

Cowpet Bay West Open Board Meeting

July 26, 2021



A few notes about CBW Governance and Operations

- **Cowpet Bay West is a Residential Condominium Complex with an owner-run Homeowners Association (HOA) that makes and enforces rules for the properties and its residents.**
- **A Homeowners' Association is supervised by a board of directors that is chosen to act as the homeowners' representatives. The elected BOD is charged with overseeing the common assets of a property/area, manage its finances, run business affairs, enforce and set rules, and see to the maintenance and upkeep of the area.**

A few notes about CBW Governance and Operations

- **Since volunteer-owner board members do not or cannot work as full-time “employees” of their HOA, HOAs often employ Professional Management for some or all of the operational duties assigned by their Declaration.**
- **The “Professional Management” model with an elected BOD to act as the voice of the homeowners is the operational model we have here at CBW. (By-Laws. Article II. Sections 2,3)**
- **We are a self-funded HOA that collects fees from owners in order to run its operations and maintain its property.**

Part 1:
Irma/Maria
Report to
Owners -
Wind and
Flood Claim
Settlements

September 2017



December 2017



December 2017



September 2017



BACKGROUND about Insurance Coverage

- Original CBW bylaws required the board to obtain "All Perils, Wind, Fire and Earthquake " Property and Casualty coverage for the "full" value of the property.
- Full Value is determined by a property appraisal every 10 years. Last appraisal was completed in 2012 and stands at \$23Million. New appraisal will be completed this year.
- 2003 At the recommendation of the CBW BOD, owners voted to amend the wind insurance requirement to "an amount that the board deems appropriate."
- 2006 Again at the recommendation of the CBW BOD, owners voted to amend the requirement for fire, flood, earthquake and all perils to "an amount that the board deemed appropriate."

- After these amendments, the board began a practice of obtaining insurance with wind sub limits ranging from \$1Million in 2004 to \$2.5Million in 2017.
- This was done ostensibly to save the association a significant amount of money in insurance premium payments annually.
- There were indeed savings, but there are no annual records of premium quotes at "Full Value" or "Unlimited" vs. quotes with "Sub limits." So the actual premium savings over all of those years is unclear. If we were to assume an annual savings of \$40,000., the total savings might have been around \$560,000 over 13 years of renewals.
- No board members since 2015 were owners or on the board when the above mentioned amendments were approved by the ownership.

BACKGROUND

- The board members elected in 2015 and 2016 had little experience with insurance proposals and therefore relied on the recommendations of the insurance committee.
- Beginning in February 2017, Board Member Chris Crowe volunteered to co-chair the insurance committee so that a board member would be on the committee. The board felt it important that a board member become educated on the process.
- September 6, 2017 Hurricane Irma strikes St. Thomas with peak winds of 178 MPH
- September 20, 2017 Hurricane Maria strikes St. Thomas with peak winds of 164 MPH and catastrophic rains
- Both hurricanes produced multiple tornados.

HURRICANE DAMAGES

- After the hurricanes passed, it appeared that CBW had survived with very little damage. A closer inspection proved otherwise.
- The main damage was that many of the roofs were compromised.
- The Board procured two estimates, one to just repair the roofs and one to replace the roofs. The repair quote was approximately \$1,650,000 and comprised 65 to 70% of our roofs. The replace quote was approximately \$2,100,000.

DAMAGES

- In the years prior to the hurricanes, the roofs had required multiple repairs, many of which did not hold long. So the board opted for full replacement. The work was authorized in March of 2018.
- In September of 2018, the roofing contractor discovered that several areas of the "bond beams" were crumbling to the extent that the new roof could not be properly attached. This halted the installation of the new roofs.
- The Board had no choice other than to have all of the affected bond beams repaired at an estimated cost of \$1.2Million, bringing the total roof repair to 3.2million dollars.

DAMAGES

- Other major damages were to our generator and switch gear, which ultimately had to be replaced in their entirety. Holly, Franks Electric, and Board Member Bill Friend somehow kept it running until Jan 2019. It finally failed one day before we were reconnected to WAPA.
- Much of our waste water treatment plant, pumps and lighting were damaged as well.
- There were 6 condo **units** that suffered extreme interior damage, and several with water intrusion damage. The furthest west part of our buildings was most likely grazed by the tornados that severely damaged Cowpet East and the Ritz Carlton.

CLAIMS PROCESS

- **Public Adjuster - Immediately after the hurricanes, the Board sought a public adjuster to help with our hurricane damage claims.**
- **At the recommendation of the insurance committee, the board hired the same adjuster that handled the 1995 hurricane Marilyn claim for CBW.**
- **That adjuster misrepresented his credentials as well as his capabilities. This significantly delayed the settlement of our initial claims.**
- **On January 17, 2018 the board terminated his services. Shortly after the Board entered into an agreement with Worldclaim and Russell Heath to handle our claim.**

CLAIMS PROCESS

- The role of the adjuster is to ascertain all losses that we could reasonably defend and ultimately reach a global settlement.
- The role of the Board is to apply insurance proceeds to repairs by priority of importance. According to our By-Laws, Common property is repaired first, followed by interior damage to owners units if there is any insurance money remaining.
- At the time of the hurricanes CBW had maximum coverage for wind damage at \$2.5 Million per event and unlimited flood coverage.

