

# **Constantia Ratepayers' and Residents' Association**

## **73rd ANNUAL GENERAL MEETING**

**Monday 30<sup>th</sup> October at (5:30 for) 6:00pm** at Simon's Restaurant, Groot Constantia.

### **DRAFT Minutes**

#### **1. Notice Convening the Meeting.**

18h14 meeting commences.

John McPetrie (John) opened the meeting and welcomed attendees. He said that for a quorum we have to have at least 10 percent of the number of members who have paid for the coming year and for last year – these add up to 569. There were 61 members present – a quorum.

John thanked Liezl Eayrs, owner of Simons, for the use of the venue, and welcomed Carolynne Franklyn and thanked her for being with us. Councilor Emil was not able to 'make the meeting'. John noted that we had not given much notice to the Councilors which made Emile's absence understandable. John also thanked Adv. Sean Rosenberg, our guest speaker - and Groot Constantia, for the complimentary glass of wine on arrival.

He then invited people to stay behind after the AGM for some snacks and to chat with EXCO.

John confirmed that the notice convening the meeting was correctly sent out, and welcomed Janice Matthews, from the Constantiaberg Bulletin

#### **1. Quorum: Apologies and Proxies**

One proxy was received and one apology read out.

#### **2. Confirmation of Minutes of the 72<sup>nd</sup> AGM held on 21<sup>st</sup> November 2022**

John asked for an indication from voting members whether we could approve the minutes of the last AGM. Two members did not approve the minutes. One, Anna Engelhardt noted that in her view the Minutes 'were not a true reflection of what happened' at the last meeting. John then asked if anyone wished to withdraw their vote. As no-one did, the Minutes were approved in their presented form, which John then signed.

#### **3. Chairperson's Report**

John read out his address. He stressed that the purpose of the new exco -since the start of August - had been to withdraw the proposals to the City (which had included the so-called 'pink map') and to develop a strategy for defending the valley against the rampant development it was experiencing. To achieve these ends the CRRA had needed to redevelop its credibility with its membership, including reestablishing its

membership data base, developing a reliable invoicing and receipting system, and creating a communications structure which would convince membership that we were both organized, financially viable and actively pursuing their interests. He thanked certain members – including Lynne Huppert, particularly for efforts in this regard. Finally John called on members to understand that serving on Exco required hard work and urged volunteers to come forward to assist the effort. He reiterated that defense of the valley is going to take effort and funding.

#### 4. Introduction of ExCo portfolio members

John then introduced the various current members of Exco, by Portfolio:

##### **Nick Huppert spoke on membership and database**

Nick advised attendees that the CRRA has:

- Organized move to fibre.
- Will be using Microsoft outlook with SharePoint so all the data can be kept on the cloud. Will allow us to modernize comms.
- Will move to a better hosting server and from Telkom to VOIP.
- Should all be in action within a month or a month and a half.

Nick asked any members who are still not receiving communications to please email us so that we can figure out why.

##### **Ben Wren spoke on Marketing and Communications**

- He explained 'how he got here'. He was 'just a normal resident living in Duckitt Ave'. Neighbour decided to put a cell phone mast on his roof without permission. Approached CRRA for help – got nothing. So he decided to join to try and make a difference so that people with problems like his could get some help.
- Now head up comms – background in advertising. Main objective is to start to do some comms and get members clear and useful information that they need. He has created 3 pillars for comms: (1) essentials to be compliant, AGM, Minutes etc. to be sent out monthly; (2) more 'high importance' information – e.g. a particular development that everyone should know about; (3) general information.
- **How will we communicate?** More communication on **Facebook** – join the Facebook page - about 600 members on there now. Will post at least once or twice a week with more general info. **Newsletter** – starting hopefully in the next 4 weeks – monthly with a summary of the month's activity. Also **monthly Minutes from the Exco meeting**.
- This is all possible now that we have a workable database, almost 99% accurate – Ben appealed to members to 'just tell us if there is a problem'. We'll use this to get important information out to you. Won't spam you, so if you get something, it will be important info.
- And lastly, we will *rebuild the website*. Will modernise, to make it user friendly and able to carry more information. We're hoping to have it up and running by the end of November, but because it's free of charge we have to move at developer's pace. You will be able to purchase membership, view planning applications etc.

