



# OBSERVATORY

Civic Association

## **Chairperson's Report: Observatory Civic Association (OCA) AGM**

**24 November 2020**

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## **Chairperson's Report: Observatory Civic Association (OCA) AGM, 24 November 2020**

There is no doubt that this year has been tumultuous! The Observatory community has faced many challenges, not least from the impact of COVID-19, and the associated lockdown restrictions. There have also been many other civic developments affecting our community. Nonetheless, I think Observatory has weathered these challenges well and responded in ways that has boosted the OCA's identity. I am therefore pleased to deliver this Chairperson's report, reflecting on the past year.

Firstly, I want to thank the Management Committee who have carried this load together. This has really been a team and for all our frustrations, I can confirm the Management Committee has been able to work together and build the OCA positively going forward. The organisation has particularly benefited from the background work of the Deputy Chair, Sheila Barsel, and Treasurer, Joy Robinson, who have kept the organisation afloat, and by the excellent communications set up by Edwin Angless in the past year. Edwin has also carried quite a lot of secretarial responsibilities.

Secondly, I want to thank De Vos Rabie for his sterling work in turning around the Pepper Square parking lot from a huge gaping financial loss for the OCA into a small running deficit. This was done mainly through securing the City of Cape Town's agreement to charge us a reasonable rental, which, if it weren't for the COVID-related downturn, would have enabled us to generate a small surplus to support our community activities.

Thirdly, I want to thank Kirsten McKenzie for stepping into the breach of the Architecture & Heritage portfolio, when the previous incumbent stepped down as a result of being too busy to deal with the multiple applications. Kirsten has really done amazingly well in coordinating a small team to deal with the many, many building and development applications. Despite the COVID-19 downturn, the applications continue to come thick and fast. This is a key portfolio for the OCA and one which I hope will go from strength to strength.

Kiki Bisogno has done an amazing job in the Social Issues portfolio, and Marc Turok and Tauriq Jenkins have kept the Two Rivers Urban Park (TRUP) and Arts, Culture, Sports (ACS) flags flying.

We enter this AGM with 131 signed-up members as of 18 November 2020. Last year we had 106 members at our AGM, and 2 further members signed-up in the course of 2020. The level of interest in the OCA, even under COVID-19 restrictions, is very gratifying.

### **1. COVID-19**

No Chairperson's report could be complete without recognising the enormous impact that the COVID-19 epidemic has had on South Africa, Cape Town, and our community. Both the impact of the infection, which in 2-3% of people can be fatal, and of the measures to prevent transmission, have hugely affected us. We recognise that many businesses in Observatory have struggled and that some have closed. People living in marginal circumstances have also lost access to income streams and deprivation has increased across Cape Town.

However, the Observatory community has also responded by mobilising to support those in need, through the Observatory CAN and through OBSID, which initiated food schemes for the homeless and those in marginal living circumstances, distribution of masks and information, and support to those unable to shop because of being quarantined, in isolation, or simply high risk and needing shielding.

Observatory was not one of the suburbs that was at highest risk during the peak of the epidemic. However, we are now in the post-peak phase where there are numerous upticks in infections, particularly in the relatively wealthier suburbs from the Atlantic Seaboard to the Southern Suburbs,

as the relaxation of precautions appears to be taking hold in the public's eye – who seem to think the epidemic, or at least the worst of it, is over. It is far from over, and we are likely to see a second wave. Health experts are unsure, however, when and what form the second wave will take, nor whether lockdown measures, similar to those reverted to in Europe where a severe second wave is playing out, will be necessary.

What we do need to do is to ensure that we do not let our guard down. Observatory is well-known for its carefree, bohemian, student, fun, atmosphere, all great attributes in a normal time, but all likely to feed super-spreader events such as the Tin Roof in Claremont fiasco where one party resulted in at least 113 people testing positive for the virus. I don't know about you, but I regularly see parties happening in Observatory with very little by way of safety precautions, and a lot of risk behaviour going on.

Our Water Warriors group briefly reactivated itself as a COVID-19 warriors group. Perhaps there is room for anyone interested in working on this in helping to develop a community driven strategy, with the Observatory CAN and OBSID, to improve mask wearing, social distancing, and sanitising in public spaces in Observatory to reduce infections.