CLAIMS PROCESS

- Our adjuster was successful in bifurcating our claims into 2 separate events, giving CBW the potential for \$5 Million in wind limit coverage. CBW is unaware of any other association that was successful in negotiating the storms as separate events.
- The bifurcation agreement treated Irma as primarily a "wind" event and Maria a primarily "rain" event.
- Ultimately our adjuster, Worldclaim/Russell Heath filed 3 claims on our behalf. Wind damage claims for both Irma and Maria and a flood claim for Maria.

FINANCIALS

- At the time of the aforementioned bylaw change, documents show a reserve of over \$700,000 (2003-2006), much of which was subsequently spent to keep owners' fees low.
- By 2016, the cash and cash equivalents reported at the annual owners meeting was \$249,000. Of this amount, only \$75,000 was in Reserve fund. The remainder was for taxes, insurance, and utility payments.
- The 2016 BOD was concerned that our reserves were inadequate. A goal of \$750,000 was set and a new reserve charge was established.
- By August of 2017 cash equivalents had risen to over \$400,000. Our reserves were at \$375,000.

FINANCIALS

- When the double hurricanes hit, this balance became the community's lifeboat. Providers of essential needs such as food and fuel all went to cash on delivery status.
- Our manager had to make regular withdraws of cash to pay for diesel deliveries to keep the lights on.
- Collections of monthly HOA fees and utility bills were temporarily interrupted by the lack of reliable internet and mail.
- Prices of everything were skyrocketing and we were burning through cash rapidly.

FINANCIALS and INSURANCE RECOVERIES

- The Board and particularly our President, Manager, Insurance Committee, and our insurance broker were able to secure a \$300,000 advance on our initial claim on November 7, 2017.
- Our original adjuster at the time (fired soon after) was nowhere to be found and had nothing to do with securing this advance.
- This advance provided a lifeline for our operations until cash flow could return to normal.
- We later also would have to secure an SBA loan and a personal loan to bridge our financials between insurance payouts.

FINANCIALS and INSURANCE RECOVERIES

- Our new adjuster continued to document our losses from hurricane Irma and was successful in closing out the claim at the maximum of \$2.5 Million less our \$10,000 deductible. We received the \$300,000 advance on 11/7/17, another advance of \$950,000 on 4/14/18, and a final payment of \$1,240,000 on 7/31/2018.
- While we received the maximum amount of 2.5 million on the policy, our total damage claim for Irma was \$4,621,317.45, almost 2 million more.
- In early October 2019 our insurance agent would discover that a deductible buy back provision in our policy allowed for an additional \$419,000 payment for our Irma Claim.

FINANCIALS and INSURANCE RECOVERIES

- It took 10 months of intense pressure on our insurer to close out the Irma Claim. Maria Wind and Flood will prove even more difficult. It would take years and even a trip to Fort Lauderdale to meet with our insurers.
- As mentioned before, on 9/10/2018 the bond beam damage of approximately \$1.2Million was discovered by our roof contractor. Despite our adjusters best effort, he was unsuccessful at getting this included in the Maria Wind Claim.

FINANCIALS and INSURANCE RECOVERIES

- Our adjuster filed our Maria wind and Flood Claims in July of 2018.
- CBW secured a \$250,000 advance against the flood claim on 8/15/2019 and a second \$250,000 on 12/18/2019 and finally a \$300,000 payment on 1/17/2020 to close our final settlement of \$800,000 for Maria flood. 2 years and 4 months after the storm.
- Maria Wind proved very difficult and very contentious.

FINANCIALS and INSURANCE RECOVERIES

- The adjuster that Lloyd's hired to represent their interest stonewalled us from the very beginning of our Maria Wind claim. This came out in a mediation session that occurred on December 4, 2020.
- Lloyd's adjuster informed Lloyds early on that CBW had no claim for Maria wind damage while for 3 years he represented to our adjuster that he was moving it forward.
- Lloyd's came to the table on Dec 4 with the intention of only offering \$50,000 to settle the Maria claim.

FINANCIALS and INSURANCE RECOVERIES

- As we went through the mediation process we believe that Lloyd's became increasingly concerned about the stonewalling and obfuscation that their adjuster was responsible for.
- Again, after intense pressure from our adjuster, our attorney and the board, Lloyd's made a final offer of \$675,000 to settle the Maria Wind Claim on January 21, 2021, 3 years 4 months after the storm.
- Although we had substantial evidence of misconduct and "bad faith" on the part of our insurer and their adjuster, the board -- on the advice of legal counsel--decided to accept the offer.
- Further legal action would have been costly and uncertain.

