

## NOTES OF THE 2021 AGM

### PERSONAL NOTES – A MIX OF NOTES AND RECOLLECTIONS

Jeremy Oliver  
OPEN CABRERA

5 December 2021

1. There were at least 50 attendees in the audience and about 30 online; the 30 reduced to about 24 after 2.5 hours.
2. There were the following attendees at the top table:  
Treasurer Jose Jerez , Historic TH legal representative (retired), Mayor Martin Morales, President Segundo Ramirez, Junta Lawyer, Secretary John Bailey. It is believed that the TH architect also attended.
3. The meeting started in chaos as the President launched into proceedings. No one knew who the additional people were at the top table or why they were there. The audience asked for details.
4. Extended Chaotic introductions were made with the Historic Town Hall representative referring at length to his 26 years of applicable experience. It was not really clear why he was there.

#### AGENDA ITEM 1 – 2019 AGM Minutes

5. **CRA Lawyer Eduardo Gonzalez (EG)** pointed out that:
  - The AGM had no legal validity
  - We don't know who has a right to vote as the calculations of debtors and creditors has not been determined as instructed by the Court Order which has been enacted
  - Enforcement of the court order has been applied and the court order has to be honoured
  - This meeting does not respect that judgment
  - This meeting is therefore void and we are asking the Town Hall to take over
6. President said that Junta Board was trying to respect the Court Decision. Some will agree and some will not. The TH will make sure that the sentence is respected. This AGM meeting is the meeting to respect the Court Decision.
7. Jeremy Oliver (JO) tried to speak but was waved back by the President. Eventually he was allowed to speak once he shouted "Point of Order".
8. JO stated the following:

The Court Order was issued on 23 November 2020 and this has been enacted on 17 June 2021. The Order was that fee invoices should be raised according to the Statutes, back to 23 November 2020. This has not been done. The Court Order has not been respected. Therefore, we do not have a clear idea of the Debtors and Creditors to the Junta. As the Developers have contributed Zero, and the fee invoices for the first half of 2021 were incorrect, it is a reasonable assumption that the Developers have no rights in the Junta at this time as they are Debtors. The Developers are not entitled to be on the Junta Board, to have a say, to preside over the meeting or to vote.

*Informative: In the middle of this statement, the President hit the table violently about six times to the horror of the attendees and in an effort to intimidate. There were numerous occasions when JO had to tell the President to stop interrupting.*

9. The votes present share was read out:

69% , 7.47%, 77.3% (??)

10. President: The assembly has to take place. We have to execute this. You have the Town Hall to decide how to execute.

11. Liz Longden asked for details to be provided for each item on the Agenda. She said that Homeowners had not been fully informed and that she had been fobbed off. She stated that we are being asked to vote on something that we have no information or detail on.

*Informative: later on in proceedings, Liz Longden walked up to the President and stated that she had seen nothing like it in her 30 years in Cabrera and that the meeting was a disgrace.*

12. Len Gurney (?) asked for confirmation that, if a Cabrera Resident wishes to appeal against the AGM, the appeal should be made within 15 days.

13. The Historic TH representative stated that he had presided over lots of meetings. We have to respect the order of the day. This has nothing to do with personal opinions. We are voting on what took place last time. Respect the order of the day (ie. Agenda item 1 – Minutes of previous meeting).

14. EG then asked :

But who has the right to vote? The question is who owes money and who does not. We have not been told. There is no debtors list. The Judge has said that you have to do it – we have to use the criteria that the Court have said even if there is an Appeal in place against the court decision.

15. The Historic TH representative said: I have been asked to specify who can\cannot vote- those of you, except those that owe money from the last meeting held in the accounts – debtors – cannot vote. I would like to insist, whether or not the act explains if it contains what was debated, we vote on what was said last time. We cannot vote \ discuss the first point – is it correct or incorrect?

16. EG: Who has the right to vote or not vote?

17. Historic TH representative: Who decides who can vote \ not vote? Who has decided?

18. EG: Where is the list?

19. Historic TH representative: “The owners that agree – raise your hands”.

20. Confusion in the audience.

21. Resident 1: I am new to Cabrera. How do I know if I can vote? I have a voting slip with someone else’s name on it. But where is my vote?