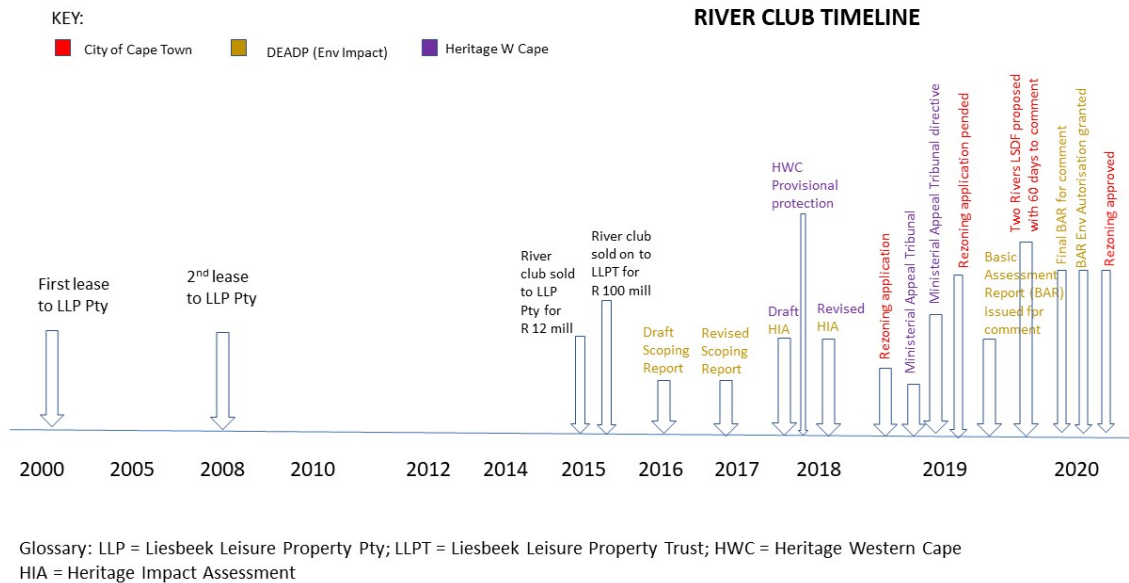
## **2. RIVER CLUB AND TRUP**

There is little doubt that the River Club development and the related processes involving the Spatial Development plans for the Two Rivers Urban Park (TRUP) have occupied much of the OCA's time and energy over the past year.

It has been a very complex process. I have included as an Appendix a recap of developments to explain the timeline and how the different processes have interacted, or not, to get everyone on the same page.

Figure 1 below presents the timeline for the River Club Development, which started most recently with the sale of the Erf to LLP in 2015. LLP is the precursor of Liesbeek Leisure Property Trust (LLPT). PRASA sold off the land, not as a full transaction but as the sale of the bare dominium to LLP in 2015, at about the same time as 'tenderpreneurs and predators' were gutting PRASA of its capital in a corruption spree that has been centre stage at the Zondo Commission. As you can see from Figure 1, activities have been increasingly dense over time to the current period. This reflects the many different overlapping processes involved, all converging in a somewhat bewildering complexity of overlapping organisations, reports, and decisions.

Regarding the original sale of the River Club, the odd thing about selling the bare dominium, as I understand it, is that you usually sell the bare dominium of a property to a third party when there is a lease holder with entitlements to run their business. In this case, the bare dominium was sold to the lease holder themselves. This means that LLP bought the River Club for R12 million, plus VAT – a bargain basement price. Within a few months, it was sold on to the LLPT for R100 million, plus VAT. This was thanks to a bond from Investec, which set off a process of speculative development that in 2020 culminated in the finalisation of two permitting processes.



**Figure 1. Timeline of River Club developments**

One process was the rezoning of the River Club from its extant zoning as Open Space (private-owned) to Mixed Use. The Rezoning Application started on 27 March 2018, was circulated for comment in August 2018, and more than 180 objections were submitted to the City’s Planning Department. However, the Rezoning Application was ‘pending’ because, we were told, the Applicant wanted to pursue an Environmental Authorisation from the Department of Environmental Affairs and Development Planning under the National Environmental Management Act (NEMA), and the developers wanted to complete that process first.

The NEMA process started in 2016. The OCA and many other objectors commented on multiple versions of the Environmental Application (called a Basic Assessment Report or BAR) from 2016 (when the Scoping Report was presented) through to 2020. A key requirement of the BAR was a Heritage Impact Assessment (HIA) which was first presented to the Observatory community in 2018. We submitted very critical comments because the HIA failed to address adequately the role of the Open Riverine Confluence as key to intangible First Nation heritage. Despite this and many other concerns, the HIA remained tied to justifying the very large and inappropriate development. Heritage Western Cape (HWC) described this as ‘retrofitting’ the HIA to suit the developers rather than developing heritage indicators for a sacred site from scratch.

In April 2018, HWC attempted to protect the River Club site from threats to heritage with a Provisional Protection Order. This was appealed not only by the LLPT, but also by the City of Cape Town, the Department of Environmental Affairs and Development Planning (DEADP) and the Department of Transport and Public Works (DTPW). This appeal was heard by a specially constituted Ministerial Appeal Tribunal which commenced in September 2018. The appeal dragged on over multiple hearings and ended with a Directive issued by the Tribunal in April 2020 rejecting the appeal. The Directive also confirmed the high heritage importance of the site and noted the divisive nature of the appeal. By the time the Directive was issued, the Provisional Protection Order expired, without HWC even initiating, let alone completing the grading of the site, as was the intention. The most notable aspects to emerge during the appeal process were that:

- a. In 2018, the LLPT was exposed at the first appeal hearing as having failed to consult adequately with Khoi groups, many of whom were in the room to express their deep

opposition to the development. The LLPT's lawyer acknowledged at the hearing that consultation with Khoi groups had not been sufficient and promised the LLPT would consult going forward.

- b. In 2019, the LLPT returned to the appeal hearings having secured support from a minority of Khoi groups – the 'First Nations Collective' – including the Goringhaiqua group, who had initially been part of the opposition to the development. What was proposed as a solution to the lack of heritage indicators in the project was, amidst 150 000 square metres of concrete, there would be a Khoi media and cultural centre, a traditional herb garden, an amphitheatre and visual imagery to replicate Khoi iconography across the site. The entire development would then go ahead with this set of heritage concessions. The Goringhaiqua council would be given the power and authority to run the centre and their chief representative, Zenzile Khoisan, who is a journalist, was the main spokesperson in favour of this arrangement. Therefore, in 2018, there was no presence of the 'First Nations Collective', in the process, but in 2019 the acceptance of these token concessions was described by the chief representative of the Goringhaiqua as an act of cultural agency on the part of the Khoi. In fact, it was a land grab to secure control of what the LLPT was offering and most certainly, not anything agreed to by the Khoi as a whole.
- c. Early in 2020, in the lead up to the Ministerial Appeal Tribunal's final meeting, the leaders of the OCA, Two Rivers Urban Park Association (TRUPA), the Goringhaicona and many other Khoi leaders and activists, as well as even the Chair of the Tribunal, were subject to anonymous emails distributed from a fake address purporting to be the A|Xarra Restorative Justice Forum. However, the A|Xarra denied that they were the authors of the emails. The emails contained attachments with insulting and denigrating statements defaming those who opposed the development. Three such emails were circulated and each attachment listed the name of the LLPT Heritage Consultant as author in its meta-data. This was exposed at the Ministerial Appeal Tribunal. The Heritage Consultant subsequently denied any knowledge of the documents. And the LLPT also distanced itself from what they called allegedly defamatory emails. The levels of intimidation and hostility generated from these actions were substantial, and it illustrates the high stakes and what some individuals or groups who support the development, whomever they are, are prepared to do to get their way.
- d. Despite all this, the Ministerial Appeal Tribunal came down firmly in supporting the importance of protecting the site and identified the Riverine Valley and confluence as sacred.

