

The CEO
Waitakere city council
Private Bag 93 109
Henderson
Waitakere 0650

Official Information act request

Dear Sir,

I wish to make an urgent official information Act (LGOIMA) request regarding the relationship between Waitakere city council and the Animal welfare Institute of New Zealand (AWINZ) and MAF. The information is required for a high court appeal in February 2009 - these questions arise from evidence produced in a district court hearing.

In 1995 a pilot programme between MAF regulatory Authority and Animal welfare services Waitakere was set up where by dog control officers became warranted under the Animal protection Act 1960

At the conclusion of a pilot programme a public /private contract was signed between Waitakere City and AWINZ, through this Waitakere city employees became warranted under the Animal Welfare Act 1999.

Please supply answers to the questions below , providing the relevant material, recordings photographs . documents, notes of meetings, correspondence ,emails , minutes of council meetings , discussion papers, copies of contracts , casual jottings, notes , memorandums and proposals for each point raised.

1. The Considerations of the council and councilors as to the expansion of dog control services to include animal welfare services in the mid 1990's which led to the engagement of a consultant to review this process.

Item 1 - the best record of consideration of such matters by the Council and councilors (if there was any such consideration) are the agenda, reports and minutes .of meetings of the Council and its committees. These documents are publicly available on the Council's website for Council meetings after October 2001 and for committee meetings after October 2004. In respect of earlier meetings paper records are held by the Council's archivist Bruce Symondson at the GPT Building. Mr Symondson is expecting a call from you to make an appointment to undertake your own search for what you require.

2. The details of consultants (if any) engaged to assist in the evaluation of the animal welfare services project.
 - a. How was the consultant was selected.
 - b. the contract under which the consultant was engaged
 - c. remuneration offered,
 - d. the terms of engagement and
 - e. his ability to make representations for and on behalf of Waitakere city to third parties.

Item 2 - The file contains some documents relating to services provided by N E Wells & Associates

NE Wells associates is a trading name WELLS ASSOCIATES LIMITED inc 20-JAN-2003

3. In the event that such a person was not engaged by council was the council aware any one providing consultancy services to the animal welfare unit voluntary or otherwise and on
 - a. whose instruction/interest was this person working
 - b. Please supply documentary verification with regards to this.

Item 3 - There is nothing on the file to indicate that such consideration was given.

4. All recommendations of the "consultant"/"advisor" to council and /or to any business group including the business advisory unit of Waitakere city and managers of council business units with regards
 - a. to the pilot programme and the notes of discussions, considerations decisions which arose from those recommendations.
 - b. Later the warranting of animal welfare staff as inspectors under the animal welfare Act/

Item 4 - The file contains some discussion papers, in various draft forms. There is no copy amongst those papers of a report to a Council committee or to the Council itself.

5. Correspondence between MAF and Waitakere city relating
 - a. to the setting up and the administration of the pilot programme in or about 1995 and any agreements for this project.
 - b. The appointment of animal welfare officers as inspectors under the animal welfare act 1999.

Item 5 - The file contains some correspondence from MAF, principally related to audits.

6. The evaluations of council and/or business group and/or managers following the conclusion of the pilot programme and the considerations which led to the animal welfare staff being warranted as animal welfare inspectors under the animal welfare Act 1999.
 - a. all discussions with regards to
 1. how this was to be facilitated and
 2. any considerations given as to changing animal welfare to a Local authority enterprise or
 3. the formation of a not for profit body to act as an interface between community and service delivery.

Items 6 and 7 - There is a copy of a document dated November 1998 amongst the file papers which includes discussion of a charitable trust.

7. In the years preceding 1999 did the business advisory group develop the concept of a charitable trust, for the purposes of animal welfare services. if so please provide

all discussion documentation , memorandums etc with regards in setting up and administering a such a trust .

Items 6 and 7 - There is a copy of a document dated November 1998 amongst the file papers which includes discussion of a charitable trust.

8. All documents which relate to considerations of warranting of animal welfare employees as Inspectors under the animal welfare act 1999
 - a. a full list of which council employees who were appointed animal welfare inspectors
 - b. Who are currently appointed as animal welfare inspectors

Item 8 - I enclose (marked A) a copy of the record of the Council meeting of 24 April 2002 which contains a list of the inspectors appointed at that time and a list of those officers appointed as at 1 December 2008 (marked B).

9. The written authority from council which enabled Mr Didovich to enter into agreements with third parties for and on behalf of Waitakere city council
 - a. with respect to the employees of Waitakere city council
 - b. any third party use of council facilities.