22. Resident 2: I understand that if you owe money, you cannot vote; but there have been no invoices so no-one can vote.

23. Top table: But, it is not the interpretation of the Board of Delegates

24. JO: But Developers cannot vote – they have not paid.

25. Jose Jerez: I have paid £2 million pounds to all of you.

26. JO: No you have not – the people in the audience have paid the money.

27. President: Whoever has paid more than they owe: an economic study needs to be carried out to see who has benefited.

28. Top table: We need to approve the way we execute.

29. JO: We don’t need a new way.

30. EG: Someone neutral needs to be appointed to decide.

*Lengthy discussion follows*

31. A resident walks up, shakes JO’s hand and says: Cabrera is run really well. My pals at the Arch Bar all agree. Then all of a sudden we have OC. You have a Lawyer here. It’s a shit show.

32. Resident 3: The Arch Bar – that says it all!
33. Lady administrator tells Junta Members to use voting slips rather than a show of hands.

**34. AGENDA ITEM 2: Accounts**

35. Resident 4: There is no Item 2 on the voting slip?
36. Top Table: Its not a vote , it's a ratification. It is not an option. The accounts are presented in March each year. There is a vote but not until approved.
37. Historic TH Representative: "Respect the Order of the day"
38. Malcolm Linfield (proxy for Pernille Loenberg): I have experience in running a Community and as a Chartered Accountant in the UK.

A large number of questions were asked on the 2018 accounts. These questions were put into Spanish at the request of the Junta Board and Pernille paid for the translation. But no answers were received. The same questions were submitted through the Town Hall but 23 months later these questions are still unanswered. With so many questions and concerns raised, could the Junta explain why anyone should trust your accounts.

39. Jose Jerez: In the first place OC does not own Cabrera. It is a website. We do not answer to websites. The questions have not been received from the Town Hall. Most questions are out of date and absurd. Taking into account, the people have not gone into the office to check if they are correct. They have asked so many questions. Jeremy Oliver was in Cabrera and did not go into the office. He should have done to check this information. The circulation is incorrect that the Junta is not doing its job. We will never answer to a website.
40. EG: The Town Hall did give the questions.
41. Jose Jerez: No they did not.
42. President tells EG to 'shut up'  
*JO is prevented from responding.*
43. EG: We need to suspend this theatre until the accounts have been prepared. Suspend the meeting until then.
44. Resident 5: OC is not just a website. It represents a lot of homeowners.
45. JO: the Treasurer won't respond to a website but at the start of Open Cabrera, the Junta were told the names of the two residents running the website. They were Pernille Loenberg and Jeremy Oliver. They were informed of the names and we were asked to translate the questions into Spanish. We have asked twice and a third time through the Town Hall but we do not have answers. Why does the Treasurer believe these questions should not be answered? The Treasurer has had a golden opportunity to remove the uncertainty in Cabrera and to be more transparent.
46. Jose Jerez: Open Cabrera represents a small percentage, not everyone. You need to come into the office. etc etc
47. JO: You don't represent everyone, either. I'd like to respond.
48. *President refuses to allow JO to take the microphone and respond.*

### **AGENDA ITEM 3 – Maintenance Expense and Investment for 2022**

49. EG: Does the maintenance budget include the water bills?

50. Jose Jerez: It is informative and it will be confirmed once scrutinised; who has not paid. There will be a meeting in Jan\Feb when we have information. Water was presented 15 years ago. The Town Hall did not have the personnel to take over the water and in order to take over the debt, the Town Hall gave the water to the Junta. The invoices will be provisional until the 3<sup>rd</sup> party expert gives his opinion. The 3<sup>rd</sup> party will be able to take Cabrera forward.

53. EG: What percentage of the water is included in the budget for maintenance?

54. Jose Jerez: I do not have that information.

55. EG: How can we vote if we do not know the percentage? By law, water cannot be provided by the Junta.

56. Jose Jerez: Until the Town Hall takes over the Junta, the Junta will administer the water - Homeowners are using the service. The Town Hall needs to tell us and invoice the Homeowners individually. The Junta has been discussing with Galasa. If the Town Hall want to take over, that's up to them.

57. President: The situation in Cabrera has a serious problem. The Lawyer asks "what percentage. How can we present the invoices without the figures?". If Homeowners don't pay, we can't provide the service. We don't have the technical means. We have studied what is best for Cabrera. We need to carry out the economic study. We need to calm down a bit.

58. EG: It needs to be carried out by independent audit.

59. President – shouting

60. EG: Who decides?

61. JO: The budget should not only be for services and maintenance. We also need an investment budget. We want to see a separate "Developer Investment Budget". We can't approve the current budget. It is not in accordance with the Statutes.