**Mike McBride (Treasurer)**- Mike was introduced but spoke later in the proceedings.

### **Mike Madden -the Constantia Village servitude**

- He spoke of the history of the Constantia Village Shopping Centre. In 1984 Raymond Ackerman wanted to build a hypermarket. Neil McCarthy opposed a regional shopping centre, and wanted something smaller. Eventually agreed, on condition that there be **a servitude giving CPOA rights over how the CV could develop**. In 1997 Neil went on holiday, a new chair was appointed in his absence. He immediately authorised a 30% expansion of the centre. Neil sued the developer – Norwich Life – won his case with costs but by that time the centre had largely been built.
- Mike spoke of what the servitude says, and what is actually happening. For example: far more restaurants are operating than are permitted and shops are trading in the open areas of the centre which is not permitted by the servitude. This was permitted by the previous CRRA Exco. Growthpoint has benefited substantially from these concessions, without benefit to members.
- What we want to avoid is commercial expansion which will end up looking like Blue Route or Cavendish.
- We think the shopping centre should serve the interests of Constantia only, not the commercial interests of an organisation based in JHb.

### **Gordon Chunnett – Security and Environmental issues :**

- **Constantia is** a wonderful place, he noted, because it is **safe**. It's safe **because of** the involvement with **Constantia Watch (CW)** and the CRRA's close relationship with CW. For those of you who are committed to CW, we thank you deeply for your commitment is necessary.
- Constantia also a lovely place for other people - **many vagrants** who come into Constantia and get food and money at traffic lights. He appealed to members to support NGOs and organisations which provide relief to people who find themselves in these situations. Don't feed people at traffic lights as it exacerbates the problem.
- His involvement with CRRA stems from **2105 fire** which very luckily didn't reach Constantia from Cecilia Forest. A number of houses burnt randomly in Constantia and he took it on himself to understand why and to do something about it. He has been **involved with TMNP forum**, the Tokai Cecilia park management forum, specifically on fire management.
- **Stack burns** – important to get rid of alien vegetation, using what can be sold for firewood. Eliminates the fire threat. He maintain contact and encourages appropriate burning, especially firebreaks which fell into disrepair and disuse for a number of years. These are being brought back – to develop fire break preparedness.

### **Isabelle Franzen (and Neville Frost) - Heritage:**

- The city has a requirement that any structure that is 60 years or older must go through a heritage vetting process for any changes, to ensure we preserve that which is worthy of retention for heritage purposes. HWC has to approve or not. What we do is review and make a recommendation to HWC. Also look to trying to save heritage-worthy places.
- She referred to the old Constantia Post office / police station which some deny has heritage value and described the complexity in the matter. We have money to repair the building and an occupant who would like to use the building for a museum for previous inhabitants.

**Tracey Davies – Land Use Committee (LUC)**

- Chair of LUC for a few months, Tracey is an attorney but not a planning lawyer. She gave a brief summary of what the land use committee does, the types of issues it deals with - highlighting volume of applications, short time-frame for objections, and the fact that the City is using the defunct post office system to notify neighbours, and the fact that objections from interested and affected parties are usually ignored or overridden by the City.
- Her PowerPoint presentation demonstrated the influx of high-density “security estates”. Ironically these are the developments we often don’t get asked to comment on because they don’t require land use applications.
- **By approving these without consideration for their overall and cumulative impact, the City is undermining its own vision for Constantia.** The City’s approvals of land use applications ignore public comments and follow the City’s densification policy routinely: i.e. 3 houses/erf. No departures from planning applications are required for these.
- The work of the LUC is extremely time-consuming. Tracey appealed to members- ‘if you can help, please join our team’. Finally Tracey noted that **we are trying to communicate better with residents about applications on which we are asked to comment.** Please bear with us even if you get emails that are not directly relevant to your area.