Whilst all this was going on, the City of Cape Town initiated a parallel process to update the District Plan for the TRUP – the Local Spatial Development Framework (LSDF). This is a key document because the current Table Bay District Plan designates the River Club as Open Space and a conservation area with limited consent uses (e.g., golf course, conference centre). The idea of updating the Table Bay District Plan was signed off by the former mayor, Patricia De Lille, who authorised a co-planning process with local stakeholders. Over the period 2015 to 2017, there was an intense co-design initiative which came up with indicators for TRUP. However, the City quietly dumped these plans and appointed a bunch of consultants who worked behind closed doors to come up with a Two River Local Spatial Development Framework (TR-LSDF), which was released for comment in October 2019. Essentially, a plan like this would create the new rules for the River Club rezoning application. The TR-LSDF was so biased that it simply wrote the River Club into the plan as a fait accompli. The OCA was one of many public organisations and individuals who objected to this farce of a plan, which is still supposedly under a public participation process. In particular, the Heritage Component of the plan, also an HIA, is currently under discussion at HWC.

The fact that the plan was still a draft and has not been approved, has not stopped the LLPT from using the plan to claim the River Club development is consistent with where the city planning processes are going. This kind of collusion between the City planners and the LLPT is exactly the kind of non-transparent, undemocratic decision-making highlighted by Crispian Olver in his book, *A House Divided*, on the politics of the City of Cape Town.

In response, the OCA partnered with more than 60 other civics, NGOs and First Nation groups to submit an application to Heritage Western Cape to declare the TRUP a Provincial Heritage Resource. We announced this at a joint press conference in December 2019 and submitted the final application in February 2020. We have activated an online petition at Change.org which has garnered over 20 000 signatures and established an Action Group to plan and drive a campaign involving social media, press articles, and public action to oppose the development. Anyone wanting to get involved, please email [info@obs.org.za](mailto:info@obs.org.za).

The key decisions on the River Club were made after the COVID-19 lockdown was relaxed. Firstly, the DEADP approved the Environmental Authorisation on the 20 August 2020. This approval was completely contrary to the evidence presented regarding the environmental impacts and overrode the position of the competent heritage authority in the matter. HWC concluded that the LLPT HIA had failed to meet the requirements of the National Heritage Resources Act. Instead of responding to HWC's strong criticism, the DEADP Director had a meeting with LLPT and accepted a new report from the LLPT's Heritage Consultant as a justification for approving the application. The Environmental Authorisation from DEADP has been widely appealed, including by the City's own Environmental Management Department, on strong environment, policy and heritage grounds.

Then, on 9 September 2020, the day after the OCA appealed the EA, the City of Cape Town gave notice that it was to hold a special Municipal Planning Tribunal (MPT) meeting to consider the rezoning application for the River Club, the same application submitted in March 2018, and advertised in August 2018. Despite the provisions in the Municipal Planning Bylaw which gave the City the authority to require re-advertising after 2 years, if new information is at hand, the City went ahead without re-advertising. Not only did they allow into the proceedings information submitted by the LLPT which Interested & Affected Parties (IAPs) had not had a chance to see or comment on, they also refused to allow the IAPs an opportunity to bring relevant information to the attention of the MPT. The decision appeared to have been written before any substantive discussion took place, so the bias in the process and failure to consider fairly the application was clear. The OCA consulted environmental lawyers and submitted a strong appeal on the 26<sup>th</sup> October 2020.

To summarise, below is a table of landmark actions related to the River Club and TRUP since the last AGM in November 2019:

<b>Date</b>	<b>Landmark</b>	<b>OCA Action</b>
October and Nov 2019	COCT Public participation meetings on the Two Rivers LSDF	Attended and raised questions
17 <sup>th</sup> Dec 2019	Two Rivers Local Spatial Development Framework draft	Submission OCA comments
17 <sup>th</sup> Dec 2019	Two Rivers Heritage Impact Assessment draft	Submission OCA comments
17 <sup>th</sup> Dec 2019	Joint Press conference announcing Provincial Heritage status application for TRUPA	OCA co-hosted with First Nation groups
27 <sup>th</sup> February 2020	Submission of Joint application by Goringhaicona, OCA, TRUPA,	OCA coordinated joint submission