We have a single line in the budget of 250k for a transformer installation. How much will the Developers be paying towards this transformer? They should be paying the lot. If the cost is split by landownership (if this were legal, which it is not) , by my calculation the Developers would owe around 150k. I would like to ask the Developers how much they are going to pay towards the transformers.

62. Jose Jerez: 250k has been included but not disputed by anyone. That will be decided at the next extraordinary meeting – it will be calculated. There are many people here today and we are all Developers. It says in the Statutes and I have to pay for mine. This is why I spent 15 years carrying out the infrastructure. The people that believe that I am a debtor need to study the Statutes carefully. Each and every one of you has to pay and this will be presented in the extraordinary general meeting. People will pay 28% more.

So everything we are debating now is not necessary. This will be calculated by professionals and my payment that I have already invested will be shared by all others. We have a programme to complete Cabrera on a yearly basis – all have to contribute on a yearly basis.

On transformers, we have Endesa estimates.

62. At this point Gerry Horne approached the top table and presented the Treasurer and the Mayor each with a document. He complained how he had made multiple approaches to the Junta Offices, the Treasurer and the Mayor and had not been able to get answers out of them.

63. Jose Jerez: 12 homeowners need to be connected to Endesa – that is the programme for the next year – we are presenting the figures now. There will be other work in the 7 sectors that are now about 95% complete (out of the 19 sectors). This is what we are doing. We have closed the budget we have. We have the estimate but there will be additional work and the Architect will make a list of what needs to be finished. The TH insists that the work is carried out to a high standard. We are all Developers and need to contribute.

64: Anthony Butt: I have a point of principle to make about the translation of the 1991 Statutes. My lawyer has checked that there is no charge and no future obligation on my property. I will challenge the interpretation that I have to pay the development costs. We should all challenge this.

65: Jose Jerez: The Statutes in 1991 – it was an obligation. The homeowners in 1993 opposed the Statutes because they did not want to be responsible for future infrastructure. They did not want to be obligated so they refused. In 1993 it was necessary to approve or else Cabrera would not have a legal standing. Owners refused but a compromise was made and homeowners were exonerated. This has been in place for 25 years.

66: *Informative: JO prevented from responding – microphone kept away from him: The reason that the 1993 Agreement was put forward was because the Developers had encountered financial difficulties, not because the Homeowners wanted to change the statutes.*

67: *Informative: The Mayor made a lengthy presentation covering various aspects including:*

- Under Art. 16, the Junta Board can only decide on matters within its remit
- The TH needs to advise on any illegality
- Under Art 36, the budget should be suspended (asked this to be minuted)
- Any work should go out to tender
- 3 statements (?) (dated 18 June, 9 November and 22 July) must be answered by the Junta Board. These must be answered in the interest of transparency and good governance.

*The above needs to be verified. An interaction between EG and the Junta Lawyer then took place.*

68: EG: You cannot provide a service so why are you charging for a service?

69: Junta Lawyer: Yes, we were managing the water

70: According to the law, you cannot run the water. For 15 years nothing has been done. For the last 5 months (since the enactment of the Court Order) nothing has been done. The resolution is to get someone neutral to decide about the water.

71: Jose Jerez: So we just cut the water?

72: Mayor: we need a 3<sup>rd</sup> party to decide because things are going nowhere.

73. Jose Jerez: I offered to pay 50% to get an independent financial Auditor.

74. Resident 6: We need an independent auditor. The Mayor needs to do this.

75: Junta Lawyer: The Court can appoint someone but it will be slow and expensive so we wanted to start the work.

76: Malcolm Linford: Your accounts have problems that need addressing. So I have a question, “under these circumstances who should decide who the Auditor should be?”.

77: Junta Lawyer: It should not be the TH as they own land.

78: EG: The TH is the body that needs to oversee the running of the place.

79: Historic Legal Advisor: From now on the Board of Delegates must decide the contracting of this Auditor. The TH has a supervisory role and the TH is on the board of delegates. All of you have a right to challenge.

80: David Levin: We need a solution – why not appoint the TH – they will find an independent auditor. (Mayor agrees but Junta Lawyer says ‘lets ask the court’)

81: President: You will wait a long time for the Court, but hey, ho!

82: Junta Lawyer: (by now he is rattling about like a frog in a jar at the prospect of a fully independent auditor): The decision by the TH will be a lot slower than if we use the Court.

*JO tries to speak but the Historic Legal advisor withholds the microphone.*

83: Historical Legal Advisor: The TH is not competent to appoint a 3<sup>rd</sup> party auditor. The 3<sup>rd</sup> party must be competent. For example, the Major has competence but the council have their own competencies. The Councillors in total are above the opinion of the Mayor. And if the other Councillors decide differently to the Mayor, it will be void. The Board of delegates therefore make the decision with control by the TH.

