

NOTICE OF CONCERN 003

FY19 ACCOUNTS

8 November 2020

Dear Junta

JC_0025_20201108_NOTICE OF CONCERN 003 FY19 ACCOUNTS

We write with regard to the FY19 Accounts which were published by the Junta.

The “Audit Statement“

The annexe to the accounts reads as follows when translated into English:

“The entity has provided me with accounting records, bank book, cash book, income book of board members, expense invoices, payrolls, social insurance, justification of movements in banks, as well as extracts from the same.”

Having examined all this documentation and analyzed the final balance, I can say that it really reflects the expenses and income assumed during the 2019 financial year.”

As per 2018, no confirmation is given on the state of the Balance Sheet assets and liabilities.

The annexe essentially says that the books were provided to the *Asesor* for examination and that the income and expenditure shown produces the loss shown.

There is no statement that an audit was conducted, no audit methodology given, no statement to say that Spanish regulatory requirements were met and no view given on the accounting methods employed.

This looks like the *Asesor* is simply signing off his own work.

Question 1: In light of the adaptations to the 2018 accounts that have still not been adequately explained and the lack of detail in the annexe to the 2019 accounts produced by Bartolome Garcia de Haro, could the *Asesor* provide written confirmation that no questionable adaptations to the accounts were required by the Junta or made to the 2019 accounts.

Question 2: Could the *Asesor* also clarify whether the assets and liabilities shown in the 2019 Balance Sheet were verified and provide an opinion on whether these balances give a true and fair view of the financial situation of the Junta.

OPEN CABRERA Recommendation:

Pass a resolution that requires the Junta to submit to a full annual audit of the books by a recognised Town Hall approved independent auditor.

The Income and Expenditure Statement

The Income and Expenditure statement shows no prior year comparatives. Please find the comparatives below:

	2019	2018	% change
REVENUE	€uros	€uros	
Maintenance Charges	97,390.60	95,427.79	2.06%
Standard Water Charge	84,295.22	83,509.50	0.94%
Income from Water Usage	11,580.18	11,321.83	2.28%
Repairs & Key copies	90.00	150.00	-40.00%
Interest & Penalty Income	2,714.82	1,679.87	61.61%
Bank Interest	77.01	76.29	0.94%
TOTAL REVENUES	196,147.83	192,165.28	2.07%
EXPENDITURE			
Plumbing & machine for leak detection	3,844.14	3,847.85	-0.10%
Building supplies	554.12	99.22	458.48%
Asphalt	43,162.36	1,029.60	4092.15%
Gardening Phylosanitary products	734.06	985.53	-25.52%
Ironmonger small tools	1,651.88	304.72	442.10%
Works from outside contractors	6,124.00	29,102.45	-78.96%
Machine Repairs	1,255.11	388.9	222.73%
Repairs and maintenance vehicles	2,285.67	4,663.38	-50.99%
Labour Social Securities	635.00	540.00	17.59%
Accountants fees	800.00	800.00	0.00%
Lawyers, Notaries & translation fees	4,541.01	3,045.76	49.09%
Insurance (Car & Civil liability)	1,661.86	1,644.14	1.08%
Publicity Contribution	624.00	150.00	316.00%
Diesel for Landrover	4,009.17	3,754.10	6.79%
Diesel for Generator	2,560.49	3,155.49	-18.86%

Electricity for 2 treatment plants, pumps, lights	12,460.62	11,389.09	9.41%
Laboratory water analysis	2,625.00	2,670.00	-1.69%
Administration contribution	12,000.00	12,000.00	0.00%
General office consumables	2,255.78	2,721.89	-17.12%
Local taxes : vehicle, treatment plant	491.05	130.00	277.73%
VAT not recoverable	18,672.01	14,072.14	32.69%
Wages	53,162.22	65,064.95	-18.29%
Social Security	18,128.83	18,099.87	0.16%
Bank Charges	1,886.41	1,917.60	-1.63%
Depreciation	8525.18	8,347.45	2.13%
TOTAL EXPENSES	204,649.97	189,924.13	7.75%
Income over expenditure	-8502.14	2,241.15	

Question 3: 631.1 VAT not recoverable total = €18,672.01 - What costs have generated this figure?

This unrecoverable VAT figure represents costs of €107,586.34 charged to the Junta on which VAT was not recoverable.

According to Spanish law 37/1992 deliveries of goods and services are subject to VAT. Registration for VAT is compulsory for any entrepreneur, entity or professional developing any transaction with tax significance in Spain.

Tax representation is also compulsory.

Question 4: Could the Junta confirm that the entity is registered for VAT and if not, provide details and written confirmation of the exemption category being used to eliminate the need for registration?

Question 5: Could the Junta confirm the official VAT basis under which it invoices Cabrera owners?