	supported by 12 First Nation groups, 34 other civics and 12 NGOs	
14 <sup>th</sup> February 2020	Objection to the Basic Assessment Report for the River Club development	Submitted OCA objection and coordinated objections from multiple objectors
20 <sup>th</sup> February 2020	Petition against the BAR	OCA started the petition; since then 19700+ signatories and 23 updates posted
27 <sup>th</sup> February 2020	Supplementary objection to the BAR	Included > 10000 names (1 week!) in the petition at Change.org
20 <sup>th</sup> March 2020	Complaint of bias against DPWT TRUP manager	OCA lodges complaint providing evidence
May 2020	Response from DPWT indicating TRUP manager is seconded from DEADP (decision-maker in the EA)	Because the TRUP manager actually works for DEADP, we redirect complaint to DEADP
29 <sup>th</sup> July 2020	Response from DEADP – no action to be taken against the TRUP manager for bias	
20 <sup>th</sup> August 2020	DEADP issues Environmental Authorisation	OCA coordinates template for appeal
8 <sup>th</sup> September 2020	Appeal lodged to DEADP	OCA submits appeal, coordinates with organisations and individuals – noted 10 organisational appeals, 17 individuals
9 <sup>th</sup> September 2020	City notified objectors to the rezoning of a Special MPT to be convened	OCA applies to present to the MPT; is denied opportunity to share key information
14 <sup>th</sup> to 18 <sup>th</sup> September 2020	Pressure on our Ward Councillor to object	OCA appeals to our Ward Councillor in three emails
18 <sup>th</sup> September 2020	Municipal Planning Tribunal approves rezoning	OCA and other parties' interventions are ignored at the Tribunal; no intervention from our Ward Councillor
30 <sup>th</sup> September 2020	Letter approving rezoning issued	OCA seeks advice
26 <sup>th</sup> October 2020	Appeal submitted to Mayoral Planning Appeal Panel	OCA submits appeal

What we are facing now are two profoundly irregular and unjust decisions (a) the flawed rezoning (by the City of Cape Town) and (b) the irregular Environmental Authorisation (by DEADP).

The issues of injustice involve three dimensions: (1) heritage disrespect (notwithstanding the co-option of some Khoi leaders to support the development); (2) environmental damage on a huge scale; and (3) a failure of civic democracy (where decision-making processes are biased).

Importantly, the competent heritage authority in the Western Cape (HWC) and the Department of

Environmental Management in the City agree with us that the development should not be supported.

Although the OCA has made its best efforts to challenge these decisions, our expectations are not high that the appeals will work. The only options then are to seek a High Court review of either or both decisions. For that reason, one of the resolutions we will discuss this evening is to empower the OCA Management Committee to seek legal advice to pursue a High Court review should our appeals fail. This will be an expensive business for which the Management Committee will need to raise a considerable amount of money. However, we will only pursue this if legal advice indicates we have a good case.

We are also gearing up for a major campaign involving:

- a. An intensive social media campaign providing key messaging and mobilising support;
- b. Public events such as a march on International Human Rights Day or other such public holidays;
- c. Community action, such as picketing;
- d. Letter writing to key public figures;
- e. Mobilising of key public figures to speak out in favour of our campaign;
- f. Promoting our message in the media through letters, articles, opinion pieces;
- g. Building and consolidating coalitions with other partners across sectors;
- h. Research to support our campaign (e.g. an analysis of the MPT decision-making patterns over the past years as part of dossier to support a complaint to the public protector; call on the SAHRC to investigate);
- i. Networking with international groups (first nation, environmental, civic democracy) to support our cause;
- j. Public naming and shaming of the collusion of powerful developers with party political interests.

The DTPW have also recently given notice that they plan to take the Ministerial Heritage Appeal Tribunal Directive on review to the High Court – in particular, seeking to expunge the sections which highlight bias on the part of public officials involved. Since we complained to DTPW about exactly this bias, which seeks to undermine the very clear message of the Tribunal that heritage at the River Club matters, we should support the Tribunal members as an amicus curae in opposing this application. One of our AGM Resolutions for later discussion speaks to this intent, which the AGM needs to vote on.

We are hoping that OCA members can get involved and also assist with fundraising to support these activities, both Crowdfunding and sourcing of external donors. We have travelled a long way, and we have a strong, morally grounded case, with strong partnerships with our Khoi and NGO partners, so we should see this through to the finish.

### **3. WILLOW ROAD, HARTLEYVALE, AND MALTA PARK PRECINCT**

The Malta Park and Hartleyvale precinct has been problematic for some time. The City of Cape Town made a non-transparent decision to grant a lease to the City of Cape Town Football Club for sports fields that are zoned alternately Open Space and Community Zone 1 (local community use). This decision happened in secret and neither our Councillor nor city officials were willing to answer our questions about the decision or about any existing plans for the precinct. There was no consultation with the community at all, nor with the amateur sports bodies adversely affected.

The former Circus property at 4 Willow Road, which has been a bone of contention for the City of Cape Town, and more recently for some Observatory residents, forms part of the precinct. The City



is engaged in a process to evict the 4 Willow Road residents, but has been instructed by the court to enter into a meaningful negotiation with the residents first.

It is true that, in the past, there have been some serious anti-social activities which followed the departure of the former Circus lease holder and illegal landlord. However, there has been organisation and stability brought to the site this year. Residents have proposed to the OCA the establishment of a community initiative which would establish a vegetable garden and a cultural, heritage and recreational centre, with a residential component. This is currently known as the Willow Arts Collective (WAC).

When the proposal was presented to the OCA Management Committee in July 2020, we indicated support for the idea of a community-driven initiative involving local food production and heritage promotion in principle, but asked for more detail regarding the proposal. It was unfortunate that a petition, drawn up by individuals in support of the initiative, was circulated in the OCA newsletter as if it was an OCA petition. This was not the case, and we explained in our subsequent newsletter the reason for this oversight.