Two questions followed:

1. Ray Botha, a resident of Gemini Way who expressed outrage at what the city is letting happen to Constantia, called on people to join up and participate, and pledged R50k to the CRRRA and called on others to do the same.
2. Kim Bouchier asked why Neville Frost had told her not to embarrass herself when she was notifying neighbours of the proposed development at 20 Eugene Marais Avenue.

**Nick Huppert then explained the current CRRRA strategy to address densification:** He noted that:

- We will consider a Constantia referendum on minimum erf sizes.
- We don’t feel that the city is being spiteful. ‘It’ likes to operate within regulations but may be misinterpreting some and staff at ground level may not be applying things with the necessary finesse. By talking to the right people, we hope to make inroads.
- Why ask for participation if you’re going to ignore what is sent? Need more two-way communication - and it has to be meaningful.
- We are going to endeavour to negotiate some reasonable compromises.

**5. Guest Speaker: Adv. Sean Rosenberg: ‘Challenging City planning policies’**

Tracey introduced our guest speaker. Sean Rosenberg explained that while the topic ‘is grand and broad’, his address was going to be far more confined. He was to tell us what he and a few others are hoping to do in respect of one of the developments that you have heard about. Called Bannerman Estate, a proposed 6 house development on what was historically a single, quite a large erf . It’s a problem that is cropping up everywhere, and one that almost all of us in the Valley, are going to face sooner or later. The purpose is to give you a brief indication of how we have got here and to indicate what possibly can be done about it. No

certainty and no firm conviction as to the correct legal position. Quite a difficult situation.

Sean pointed out that a couple of basic concepts must be understood, such as reference to spatial development frameworks etc. – these are policy instruments designed to give broad guidelines, but they will provide no assistance in the problem that we face, because of the context and the nature of the decisions which the city has to make.

Then there has to be a clear inter-relation between two separate but related processes. Everyone has been talking about planning applications – one stream regulated by the planning by-law which incorporates a zoning scheme which regulates the use of land and the development rules. On the other hand, the building act regulates applications to build. These are *separate processes*, although interrelated up to a point.

The Planning Act is effectively a bylaw promulgated by the City which provides for notification, effective objection and appeal processes and it is user friendly. It's used by people who want to get rights which they don't have - for example in terms of single residential zoning. If you want to expand or alter those rights – you apply in terms of the planning bylaw. And that is where you have the opportunity to get notification. For such planning applications the system is relatively satisfactory.

But *not so for building regulations*: if developer wants to do something that falls within the planning rights. The Building act situation is a result of a Constitutional Court judgment – it doesn't have provision for notification, appeals etc., that is why everyone is so indignant when they say that the city does not give them any notification of these developments - that is an outcome of the court's interpretation of the Building Act.

One other observation: when a developer wants to apply for permission to build in terms of the *Building Act*, the requirements which the Act says the city must look at to approve are very broad and subjective. City must look at whether the building is objectionable, whether it is likely to derogate in value from surrounding properties etc. In many years, I have never encountered a situation where the city has refused a building plan based on those criteria. *The only real basis to refuse is a provision in the act which says any application has to be compliant with the law* – which courts say means "*including the Planning Act*". So the only really practical thing to do, is to object to a building application - if you come to hear of it - by pointing out to the city that it is not compliant with the planning act, that is, not compliant with the zoning scheme.

The problem that has now presented itself in Constantia, is 3 houses being constructed on what was always a SR1 zoned property. We see examples of 6 houses on what one thought was just a single property, but you discover that it has been subdivided, owner retains both portions, etc.

In 2019 the city amended the DMS – the zoning scheme (development management scheme which is incorporated in the planning act) – which now provides a so-called

“additional use” for SR1 properties - an owner is now entitled to a second and a third dwelling.