Item 9 - It is not clear what you mean by "agreements with third parties for and on behalf of Waitakere City Council with respect to employees of Waitakere City Council". Animal welfare inspectors are not warranted by the Council, they are warranted by Ministry of Agriculture and Fishery under the Animal Welfare Act 1999 and that action can not have occurred without the consent of the individual employees. You will also need to explain what you mean by "third party use of council facilities". My enquiries have not disclosed any use of the Council's animal welfare facilities by third parties.

10. Communications between Council and AWINZ with regards to the transfer of Waitakere city assets to AWINZ

Item 10 - this information does not exist. There has been no transfer of Waitakere City Council assets to AWINZ.

11. What location is AWINZ administered and run from, How does the public contact AWINZ? How is public accountability of AWINZ achieved.

Item 11 - the AWINZ contact details held by the Council are the same as those recorded on the face of the application made by AWINZ for approved organisation status in November 1999. The file does not disclose any information relating to the "public accountability of AWINZ".

12. All correspondence between North Shore city council and Waitakere city council regarding
 - a. The ability of animal welfare services Waitakere to assign the contract between North shore city and Waitakere city to a third party namely AWINZ.

- b. any complaints with regards to the management of the contract which existed between the councils for dog control services and animal welfare services.

Item 12 - That part of the file which is available does not disclose any such correspondence.

13. Communications by council to AWINZ with regards to fund raising letters sent out by AWINZ with the dog registration in June 2006 & 07 ,
 - a. please advise if the use of the Waitakere logo City was authorised
 - b. Any correspondence with regards to the use of the Waitakere animal welfare Logo as a logo which AWINZ could make use of
 - c. Any discussions in council or communicated to AWINZ as the confusion that the similar logos might produce.
 - d. Any Communications to AWINZ which brought about the change in their logo following the 2006 fundraiser.
 - e. Any communications regarding a 2008 fundraising flyer.

Item 13 - I have been able to locate copies of e-mails dated 27 March 2006, 4 April 2006, 5 April 2006 and 3 May 2006 relating to this issue from Wally Thomas, Director: Public Affairs, enclosed marked C, D, E and F respectively. Use of the Waitakere City logo was authorised by the Chief Executive Officer and Mr Thomas. There may be other e-mail correspondence related to this matter at the time and in subsequent years but I have not presently been able to locate hard copies. If access to this information (if it exists) is still required we can arrange for a search our archived electronic records. This exercise will however be time consuming and it is proposed to make a charge for time spent. The estimated cost is \$9,120 (120 hours at \$76 per hour) applying the Council's LGOIMA charging policy. Please advise if you wish to pursue this issue further. I do not expect there to be any information relating to the alleged similarity between the AWINZ logo and the Waitakere City Council logo since no similarity is apparent in the 2006 fund raising document which is part of attachment F. I have been able to locate some emails about the Mayor's involvement with the 2008 fundraising flyer, copy enclosed marked G. Any other emails relating to that mailer appear to have been deleted without hard copies retained. Once again copies of such other emails as may exist will be accessible through electronic archived records. If access to that information is required a charge will be made, in addition to the charge referred to above.

14. Any notes of meetings of council staff with the trustees of AWINZ

Item 14 - There are no notes of meetings between staff and the trustees of AWINZ (as a group) on the file.

15. Records of payment made by council to AWINZ for set up costs .

Item 15 - There are no such records. Counsel did not make a payment to AWINZ for set up costs.

16. What is and who administers the Waitakere animal welfare fund, i.e. if a donation is made to this fund who receipts it and where is the money held.

Item 16 - I refer you to my e-mail dated 22 January 2007. Nothing has changed.

[Waitakere Animal Welfare Fund](#)

A total of \$1955 was collected as a consequence of the solicitation of funds at the time of the 2006 dog registrations. Of that sum \$170 was paid in cash to the Council and remains held as part of the Council's funds. That money is subject to Council's usual audit controls. The balance of \$1755 was paid directly to AWINZ by the donors of that money and was banked into a separate bank account held by AWINZ for that purpose.

AWINZ is a reputable organisation with reputable trustees. The Council has no reason to suspect that the funds held by AWINZ will not be applied to the purpose for which they are held. It is agreed that no funds will be disbursed from the fund for animal welfare purposes by one party without the approval of the other.

17. The animal welfare services were internally audited both in the pilot programme and since the trust has been formed which companies or individuals provided these services and how were they selected for the auditing process.

