“There is no such thing as common good in Langholm”.

This totally incorrect statement was made recently by a veteran Community Councillor who, prior to 1975, was a Town Council official. The statement was/is believed by many townspeople. It had to be proven that Langholm does still have “such a thing as “Common Good” although seems never to have been invoked after 1975:-

“FACT - a common good fund is a fund of assets & liabilities. It includes heritable property (land & buildings) and other assets such as cash, stocks, furniture, regalia and so on.

While CASH in the fund was disbursed that DOES NOT mean that there is no longer a fund!!! it just means that the fund no longer contain any cash - but it still includes all other assets it acquired in 1975 from the town council.”

To seek clarification I submitted questions about Langholm Common Good under Freedom of Information, to Dumfries and Galloway Council.

D&G council replied advising first of all that there is “No cash asset remaining in the Langholm Common Good Fund because the town council in 1975 disbursed the remaining funds to 3 local groups”. That is correct, but as a statement it is inadequate as evidenced by the ongoing misunderstood in Langholm ever since the Town Council’s last meeting of 10th April 1975. The inhabitants of Langholm seem to have been led to believe that Common Good doesn’t apply to Langholm!

In fact D&G council do admit that there is, a Langholm Common Good Fund, even though there is no CG Fund Committee and nobody in Langholm has been aware that it could exist! Under my FOI the council provided a list:-

“PHYSICAL ASSETS OF THE LANGHOLM COMMON GOOD FUND”.

Consisting of :

- Langholm Town Hall and Library
- The Kilngreen,
- Eldingholm Public park
- Playpark and garden Rosevale Street Gardens
- Public Toilets on the Kilngreen
- Tourist Kiosk on the Kilngreen

The council then provided some Values of these Assets:

- Eldingholm Public Park a Community Asset with an Asset Value of £0.
- The Playpark and Public Gardens Rosevale Street Langholm a Community Asset with an Asset Value of £0.
- Langholm Town Hall, market place, Langholm is a property type of Office, Hall, and Library with an Asset Value of £597,000.
- Car Park, Kilngreen Townhead, Langholm under Property Type is a Car Park an Asset Value of £311,000.
- Public Toilets, Kilngreen Car Park is a Public Toilet with Asset Value of £93,000.
- Public Toilets, Market Place, Langholm is a Public Toilet with an Asset Value of £0 and “inside the Town Hall”.

Thus, three of these six properties are worth more than £1 million, but others have nil value. (One of these, properties the Eldingholm valued at £nil is even larger in acreage than the Kilngreen which is valued at £311,000!).

So the council should clearly explain the meaning of these valuations. I asked the council about membership and administration of a CG Fund Committee and was told by the council’s Senior Information Officer that “CGF funds are administered by the area management team in which the town resides.......The bulk of the CGF committee will be elected members but there can be local participation from the Community Councils”.

So- look at this wording- he is only stating this as a theoretical case, not what actually is taking place in the town!

The Area, and Ward- East Annandale and Eskdale is a huge area compared to the size of the old Burgh. While there are four elected members in the area/ward, only one is resident within the boundaries of the old burgh. The other three councillors live as far away as 20 miles and have little knowledge or interest in the burgh’s past or heritage. During their several years as councillors it seems they have never been aware of the Langholm Common Good Fund.

This shows that the 1975 handover from the Town Council to the Regional Council had not been adequately explained or understood even by senior officials. Some town council officials became officials in the new regime without being aware of rules governing CG law. Ex-town councillors and town officials seemingly failed to appreciate the continuation of CG Law and what the rules should be. Local people had to accept that the assets of the old burgh would simple be swallowed up by the new District Council based 20 miles away in Annan. Then subsequently by the unitary council based even further away, in Dumfries, 35 miles away.

The subtle distinction between Ownership by Title and Beneficial Ownership was never made clear.
Why do these persistent misunderstandings still continue to exist?

Are elected councillors aware of their responsibilities to the old Burghs? Do Burghs still exist or were they abolished?