The only condition for that ‘additional use’ to be utilized is that the dominant use of the property shall be a dwelling house for accommodation of a single family. Also that any new structure shall be compatible with the residential character of the area. *But the crucial and only clear requirement, is the former.*

The City has, since the time that this amendment was effected, applied the ‘dominant use requirement’ in a very mechanical fashion to distinguish the three structures. It is almost invariably satisfied if a developer can produce a plan in terms of which the total floor space of the main dwelling is in many instances only insignificantly greater than the total floor space of the 2<sup>nd</sup> and 3<sup>rd</sup> dwelling . He explained that although the houses all look the same, typically, on analysis, a (main) house will probably have a total floor space which is marginally bigger than the other two. The city almost mechanically accepts that the dominant use of the property remains a single dwelling house for accommodation of a single family.

What the zoning scheme does provide is that in fact the 2<sup>nd</sup> and 3<sup>rd</sup> dwelling can have a total floor space *equivalent to the main dwelling – which suggests that mere size is not the decisive issue.*

He went on to explain that, the related issue is the utilization of sectional title (ST) schemes. ST schemes are regulated by the Sectional Title Act and conventionally most people would have a notion of this as providing for ST ownership - one flat in a block of flats – each of which has title to the owner by virtue of their flat. That has been used now in the context of the SR1 properties – the developer will open a sectional title register, so what was intended to be a single residential dwelling with a dominant use, plus two other dwellings, results in 3 dwellings under separate ownership. That’s the first issue that has to be considered. Whether this, effectively a subdivision by stealth, was ever contemplated by the city. Subdivisions have to be applied for in terms of the *planning act* and each owner has separate title to the house. That in our view at the moment is something that may well not have been contemplated.

He continued that in his road, a couple of neighbours have been faced with the Bannerman Close development – a curious situation because it was a subdivision which the city approved *without imposing any conditions on how many houses could be built* although they’ve been told that the city will be more careful about this in future. But in any event, Bannerman is now looming, there are plans which are with the city. Those plans are inevitably going to be passed, they have put in objections – and some of their group are optimistic, but he fears that this is a false optimism; the plans will be passed – because building plan applications only have to look at whether there is a main dwelling house which is marginally bigger than the other two. Tick and that, and that will be the end of the enquiry and it will get building permission.

He believes that there is no way that the city will give a grain of attention to the objections. Those grounds never ever fly in building plan applications. In consequence, within the next few months, this will be approved. What his group

contemplate doing, is to challenge the city ( well, he noted, 'that's the plan, and it's a difficult and uncertain legal challenge'). Linked to that challenge will be additional arguments such as the resort to use of sectional title schemes providing for separate ownership of SR1 erven.

He summed up: they anticipate that the plans will be passed; anticipate that they will indicate to the developer that they plan to challenge the building plan, and they will call on the developer not to commence construction until they have challenged the building plan. They anticipate that they will not give that undertaking, and that in order to get anywhere they will probably have to apply to the HC for an interim interdict to prevent building pending the challenge. That's an uncertain problem, but they believe that they have at least sustainable grounds.

Sean pointed that most of you us, property owners in Constantia, will have one or two properties quite close to you which are going to be ripe for redevelopment. There are already 2 in his road which have gone that way and he is aware of others where they see estate agents sizing them up. A 1800m property, with a 30 or 40 year old house, is ripe to be purchased by a developer for about R10m, be demolished with , three of these high-end products at R15m each, being put up. There is a strong market demand for this and their economics make all of them very attractive for development.

*And we will And you will not know that it is happening* – the only reason they knew about the Margaret Close development is that the developer was unwise enough to put up a big advertising board, and they found out what was proposed before the plans were submitted. In Bannerman, this was also purely fortuitous. *Neighbours won't be given notice by the city because the City Council has said it doesn't have to give you notice.* So don't recriminate the city, that's the state of the law. All you can do is *keep your eyes and ears open, and if you hear of it, you have to move quickly.*

Sean noted that in his view the City is very sympathetic and responsive! We should contact them to find out whether building plans have been submitted. *Email Robert Botha and ask him whether building plans have been submitted.* We can object – but he believes that the only sustainable objection is going to be based on whether SR1 permits 3 dwellings of roughly equal size, where there is no clear main house and whether it is a ST scheme. *The City won't revise its approach without a court judgment,* as it is heavily invested because since the amendment of zoning schemes, the city has consistently approved 3 dwellings of this sort across CT. The city won't change.