The OCA remains committed to a consultative process, not just regarding the property at 4 Willow Road, but for the whole Malta Park and Hartleyvale precinct. We have twice written to Councillor Chapple and Councillor Badroodien requesting a meeting to find out what the City's plans are for the precinct, if any, and to ask for a consultative process to be initiated. This is after our inability in 2019 via a Promotion of Access to Information Act (PAIA) application to obtain such information. The last communication to our councillors was on 12 October 2020 to request that the City of Cape Town convene a planning process for the Malta Park and Hartleyvale precinct, to which we received confirmation of receipt and a promise that "a response will be provided to you in due course." We are still waiting.

The OCA has been involved in meetings with the director and officials of FC Kaapstadt (FCK) and the WAC to improve relations between the various partners, at the request of FCK and this appears to have worked well.

#### **4. RELATIONSHIP WITH OUR PARTNERS**

##### **OBSID**

This year, our relationship with OBSID has improved. The OBSID CEO attends alternate OCA Management Committee meetings and we have seen better collaboration on common matters, including:

- Support for the Food Programme through the Social Issues portfolio
- Support for the OBSID survey on Use of Open Space in Observatory
- Working with OBSID and 2 Observatory residents who are developing a 'What's On' website and a business directory

##### **ONW**

The ONW has the option of an ex-officio position on the Management Committee. It has not taken up such a position because of challenges within the ONW. Should that be resolved, the ONW will be welcome to take up a position identifying their rep on the OCA.

##### **Business Forum (BF)**

Like the ONW, the Business Forum has the option of an ex-officio position on the Management Committee. However, the BF is effectively defunct and COVID-19 has made it more difficult for businesses. There are initiatives through OBSID, Afrikaburn, and individuals in Observatory (Penny

Morrell and Carolynn Neville) to support work creating a database and marketing opportunities for local businesses. OCA is collaborating to support this initiative, which may result in the resuscitation of a BF or an equivalent with whom OCA could work. The OCA will continue to advertise local businesses in our newsletters.

There are concerns amongst business owners about crime in the area, and the owner of the Observatory Spar on Station Road convened a meeting on the 19<sup>th</sup> June 2020 with stakeholders including City Law Enforcement, SAPS, the Ward Councillor, OBSID and OCA. There were statements made in the meeting which attempted to blame crime on the food programmes in Observatory. However, we explained in the meeting that the problems of crime are widespread across the City as a result of the impact of COVID-19 and lockdown and cannot be solely attributed to humanitarian response in the food provision programme.

### **Observatory Community Centre**

The Community Centre has a structure which should include a wide diversity of Observatory resident representation, as well as OCA having a presence. However, there is a lot of confusion about which version of its Constitution is current and efforts to hold an AGM were initially stalled by our Ward Councillor and later by COVID-19. However, we understand the committee currently running the Centre recognise the need to regularise the management of the Centre, consistent with their mandate and will pursue holding an AGM soon for that purpose.

### **Ward Councillor**

As can be seen from the bulk of the report, we do not enjoy a good relationship with our Ward Councillor. He is generally not very responsive to requests for intervention on matters affecting the community and his usual response is to forward the email to someone else, if at all.

For example, some Arnold Street residents' lives have become miserable as a result of the development at 289 Lower Main Road, and they have repeatedly approached the OCA for assistance. On the 2 July 2020, I wrote to Councillor Chapple to ask that he assist in intervening in this regard. His response was to say he was 'following the e-mail trail regarding 289 Lower Main Road' and that he would 'await Mr September'. Needless to say, Mr September did not respond nor did Councillor Chapple. The OCA had to apply to an official for reports, and when refused cooperation from one official, we obtained the report through a PAIA application which confirmed that the developer had disrupted electricity supply to Observatory by damaging an underground cable.

We also submitted a budget to the Ward Councillor for support for the food programme during lockdown, which he indicated should go to City Grant in Aid, and he promised to reroute the application. We then followed up only to discover from Grant in Aid that no such OCA application was ever received from Councillor Chapple nor are Civics even eligible to apply. I then followed up again with Councillor Chapple in July about the matter and he promised to send us the application procedure. No such information came from him, which is not surprising since he must have known Civics are not eligible. It is unclear why he led us to believe we could apply nor why he said he would submit our application but did not.

In July 2020 I had also appealed to Councillor Chapple to communicate directly with the OCA should he have any concerns about what the OCA is doing following a statement he made at the meeting with the Observatory Spar (mentioned above). His response was to say that he would definitely put in writing any concerns 'if anything comes up'. The following month, when the City was trying to evict the Willow Road residents, Councillor Chapple circulated a statement on his WhatsApp accusing the OCA of supporting illegal activities at the WAC without bothering to discuss or confirm

with the OCA. We asked then for a meeting to clarify the statement but received no response. Councillor Chapple has said openly that the 'OCA is perceived as an organisation that works against the City not with it.'

But most concerning is his failure to take a position on the River Club development as Ward Councillor and as an IAP in the EA. Despite appeals to him a number of times, and leading us to believe he supported our objections, Councillor Chapple did not take a position opposing the River Club rezoning. Instead, he sent an email to the Head of Planning in the City on the morning of the MPT to protest the composition of the objector list. This objection was irrelevant to the MPT, unsupported by any evidence, and unrelated to any substantive objections we had indicated to him prior to the MPT. In the course of the hearing, the Chairperson explicitly asked the Case Officer if the Ward Councillor had submitted any comments. She replied he had not. This is a huge let down of our community.

This is not the first time our Ward Councillor has given the impression of being concerned about a development application to which our community objected, yet has not actually done anything to oppose it. In March 2018, when the owners of The Anson Apartments applied to put an extra floor onto their existing six-storey building opposite the Village Green, the Ward Councillor made no comment to the planning officer, and the application was approved despite deep unhappiness in Observatory.