As so many councillors do not live in an old burgh should they be expected to appreciate and respect a town’s Common Good, a unique form of property which is beyond their ken?

According to the valuation of the above-listed CG properties, the Town Hall/Library is the most valuable at £597,000. The council is credited with maintaining, repairing, and generally “looking after” the building. A couple of years ago, after years of public complaints that the building was falling into disrepair, over £100,000 was spent on the building and the public were “grateful”. Was D&G council doing townspeople a favour or is the council obliged to look after the building, and keep in good condition? Can the building be allowed to fall into disrepair if the council has no use for it? It has even been suggested that if Langholm people are beneficial owners of the building then they should pay for and maintain it themselves. The stewardship issue is unclear, ie whether this is the council’s responsibility. Specifically, D&G Council’s ownership of the Town Hall and Library has been spelt out in a council response to the FOI:-

“The council owns this and holds the title, as successor to earlier councils originally granted by the Duke of Buccleuch, in 1895, to the Commissioners of the Burgh of Langholm: for the public uses thereof in all time coming” and “for the behoof of the whole body and community of the said Burgh. In view of this gift and the above wording, the title is owned by the Council and treated as held for the common good of the people of the Burgh of Langholm.”

My understanding of the above is that the Council cannot dispose of the building. If they want to dispense with it, they must obtain court permission and would have to market and sell only it at market value, and financial receipts must be credited to the Burgh’s Common Good Fund, not to Dumfries and Galloway Council. Is this true?

**Moveable Assets**

My FOI asked for a list of moveable assets, eg Provost robes, regalia, pictures, paintings, archives, etc that are held by D&G Council.

The reply was:

“Community and Customer services have advised that there are no moveable assets that can be definitely attributed to Langholm Common Good Fund. There is a chain of Office that remains in the safe at Langholm Town Hall but there is no evidence that the chain is “common good”.

This is totally unacceptable. There are several items and artefacts in the 200 hundred years old Town Hall which have been there long before 1975.
For example the Provosts robe and chain. Where on earth could these have come from or who else could they belong to other than the burgh provost and magistrates! The velvet and ermine robe today stands in a display case in the Community Council chamber which used to be the Burgh Town Hall chamber and magistrates court. They had been indisputably worn ceremoniously between the 1920s and 1975!

It is even more ridiculous and dishonest for D&G to claim that the old oil paintings (which are currently displayed in the Town Hall/Library's Telford Room (see attached photos) don’t belong to the town’s Common Good.

I.E., there are seven large, magnificently framed old oil paintings hung in the Telford Room, mainly portraits of notable members of the Langholm Malcolm family. There were four brothers who became known as the Four Knights of Eskdale. They were knighted for services to the Empire in the first half of the 19thC eg Admiral Sir Pulteney Malcolm who guarded Napoleon at St Helena and whose marble statue stands opposite the Douglas Hotel, Sir John Malcolm viceroy in India whose 100foot high obelisk stands on Whita Hill above Langholm the town.....etc.

The portraits were painted by reputable 19th century artists, mostly RSA, eg Alexander Roche, a "Glasgow Boy", two of whose paintings are currently in the Glasgow Boys exhibition in Kelvingrove Galleries. There is clear evidence that these paintings were given to the Town Council. E.g. the plaque on one of the paintings stating that it is "Sir Thomas Pasley Presented to Langholm by WE Malcolm."

In a web search for information about the various artists it can be found that they can each be worth thousands of pounds.

The Telford Room is now used mainly as a band rehearsal hall (town band and pipe band). For many years in the 1950s and 60s it was the Town Hall council chamber/magistrate court room that was utilised for the bands’ practice and where the paintings hung. So real continuity. As a young piper in those days I recall these paintings very clearly hanging there in the magistrates court/Town Council chamber. The paintings are in beautiful frames which incorporate their original plaques stating exactly what the paintings are and from whom and to whom they had been presented- always to the Town possibly a hundred years before 1975! Their PROVENANCE could not be clearer. So there cannot possibly be any doubt whatsoever that the paintings are Common Good property belonging to the town. I regard the council statement to be a lie and an insult.