Going to court is unpredictable and expensive and nobody wants to do it. His group is going to do it and he noted we may want to sit back and let our case be the guinea pig; or we may go to our own legal team and crank up your own legal challenge. *But it will require a court challenge.* That' is their plan at the moment. For the rest of us -in the meantime – we should keep our eyes and ears open, be alert to what is happening - because it is happening everywhere. *Sean agrees that it poses a fundamental challenge to the character of the area- despite all the frameworks etc. recognizing this is worth preserving.*

In closing he noted that *this character is going to be lost or fundamentally altered on the present trajectory*. That is the outcome of a zoning scheme which provides for these rights. At the end of the day it may be that the electorate – and we're a relatively small and not particularly influential constituency – will have to make its voice heard in relation to the changes we need to the zoning scheme. The council adopts this – they are our representatives - and at least notionally the council should promulgate a zoning scheme which is in line with what the majority of the electorate in the council wish.

## **6. Treasurer's Report – Mike McBride**

After his very detailed presentation, Mike was asked about the CRRA introducing direct debits? It was suggested that these would be much easier than invoicing every year. Mike replied that this concept was investigated but the CRRA would need to provide a R50k surety, so we decided not to pursue.

- 6.1 Tabling and Approval of the Annual Financial Statements.
- 6.2 Presentation of Budget for 2023/2024
- 6.3 Appointment of Auditors.

**All were supported by a show of hands.**

## **7. Election of Executive Committee**

John proposed that all existing members of the CRRA be re-elected as there were only 10 nominations out of a possible 12, and thus only one vote would ensure a place on Exco for any of the nominees. Everyone with a green voting card except Kim Bouchier supported this proposal. Kim noted that there were members on the EXCO who were part of the 'old guard' and should not be there. John thanked Kim for her observations but noted that the vote had been overwhelmingly in favour of the proposal, and so the proposal was carried,.

## **8. Amendments to the CRRA constitution:**

John made the following proposals for changing the Constitution:

- 7.1 To enable paid up members to attend ExCo meetings – no objections to this proposed amendment.
- 7.2 To enable the CRRA to pursue further advantages of tax incentives – no objections to this proposed amendment.
- 7.3 To allow alternative methods of financial certification – After some questions, we agreed that we would reconsider/improve the wording. No major objection.
- 7.4 To amend clause 4.8.2 to read that membership ceases 3 months after due date of non-payment of fees. – no objections to this amendment.

## **9. Ward Councillors:**

'Our stance on densification in Constantia and how we will support our constituents in opposing it'

Because of the lateness of the hour and the need to have a quorum for the voting required for the above two points, this item had been moved. (Note - when asked why Emile Langenhoven was not present, John repeated that his invitation to the two Councilors had given them just two weeks' notice and Emile had responded via our Admin Manager, that he had already accepted another appointment.