Item 17 - Auditing during the pilot period was undertaken by MAF. Subsequent **auditing was undertaken by NE Wells & Associates** up to the point in time when Mr Wells was employed by the Council. The file does not disclose the basis upon which Mr Wells was selected to undertake that work. Clearly Mr Wells was well qualified to do so because of his background and his involvement with AWINZ, which was an approved organisation under the Animal Welfare Act.

18. Were legal opinions sought from Kensington Swann and the Crown Law Office with regards to the setting up and administration of AWINZ ,
- a. What were the opinions and were they considered by council before entering into a contract with AWINZ

Item 18 - There are copies of 2 Kensington Swan opinions and a Crown law office opinion on the file. The proposal under discussion in those opinions was not given effect.

19. To what degree is AWINZ integrated with Waitakere city, what role the city plays in the administration of AWINZ.
- a. Does AWINZ to operate from Waitakere city council premises,
 - b. Does AWINZ use Waitakere animal welfare staff for its administration
 - c. If so what contracts agreements are in place to facilitate the use of council staff in a private organisation.

Item 19 - AWINZ is not "integrated with Waitakere City", the city plays no role in its administration. AWINZ does not operate from Council premises and animal welfare staff are not used for the administration of the affairs of AWINZ. (Mr Wells is involved in AWINZ mailers on his personal time.) The relationship between AWINZ and Waitakere City Council is recorded in the memorandum of understanding dated 20 January 2004.

20. Please provide details of any donations made by AWINZ to Waitakere animal welfare.

Item 20 - \$850 was applied from funds held by AWINZ for the purchase of a veterinary examination table in 2007. This table is in use at the Council's animal welfare centre at the Concourse.

21. In a council meeting report dated **Wednesday, 30 November 2005** a reference is made to Neil Wells

- a. Please provide a copy of the CV which was referred to by his worship the mayor.
- b. Please provide any documentation before or after his appointment in which Neil Wells declares a conflict of interest of any sort to the council.
- c. Evidence that the council was aware that as Manager animal welfare, Neil Wells would have obligations to himself in a MOU between Waitakere city council to AWINZ.
- d. Please provide notes and correspondence which show that this aspect was considered by council in making the appointment
- e. all correspondence between Mr. Wells and council with respect to secondary employment which he is/ was engaged in which is linked with his duties as manager animal welfare.

Item 21 - A copy of Mr Wells job application dated 4 October 2004 and the CV held on the Council's employments file are enclosed marked H and I. The Council approached Mr Wells directly to see whether he would be interested in applying for appointment as manager of its animal welfare unit. That approach was made in full knowledge of Mr Wells' role as a trustee of AWINZ and his previous engagement as a contractor to provide training and quality assurance programmes to the Council. The file relating to Mr Weil's appointment does not disclose the information you seek. (These comments are not to be taken as an acknowledgement that at the time of appointment Mr Wells has a conflict of interest which required disclosure.)

22. All documentation in which Waitakere city considers the effects of becoming a "linked" organisation in a MOU with AWINZ

- a. What verification did council conduct as to the nature and structure of AWINZ prior to entering into the MOU
- b. What records are held at council as to the identity of the trustees of the unincorporated trust AWINZ at the time that the MOU was signed.

Item 22 - As noted above the file for this period cannot be located.

23. Was Tom Didovich acting for and on behalf of council when at a time that he was manager animal welfare he obtained and witnessing the signatures of the trustees of AWINZ. An "organisation" which he subsequently contracted to and became a trustee of after leaving his employment of Waitakere city.

Item 23 - The file for this period cannot be located. The only document on the

Council's file relevant to this subject is a copy of the affidavit made by Mr Didovich about this issue on 29 May 2007 (which you supplied to the Council with your letter on 2 July 2007.)

24. Did Waitakere city ever obtain a copy of this trust deed please provide all records and queries that were made by the city to obtain or validate the existence of such a deed.

Item 24 - Mr Didovich has deposed as to his knowledge of the execution of the trust deed. There are copies of the trust deed on the file but the date when they got on to the file is not known. I was supplied with an executed copy of the trust deed by Neil Wells following an oral request from me made in May 2006.

25. In 1986 the City of Waitemata Certificate of Merit for Community Service Medal was awarded to Neil Wells please provide all documentation concerning this award as to why it came to be presented to him and on whose recommendation nomination.

Item 25 - this request is refused under s17(1)(f) LGOIMA on the basis that, if the requested information exists (which is doubted), it could only be made available after substantial research. I am informed that the award was made to recognize the key role played by Mr Wells in the establishment of the Huia Voluntary Rural Fire Force.

Please forward this information to the address above. If a cost is payable please invoice me so that I can pay at the time that the documents are uplifted.

Yours sincerely



Grace Haden