Regarding the River Club development, I wrote to the Ward Councillor following his failure to object to the development to indicate that the OCA and the vast majority of the Observatory community felt betrayed by his failure to object, and that we would not accept a lack of accountability from public officials who are supposed to serve their constituency. Councillor Chapple noted the comments but has never responded.

The OCA's relationship with our Ward Councillor, who is obliged under the Municipal Services Act, to promote public participation and for whom the Code of Conduct confirms the role of councillors as accountable to local communities, is not satisfactory. For that reason, a resolution is up for discussion and a vote at this AGM to address the poor relationship with our Ward Councillor.

## **CAPP**

Civic Action for Public Participation (CAPP) was borne out of OCA's involvement in some Development Action Group (DAG) facilitated dialogues. Our support for CAPP has been ongoing, although interrupted by COVID-19. In March 2020, we helped to facilitate a seminar by Daniela Ciaffi as part of a Festival of the Commons. Just before Level 5 Lockdown, CAPP convened a discussion with Crispian Olver on 'How Civic Organizations Can Use the Upcoming Elections to Promote Citizen Participation and a New Democratic Model of City Management'. This discussion still needs to be taken further. There has been no further progress from the City over the Municipal Bylaw on Public Participation. A Masters student in Social Development at UCT is completing her mini-dissertation on public participation using Observatory, Woodstock and Bo-Kaap as case studies. She interviewed CAPP and OCA Management Committee members for her research which will be completed and written up in the next few months.

Other activities have included:

- The OCA chairperson gave a talk at the AGM Of the Greater Cape Town Civic Alliance on 14 March 2020
- We are currently participating in the process to develop a local spatial development framework or local neighbourhood plan for District Six;
- Assisting a Greyton activist who inquired about local heritage challenges

- Note also that our partners in the Phillipi Horticultural Area won a significant court victory in Feb 2020, including mandating Climate Change considerations for any Environmental decision-making

## 5. SOCIAL ISSUES

The Social issues portfolio has been extremely active under Kimon Bisogno. The programme to provide food support for vulnerable populations and groups during COVID-19 has been a huge effort. Kiki helped to recruit volunteers for OBS CAN and organised different groups supporting food provision on the Common, Liesbeek, Singabalapha, St Peter's Church Miscrosite, and Doves. There was lots of support from OBSID, and donations from Extreem Kwizeen, Ladles of Love, Breaking Bread, Blue Ribbon Bakery, WC DEDAT, and many individuals.

OCA held a virtual Town Hall meeting on Homelessness 12<sup>th</sup> August which saw a positive dialogue to explore 'A Human Response' in a time of crisis and concluded with a commitment to find solutions to assist homeless people in Observatory. One example is the Streetscapes initiative which has been quite successful though still early days. It has seen former homeless people off the streets, living in a home, working and earning, as a pathway to life off the streets.

The Social Issue portfolio has also worked with Observatory CAN on face mask making, mutual support, shelter in place strategy, and spent a lot of time raising funds for the many activities undertaken.

Liquor licenses also comprise an important part of Social Issues but have been handled by a volunteer group of Observatory residents coordinated by Carolyn Neville under the auspices and liaising with the Deputy Chair. OCA adopted a license policy to guide and bring consistency to OCA decisions on licenses. We were also able to hold a workshop with the Western Cape Liquor Authority in January to better understand the licensing process and where and how communities can have a say. We were supposed to follow this up with an equivalent workshop with City officials, but they were not prepared to come to an after hours meeting, expecting us to come to their office during the working day. By the time we got them to understand we want them to speak to the Community, COVID-19 lockdown had stopped that interaction but it is one we should pick up again, so that we are better informed of processes.

The OCA lodged objections to two licenses, involving Lobey Fiesta (closed windows, no food); and the Springbok Pub (we objected to back courtyard usage only). Unfortunately, both applications were approved. However, through an appeal, part of the award was overturned in a remarkably fair judgement by a retired judge, who was not taken in by the applicants claim that a double wall and a stretch tent were noise control measures. This decision is significant because it takes seriously the idea of what is the public interest and hopefully sets precedent for future decisions. There were other applications which we did not object to, usually if the license is linked to on site consumption where meals are served, as per our policy. However, there are premises which appear to be breaking the law by serving alcohol without a license, such as the Retrouvaille Palace Bar (formerly Curry and Craft).

The OCA also wrote a letter in support of the District Liquor Officer (DLO) who was receiving negative comments from license applicants who felt unhappy that their applications were not supported. Most recently, the DLO convened a meeting with the OCA and liquor license holders to enable parties to better understand each other's challenges and to set up better communication to resolve problems earlier.

Other aspects of the Social Issues portfolio involve the approval or objection to events in Observatory. We gave support to the Salt River Blackpool Football Festival in March; FCK Youth

Soccer Festival for 2021, and a Hockey Tournament also scheduled for 2021. To our knowledge, the event license for the party held at the River Club in December was never circulated to OCA for comment.

## **6. ARCHITECTURE & HERITAGE**

The Architecture & Heritage portfolio struggled until well into 2020 to function. We missed a number of key opportunities to comment on and object to outsize or inappropriate developments. We also failed to follow through on the workshops we held last year to be proactive about the sort of local spatial development plan we want for Observatory.

However, once Kirstin Mckenzie took over in the middle of the year, we were able to catch up on the backlog and respond much better to a large number of applications sent to us for comment. Architecture & Heritage also took over the Large Development Group (LDG) which was no longer active. The developments it dealt with included a number of minor projects across Observatory, as well as preliminary consultations regarding larger developments at Seymour Street, a redevelopment of the Lion Match factory site, and a proposal for Collingwood Road.