**Councilor Carolynne Fanklin.**

- Ward Councillor for Ward 71 – which only overlaps CRRA boundaries a little, noted that she was at a slight disadvantage as only a few of those present were within her ward. She had become Ward councilor from 2021. Colleague EL not able to be here this evening. (Someone asked why not and John explained)).
- Councilor has lived in Kirstenhof for over 25 years. The ward councilor's job is to hold the city accountable, to act as a mediator and facilitator and a disseminator of information. She had 'no particular thoughts with regards to densification but confirmed that it is her job to 'take note of concerns'. She observed that the CRRA can take these concerns to far higher powers than ward councilors.
- She held up the City's IDP and explained that the document speaks to the city's blueprint for the 5 years for which she's been elected. If not in the IDP, 'it won't happen' because this speaks to the city's budget and priorities. This is our public participation process with regards to driving the way the city is going to look. She noted that in objective 7, it reads, "increase supply of affordable well-located homes." Whether we like it or not, essentially what it says is that the city will support the private sector to scale up the supply of affordable housing – particularly *social housing*.
- She said that she had sat quietly at the table wondering how many developers were sitting quietly amongst us, wondering how many of us are contemplating selling our 4000m2 plot to a developer; how many of us will be leaving the country and doing that or retiring possibly to Great Oaks. This isn't us versus the city, it's not us and them. We live in CT we get to speak and find our voices about how we want the city to look going forward, so if we haven't had our say in public participation in the past, then we have only ourselves to blame.
- She added that much as she would hold the city accountable, it's also her job to hold us accountable, so we should make our voice heard. She observed that this 'wonderful new exuberant and robust and enthusiastic CRRA is going to be a pleasure to have interact with the city'. As she came from that 'active citizenry background', we should find our voice, members should support our EXCO; if you have the money, give the money, if you have the expertise give your expertise - you can only do it together. Make your voices heard but let's be practical. A lot of what the advocate said was very sensible. If you have the monetary resources and capacity to take the city on in terms of a legal challenge, then do it, because we need clarity. But also remember that *you* need to speak, *your* voices are important. We get to dictate who gets to lead us into the future. If you have questions please ask them, Carolynne said that she was a Jack of all trades like most ward councilors are, and believes in solution based conversations. Emotive rhetoric is great *when it gets us worked up and if it motivates someone to make a difference*. She noted that Kier Hennessy had had to leave – but he is very experienced and a gem to deal with. The City she noted was open to discussion, and to finding solutions. But please don't just slag them off on social media!

Nick Huppert responded that what Carolynne said 'makes a lot of sense, but asked her to explain how R17m 'is affordable housing'? He believed that this does not 'fit'.

Carolynne agreed. She said that this is where we come in. The previous EXCO had a significant input into the IDP, and she has seen the responses to that input from the city. But the demand in the city is immense – and people want to live in Constantia. Cape Town is a victim of its own success.

Mike Eayrs noted that Carolynne has said that its not us against the City and rather that its 'us against us', But the CRRA's comprehensive survey showed that residents are overwhelmingly against densification. Members have spoken out loud and clear and they are opposed (this to much applause)

Kim Bouchier then explained that she had attempted to attend the (February) EXCO meeting where she and Mike Eayrs had had an altercation; Mike informing her and other paid up members that the meeting would not start until they departed – this while the previous Chair was telling Kim that she owned the CRRA! Kim noted that all she wanted was to know 'what was going to happen in our neighbourhood'. (This had resulted in the Constitutional change permitting members to attend Exco meetings which had been approved earlier.)

Carolynne noted that she was very happy to see that the new CRRA 'is revising its constitution', which she felt was long overdue. There had been similar constitutional revisions amongst all of the residents associations to encourage more participation. She noted her concern that there were only 61 people of our 500 plus paid up members present, however.

A questioner asked if our best route is to go personally through the courts or through the CRRA channels when challenging the 3 dwellings per erf. Carolynne felt that there is strength in numbers, that the CRRA is recognized by the city and well known for engaging. We should bide our time until Rosenberg and his group have gone through the process. It is going to be long and expensive. But if as a community we feel very strongly, then it is worth pursuing.

## **10. General**

John apologised to Anna Engelhardt for what he felt might have been construed as a rather perfunctory response to her concerns about the acceptance of the previous Minutes. Anna responded that it was not a problem as her concerns had been addressed during the course of the meeting.

Anna then noted that with the city promoting densification throughout Cape Town and the infrastructure in Constantia at breaking point, nowhere has the city shown us any plan for how to upgrade our roads and infrastructure in Constantia. She asked how can they go on accepting all these applications for subdivisions etc? Where is this going to lead and how much do the rest of the community have to put up with?

John noted that this concern had been 'raised many times, tonight'. The quality of services is a big priority. *All our objections include reference to infrastructure.*

A questioner asked about 'getting Constantia Watch into her area' and Gordon Chunnnett responded that he would speak to her after the meeting..

## 11. Closing

John thanked everyone for their attendance and participation and apologised for running late! He again asked people not to leave but rather to enjoy the snacks and to mingle

!

The meeting closed shortly before 08.40.



Chairperson: J McPetrie

11/11/2024.  
Date