Question 6: Are Junta invoices to owners issued as *facturas completas* or *facturas simplificadas* under Spanish VAT regulations?

Question 7: Can the Junta explain why invoices issued to homeowners are not fully compliant with current regulations for both the *completa* and *simplificada* forms of invoicing?

Question 8: Can the Junta explain why services charged are not split to show the amount of the base charge carrying IVA at standard rate and also the amount of the base charge carrying IVA at reduced rates?

Unrecoverable VAT would normally only be expensed where invoices accepted and paid were not compliant with current invoicing requirements or where the invoice was not allowable for the business purposes of the registered entity.

Question 9: Could the Junta advise the names of the parties who authorise invoices received by the Junta for payment and also advise what checks are performed, to ensure that all invoices accepted and authorised for payment are compliant with current rules for legal VAT recovery?

Question 10: Could the Junta detail how authorisation for payment of invoices is evidenced?

Question 11: Could the Junta confirm that no invoices issued to the Junta by any business or company owned, managed or controlled by the Junta Treasurer or his family members are authorised for payment by the Junta Treasurer or his family members?

This is important because no one should be authorising payments for activities from which they themselves could benefit. Independent oversight is essential to safeguard the cash held by the Junta.

Question 12: Could the Junta confirm how many signatories are required to make payments from the bank and provide details of those signatories.

Question 13: Could the Junta confirm that all invoices received and authorised for payment by the Junta are made out in the name of the Junta, contain the tax registration details of the supplier or contractor and meet all current requirements to enable the legal recovery of VAT?

Question 14: If such an assurance cannot be given, could the Junta provide details of all invoices received by the Junta, that do not meet current requirements to enable legal VAT recovery and that generated the €107k of cost on which there was nearly €19k of non-recoverable IVA in the 2019 accounts.

If the Junta is correctly accounting for IVA, the Balance Sheet should show a creditor for the amount of VAT due to the *Tributaria*. No such balance is apparent and it may have been included as a creditor in the *pagos pendientes*/payments pending balance in the *Pasivos* section of the Balance Sheet.

Question 15: Could the Junta confirm the amount of the pending balance for IVA in the Balance Sheet and additionally provide details of all other creditor balances that make up the stated €22.5k figure?

Question 16: If the Junta cannot provide answers and reassurances to the concerns raised above in a timely fashion, would the Junta be happy for OPEN CABRERA to engage directly with the *Tributaria* to express those concerns?

It should also be noted that if the Junta cannot provide the confirmations requested, the current methods and internal controls employed for the authorisation and payment of Junta invoices need immediate attention, as they either do not exist or are clearly not fit for purpose.

We have already highlighted major concerns with regard to the Invoices raised in FY19 for Asphalt in document JC_0024_201026_RFI_004_Queries on Asphalt Expenditure. Very specific queries were raised on €82,575.13 of payments to Ramos Garcia in 2019 against irregular invoices.

OPEN CABRERA have now raised a significant and growing number of genuine queries and concerns, on behalf of Cabrera homeowners, about the operation and financial management of the Junta by the management board.

The Junta board have failed to respond or provide any information or detail to address these queries or allay these concerns. The board have had many months to review, discuss and investigate the issues raised and yet they have done nothing.

OPEN CABRERA can only speculate on the reasons for this failure, but we do know that if the Junta was being run professionally and legally and had nothing to hide, the explanations and answers requested would have been produced months ago.

In his famous letter to Cabrera owners on 16 May 2016, the Turre Mayor, Martín Morales noted “**Due to the treasurer admitting to false accounting, a full audit of the accounts will now be ordered by the Town Hall.**”, but no such audit was ever conducted.

OPEN CABRERA notes that the Junta treasurer, who admitted to false accounting back in 2016, is still treasurer for the Junta today.

The woeful lack of response, by the Junta board, to the huge number of unanswered queries and concerns raised on the Junta finances, suggests that the situation may not have improved at all since 2016.

OPEN CABRERA will therefore be formally writing to the Mayor, at the beginning of December, to request that he makes good on his promise of a full audit of the financial activities of the Junta, and to ask that the audit covers the period from 2016 to date.

OPEN CABRERA will also request assurances from the Mayor, that any auditor chosen to undertake this work is both fully professionally qualified and independent, with no current connections to either the Junta or the Town Hall.

We will also request that, as part of the brief, the auditor be required to give an opinion, based on the results of the audit, as to whether the current Treasurer is a fit and proper person to continue in his role.

We regret having to take this action, but the failure of the Junta board to address any of the concerns raised over the last ten months is genuinely alarming.

With no promise or expectation of any change in the Junta approach, we now feel it is an appropriate time to seek external assistance and begin raising these many outstanding concerns with the authorities.

Should any malfeasance be discovered as a result of their involvement, they, at least, will be in a position to do something about it.