may be taken.

Would you have any objection to your email and attachment being put forward as a paper for those meetings ?

Regards
Graeme

Graeme Bissett

m : [REDACTED]

From: Alan Bowen [<mailto:alan.bowen@edinburgh.gov.uk>]
Sent: 13 February 2007 09:41
To: Bissett, Graeme
Cc: Fraser, Duncan
Subject: Draft CEC Financial Contribution Paper
Importance: High

Graeme

Duncan Fraser is out of the office for the next few days and has asked me to forward CEC's comments on your draft *CEC Financial Contribution* paper.

I've attached comments from our Property Management team and comments from the Planning and Legal teams are listed below:

Planning

Planning accept the need to maximise developer contributions and to ensure the other elements making up the CEC £45 million commitment are also delivered.

While it is useful to have a group that can report to the Tram Project Board and with the ability to pull in extra resources, it must be made clear that this group does not have any decision making powers, and that the statutory functions and duties of the Council must be fully respected. For this reason the terms of reference for this group must take into account the above and the group has to be lead by CEC. Where any additional resources are required they must have a duty of care to the Council rather than tie. CEC have to take into account a wider remit than tie when deciding upon planning applications and taking other decisions in general.

The actions outlined in the paper are acceptable but again the Tram Project Board must be made aware that the Property Contribution Group may be involved in developing strategy and negotiating with third parties but will not be able to take decisions and for that reason will have to take direction from CEC.

Footnote: David Cooper notes that he made these points at a recent meeting with you.

Legal

The proposed structure does not sit well with the principles of corporate governance. The TEL Board and TPB can have no locus to oversee the statutory planning function of the Council. Of course there would be no issue with Andrew Holmes and Donald McGougan as CEC Directors having an overview.

It is not acceptable that the PCG excludes the Council Solicitor or her representative. The Council Solicitor will be asked to execute the Section 75 agreements and therefore representation on that group is essential.

As to whether external legal support is used for Section 75s, before a view is taken please detail the scope, value and timeframe of likely agreements. There is also the issue of procurement and EC competition if external support is used. We would wish to reserve our position with a view to looking more widely at potential external partners.

I hope this all makes sense, but if you need anything further please get back to me Graeme.

Alan Bowen
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City Development Department
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