However to be polite I requested a review of the contradictions, and omissions of their response and asked:-

“To whom does the council claim are now the rightful and beneficial owners of the items, which, prior to the 16th of May 1975, were the property of Langholm Burgh? I.e., the items including the Provost’s robe and chain, several valuable oil paintings and historical artefacts, currently unaccounted for? “

A series of convoluted replies and excuses and then appeared. E.g., I received an email addressed not to me but to a mysterious Mr Wallace "I have just returned to
work after a fortnight’s leave otherwise would have kept on top of this during that period. It was a task I knew I was leaving to and I apologise ....I have spoken to on my return and is sorry that has not issued the letter of response to you. is working on this..."

E.g., “the panel acknowledges that there were obvious contradictions in the response provided to you by the Council, and the panel is satisfied to offer you an apology ....”

But, “with regards to the list of moveable assets, the correct and appropriate response as defined by Section17 (1)(b) ...confirms that the information is not held by D&G Council.... because the Council has so far been unable to ascertain definitively the provenance of these assets, and therefore, in line with the Local Government (Scotland) Act 1973 it has treated them as though they were Council assets. A project is underway to identify all common good moveable assets......”

So I asked: Who are the members of the Reviewing panel and what are their qualifications and knowledge of Langholm?

1 When did the Reviewing Panel meet to decide on my FOI?
2 What is the list of assets the panel worked from in deciding that the items 3 did not belong to Langholm CGF?
4 When did the Reviewing Panel visit Langholm?
5 Provide a copy of the minutes of the meeting.

It was “confirmed that there were only two persons on the panel and that neither were Elected Members of the council”. Surely a contravention of the rules?

They went on “Fortunately, formerly unknown to me it has come to light that an appropriate officer who is significantly more knowledgeable of the issues regarding Common Good Funds than the relevant Services and, upon them reviewing my draft responses to you, advised that these are unsuitable in meeting your request. They have therefore requested I advise you that we are not in a position to respond to your request for a review or your FOI request within the required timescale....I apologise for the inconvenience but have been assured that by allowing the appropriate officer time to develop a response to you will receive one that is accurate and far more advantageous to you....”. Well when!?

I received a telephone call from D&G Council legal department. I was told that they were apologising for being unable to formally reply to my FOIs and acknowledging that the CG issues I have quite correctly raised in my correspondence has not been properly handled by council officials and councillors. They said the attitudes and responses adopted by the council so far have been wrong and she’s determined to put things right, and that I should expect a proper reply soon. They mentioned a council seminar (involving Andy Wightman) but that information from that event had evidently not sunk in!

They have been unable to answer this question and the council’s incoherence worsened with different officials sending me different stories!
I added further requests:

1. Under FOISA, can you confirm that the Review panel referred to in your reply of 3d September addressed to an unknown "Mr Wallace", consists of 2(2) only persons, neither of whom are elected members of D&G Council who would bear personal legal responsibility for the administration of Common Good Funds under the 1973 Act?

Answer “there were two persons on the panel and neither were elected members”

2. Under FOISA what is the constitutional position of the review panel, when it was inaugurated and how are its members elected or appointed and what is the quorum of the panel?

Answer “There is no constitutional position of a review panel-the FOI Act requires public authorities to convene a panel when required.”. etc

The story continues but I am running out of time and space.

Please see some illustrations of the paintings.
SEVEN PORTRAITS IN TELFORD ROOM
ADMIRAL SIR. THOMAS PAISLEY. BART.
B. 1734. D. 1803
PRESENTED TO LANGHOLM
By
W.E. MALCOLM.
GENERAL SIR JOHN MALCOLM, G.C.B.
B. 1769. D. 1833
PRESENTED TO LANGHOLM
By
W. E. MALCOLM.