Notably, two of the applications commented on involved applications from Theo Kruger, the architect who took part in the attempt to capture the OCA in 2017. Both these applications were rejected on the grounds of poor design. The portfolio has taken the decision not to consider any application if the architect involved does not show their registration with the SA Council for Architects and Planners in the application. We also discovered in the course of the year that the Village Common is zoned for business use along Station Road, even though there are no structures there. We need to be mindful of this in future.

Observatory residents also reported to us that the premises owned by another member of the threesome who attempted to capture the Civic in 2017, Himmy Abader, had been occupied prior to issuing of a certificate of occupation and was being advertised as apartments for hire, in contravention of the conditions of approval by the MPT as a backpackers. We requested a copy of the communication from Mr Abader requesting occupation, as well as a copy of the City's approval letter. However, the City of Cape Town official concerned refused to give us the information and referred us to the City's Access to Information Office for a PAIA application. We completed the PAIA application, but the first mentioned official simply ignored the request from the City's Information Office (which administers all PAIA requests to the City) for two months, claiming COVID-19 preventing him from accessing records. We appealed this outcome and have now won the appeal. However, we have to wait six months to get the documents because of how the law is written.

With regard to the latter complaint regarding failure to use the development as a backpackers, we have struggled to get the relevant City department to act. But an inspector has been apprised and we are hopeful there will be action against Mr Abader for failing to stick to the conditions of approval.

Also, for information, the MPT turned down an application to build a 15m high cell phone tower next to Observatory train station. The applicants are now appealing.

On the Heritage side, we submitted nominations for the Liberation Heritage Route for Cape Town: (i) TRUP; (ii) Pass Offices on Fir St; (iii) various organisations' offices (NUSAS, SWAPO, Khanya College, COSG, etc); (iv) various individuals (Dullah Omar family, Denis Goldberg, etc).

## **7. ARTS & CULTURE**

The Willow Arts Collective proposal was presented to the OCA Management Committee for discussion as an Eco-Garden and Recreation Centre, including cultural and chess activities. This

proposal is still in its early days, and will undergo a Feasibility Study with the support of DAG and be shared with the Observatory community as part of our plans for a consultation for the precinct. In January, before lockdown, a successful Theatre in the Subway event was held at the Observatory train station. COVID-19 lockdown has limited the number of activities that could be successfully implemented in our community.

In August, the plaque commemorating Khoi history and resistance on the Liesbeek was vandalised and broken. A heritage crime was reported to the City. The plaque is still to be repaired.

Previously, the LDG started to think about creating a board game to raise awareness about civic democracy and how planning decisions get made. Unfortunately, we could not get further than some initial ideas of the rules which would be a game similar in form to Monopoly and be called Observatropolis. If anyone wants to assist with some creative ideas, please contact us.

## **8. TRUPA**

Both the Two Rivers Urban Park Association (TRUPA) and OCA appealed the DEADP EA and the City's rezoning. Mark Turok was able to ensure coordination between the two organisations and the promotion of a less destructive and more heritage- and environmental-friendly planning proposal (known as Scenario C) for the future direction of planning for the Two Rivers Urban Park.

## **9. CAR PARK**

Over the past two years, we have had the sword of Damocles over our heads as a result of the City of Cape Town's choosing to treat the lease for the car park as a commercial enterprise rather than a social enterprise. As a result we were charged notably much higher rental than what the City charged the City of Cape Town Football Club, a professional club, for its rental of sports fields in Observatory. However, in the course of the year, De Vos Rabie finally managed to negotiate with the City to reduce its rental for the car park, as well as to write off the backdated rental accumulated over what we were paying (consistent with the previous rates). This meant that pressure on the OCA was much relieved.

However, even before COVID-19, it was clear that the car park was not generating a surplus and during Lockdown, we incurred much more severe losses, since our costs remained practically unchanged during this period with very low income from casual parkers or SPAR reimbursements. In fact, during this period, the SPAR decided that they were no longer able to afford the subsidisation of their customer's parking and unfortunately ended the longstanding arrangement of them paying for the first ten minutes.

During Lockdown 5, our car park staff was not working, and the potential of job loss was serious and would have resulted in real hardship. We managed to find different forms of funding: UIF-TERS claims, utilising leave balances carried over from last year, and generous donations from individuals in Observatory. We managed to pay our staff their full wages for this period.

With the introduction of Level 3 Lockdown from 1 June, we were able to start operating again. However, with many restaurants and bars closed, and with fewer students or tourists in Observatory, the usage of the car park was very low. We kept the kiosk open only during the day because usage at night was minimal and it was difficult for staff to find public transport after hours.

The reduced operating hours meant that sharing the available shifts amongst our staff would result in significantly lower earnings. We discussed the possibility of a retrenchment option with the staff and one staff member initially agreed to accept a package, but she changed her mind and decided to stay on. Currently, usage has improved slightly but we are still running at a loss. The financial future of the car park is uncertain, and it will probably remain so for a while (like so many other entities in

Observatory). OCA has been funding the costs and losses for this period, but our funds will not last forever.

## **10. COMMUNICATIONS**

We have a very active Communications portfolio thanks to Edwin Angless, supported by J P van der Mescht. We currently have over 600 subscribers to our OCA Newsletter of which 31 editions have been produced in the past 11 months: an average of 3 per month and each one jam-packed with useful articles. The format and layout of the Newsletter have been very well received.