*A discussion follows between EG and the Historical Legal Adviser. The President bangs the table for the second time.*

84: Resident 7: Suspend the meeting, its disgraceful

85: Junta Lawyer asks people to vote.

86: Resident 8: When will we get some information so we can vote?

87: Jose Jerez: We are moving through the points 3,4,5,6

88: Resident 8: I can't vote if I don't know what I am voting for.

89: President: Then, don't vote!

#### **AGENDA ITEM 4 : Infrastructure**

90. Jose Jerez: We need to approve the infrastructure works

91: JO: So, where is the Plan?

92: Jose Jerez: have you seen the plan? Is is huge – it is about this thick (lever arch size)

93: Resident 9: So, scan it and give it to us.

94: Mayor: The TH has previously set the priority for completion of units 2,4 and 10. None have been achieved and other works have been done instead.

#### **AGENDA ITEM 5 : Update Statutes**

*JO tries to speak but the Historic Legal advisor withholds the microphone.*

95: Jose Jerez: The Statutes need updating. We need to approve the update of the Statutes.

96: Historic Legal Advisor: The Statutes go back to 1991, 30 years old, and there have been many legislative, state law and regional law changes. This means that the Statutes have been affected and need to be updated. It is an opportunity to respect the Law.

You will have your say in the writing and approval of the document, overseen by the TH and Andalucia.

97: JO: We do not need a new set of statutes. The existing Statutes are perfectly fine.

These people simply wish to create a new "2021 Agreement" to replace the "1993 Agreement". And, we know how much division and conflict the 1991 Agreement has created in Cabrera over the past 30 years.

When they say that you will have the opportunity to have your say and vote on the new Statutes, you will know by the way this AGM meeting has been conducted, that your vote will count for absolutely zero. You will have no say in the final product.

It will take a 100% vote to modify the Statutes so this will not happen because I will not be supporting this Agenda item and, if the Treasurer disagrees with me about the vote requirement, I will refer him to the 1996 AGM minutes where he said precisely this.

98: Jose Jerez: When will Jeremy Oliver read the Statutes? To modify the Statutes requires 60%.

*99: Informative: JO prevented from responding by President. The truth of the matter is that the Statutes can be modified if voted for by the **MAJORITY OF MEMBERS** who between them HOLD 60% OF THE LAND. It may be that this applies to simple things such as whether we have two AGMs per year or not or approving the Plan Parcial but I would not expect that it would apply to fundamentals of LAW as to how the costs of an urbanisation are shared. So this is up for debate.*

#### **AGENDA ITEM 6 - Election of Officers**

100: Jose Jerez: I am pleased to announce that two additional Homeowners have put themselves up for election. Would they please stand up and introduce themselves?

101: Jose Jerez (after a pause) : Where are they?

102: JO: I think that they left in disgust.

*Informative: It is understood that the two homeowners that had put themselves forward but left, were Con*

#### **AGENDA ITEM 7 - AOB**

No one was given the chance to speak under AOB.

### **Additional Notes:**

1. The Developers have put forward written proposals to the TH for the allocation of 240k of transformer costs. They have given themselves a full 'discount' against the costs because of what they are allegedly 'owed' because of their 'previous infrastructure contributions'. Everyone except the President and the Treasure has been positioned to pay for the transformers. This is the mentality of these Developers.
2. The Agenda Items were discussed and confirmed at the Board of Delegados meeting prior to the AGM. The final release to the Homeowners differed considerably from that which was agreed. It included additional words in Spanish on two Agenda items (5 and 6) which was "en cumplimiento de la orden de ejecucion provisional de la sentencia". ie: " In order to comply with the Court order". This gave the incorrect impression that it was the Court Order which was necessitating the proposed changes to the Statutes. This is not true.
3. The "Advisors \ Assistants" that turned up at the meeting were not pre-authorized. There was no agreement with the Board of Delegates for their attendance.
4. There is about 6Ha of land where the Promoter names are not clear. Were they notified?
5. There are parcels of land for sale in the La Pilica are, owned by Bankinter. Have their holders been notified of the AGM?
6. The 'Independent Auditor' that the Developers wish to appoint is rumoured to be a fellow called Guillermo, from Vera TH. There are three roles in the Vera TH : Treasurer, Legal secretary and Intervention Officer. He is the Intervention Officer. Far too close to home for my liking!