Much of what is in the Newsletter involves information about OCA activities and particularly related to the River Club and TRUP, but it also publicises local activities and local NGOs. The portfolio has also resuscitated the Liesbeek Action Committee newsletter and Facebook page, as well as updating the OCA Facebook page. Edwin has also engaged a number of WhatsApp groups, including OBS CAN, to ensure ready flow of information.

Videos of all HWC Tribunal hearings concerning the River Club have also been captured and will be uploaded to a newly created OCA YouTube channel shortly.

OCA has also contracted Sue Parker-Smith from Catalyst Communications and Rosie Campbell from Design for Development to assist with a visual, marketing, and social media campaign around the River Club.

An important advance has also been the establishment of an online membership process, which, despite some gremlins to be ironed out, is proving to be much more efficient.

## **11. POLICY AND OTHER SUBMISSIONS**

OCA made a number of submissions in the course of the year on City of Cape Town policies:

- a. Commented on City of Cape Town's Draft Revised Open Data Policy, 22 July 2020.
- b. Commented on City of Cape Town's Draft Allocation Policy for Housing Opportunities 2019, 19 July 2020.
- c. We had commented on amendments to the Municipal Planning Bylaw in April 2019; the Amendments were adopted in December 2019 but none of our recommendation were accepted.
- d. Joined other civics in objecting to the Draft Amendment of the City of Cape Town's Streets, Public Places and the Prevention of Noise Nuisances By-law, 2007 ("2007 By-law").

## **12. ORGANISATIONAL ISSUES**

We struggled to find a secretary for the OCA in the past year. We had two temporary arrangements, neither of which worked out. We have ended up having the administration person doing minutes from a recording, while the Deputy Chair took over membership responsibilities with the Communications portfolio holder. This is not ideal and the Management Committee really does need a reliable secretary.

We have had some difficulties finalising our NPO status because of bureaucracy in the Department of Social Development's NPO Office but that is now rectified. In the course of 2020, we also relocated our address from sharing with OBSID to using 60 Lower Main Road.

In conclusion, we have many challenges facing us, but as a united civic, with your participation, we can achieve many great things.

Leslie London, 16 November 2020

## Appendix: River Club - Timeline

2015	Liesbeck Leisure Properties PTY purchase the property from Transnet on 19 <sup>th</sup> May 2015 through a private sale for R 12 million plus VAT. Liesbeck Leisure Properties PTY then sold on the property to Liesbeck Leisure Property Trust (LLPT) but at a price 8 times higher, being R 100 million. The purchase by LLPT was possible with a bond issued by Investec.
Sep 2016	Draft Scoping report released for comment: OCA noted the heritage importance of the site
Jan 2017	Revised Scoping Report released
Dec 2017	Heritage Western Cape gave notice that they planned to declare the whole of the Two Rivers Urban Park provisionally protected under the National Heritage Resources Act, based upon a Two Rivers urban Park baseline Heritage Study and a supplementary report they had commissioned in 2017; the purpose of the protection order is to allow HWC to grade the site before any developments are considered on the site.
Feb 2018	Consultants presented a draft Heritage Impact Assessment to OCA. At the meeting, the consultants were asked which First Nations groups had been consulted. The consultants were unable to name who they had consulted. We objected strongly to the HIA
April 2018	HWC declares the River Club Provisionally protected; An appeal is lodged by the developers, DEADP, DPWT and the City against the Protection Order shortly afterwards.
Oct 2018	LLPT applies for rezoning of the River Club. Multiple objections received. However, the process 'pending' according to the City because of the Tribunal process.
Oct – Dec 2018	Ministerial Appeal Tribunal meets over 3 occasions to hear the appeal. The meetings are full of participants opposed to the development including a number of first nation groups, civics and NGOs. There are no first nation supporters in the room. There is no mention of the "First Nation Collective", no claim at that point of having any first nation support. The developer's lawyer acknowledges in the Tribunal that the consultation process with the First Nations should be improved; promises better consultation in future.
Jan 2019	The Tribunal issues an interim directive parties to consult with each other.
July 2019	Pre-Application Basic Assessment Report release for comment. A Heritage Impact Assessment is part of the BAR and submitted to HWC for comment.
Sep 2019	HWC issues Interim comments in September as highly critical of the HIA.
Oct 2019	The Heritage Appeal Tribunal meets to consider the matter
Oct 2019	City releases draft TR LSDF for comment. The River Club development is written into the LSDF as a given. Multiple objections lodged.
Jan 2020	Revised BAR put out for comment including the revised HIA.
Feb 2020	Multiple objections lodged, including a petition with over 10 000 signatures within a week, and since then it has increased to close to 20 000
Feb 2020	HWC final comments. HWC roundly rejects the HIA concluding it has failed to meet the requirements of the NHRA.
Feb 2020	The Goringhaicona, along with the OCA and the TRUPA apply to HWC to grade the Two Rivers Urban Park as a Provincial Heritage Resource, supported by over 50 other First Nation groups, Civics and NGOs.
April 2020	The Heritage Appeal Tribunal dismisses the appeal against the Provisional Protection Order. The victory is moot as the Protection order is due to expire at the end of April. Two years have run their course and the area has not been graded for its heritage resource.
August 2020	IGIC postpones consideration of the application for grading of the TRUP as a Provincial Heritage Site; DEADP grants the environmental authorisation for the River Club Development
September 2020	OCA and other organisations Appeal the DEADP EA The City convenes a special MPT and approves the rezoning
October 2020	Heritage Western Cape first hearing on the TR LSDF HIA OCA and other organisations appeal the City's rezoning
Nov 2020	HWC reject the TR LSDF HIA as inadequate