SUMMARY

There were several reasons why the Board could not provide ongoing financial transparency during the hurricane negotiations:

- Settlement Agreements are confidential. Although the board was diligently pursuing the final settlement for over two years, the Board was not at liberty to disclose any information about the negotiations. It could only report results, not details of the negotiations.
- The board and our adjuster were led to believe the negotiations were proceeding in good faith, which turned out to be untrue. This delay prolonged the period during which the Board could not speak freely.
- CBW lost both our office manager and our accountant after the hurricanes. It took over three years to replace those people and then another year to get the financials in order.

SUMMARY

- Settlement amounts were reported to owners at annual meetings and in the board minutes.
- Total insurance recoveries for the two storms amounted to \$4,384,000 before payments to our adjuster. The application of these funds are detailed in our financial report and on the following pages.
- Despite the delays receiving the insurance settlements, management and the board pressed forward with recovery repairs at a steady pace. Work repairs continued by piecing together insurance settlements, an SBA loan and a private loan, as well a grace period to pay our roofing contractor.
- The board was hoping not to have to levy assessments on the owners and held off as long as possible pending insurance settlements. Many of our owners' livelihoods were affected by the hurricanes and the board did not want to put additional burden on the owners with assessments.

Part 2:

Hurricane and Post-Hurricane Financials



The Insurance Settlements

• Irma claim	\$2,490,000
• Irma buy-back provision	\$419,000
• Maria flood claim	\$800,000
• Maria wind claim (1.2million)	\$675,000
Total settlement	\$4,384,000
minus adjuster fees	-\$408,400
Total left for repairs	\$3,975,600

A sampling of post- hurricane expenses 2017-2019

**Total expenses
\$4.5million+**

- \$2.1million new roofs
- 1,308,966 bond beams, roof and structural repair
- \$276,209 mold remediation, engineer rpts, A/C units
- \$236,582 elec. boxes, transformers, security lights
- \$224,590 WWTP/RO repair, pump replacement, leaks
- \$176,523 generator repair/install, fuel, switch gear replacement
- \$182,908 grounds cleanup and repair

The “Hurricane Loans”

- Despite getting two advances from our insurance claims, the Association still did not have enough money to do necessary repairs AND pay its bills.
- In order to continue to operate, the association secured a low-interest SBA loan for \$723,352. (30 yr.@3%) while awaiting our full insurance payout.
- Because management had used all available CBW funds to do repairs and keep ahead of its bills, the Board secured – with legal counsel – an additional \$290,000 personal loan from an owner when the 2019 condo insurance bill came due and we still had not received our insurance settlement.

Part 3:

Current CBW Financials



Current Financials

CBW Association Current Balance:

\$1,058,190.23 (as of July 23,2021)

- ✓ \$493,907.75 2021 insurance shortfall assessment fees collected to date
- ✓ \$195k - remains of \$675k Maria settlement (minus adjuster fees and \$290k personal loan)
- ✓ \$255k -- 2020 assessment -- set aside for upcoming electrical boxes replacement, Waste Water Treatment Plant (WWTP) expansion

**CBW
MONTHLY
INCOME
(OWNER FEES)**

CBW Monthly Income: \$139,102.26

OPERATIONS & MAINTENANCE \$68,800.23

RESERVE FUND \$27,333.59

INSURANCE \$42,968.44

**CBW
O&M
MONTHLY
INCOME
(OWNER FEES)**

CBW O&M Monthly Income: \$68,800.23

OPERATIONS & MAINTENANCE \$68,800.23

~~**RESERVE FUND** **\$27,333.59**~~

~~**INSURANCE** **\$42,968.44**~~

CBW RECURRING MONTHLY BILLS

SBA loan (hurricane)	\$2,938.00
Solar payoff	\$4,117.00
Water Testing	\$1,839.00
Payroll	\$41,582.00
Payroll Taxes	\$8,162.00
Medical Insurance	\$5,064.00
Phones & Comm.	\$1,441.00

Total recurring monthly bills **\$65,143.00**

Total monthly O&M fees **\$68,800.00**

**OTHER
O&M
EXPENSES**
[Yearly
budgeted
amount vs.
6-month
actual
expense]

CATEGORY	2021 BUDGET	6/MO. EXPENSE
ACCOUNTING	\$25,000.00	\$20,800.00
LEGAL	\$20,000.00	\$10,750.00
GENERATOR FUEL	\$10,000.00	\$1,072.00
VEHICLE MAINTENANCE	\$3,900.00	\$5,922.00
SECURITY	\$3,900.00	\$1,752.00
BANK FEES	\$1,950.00	
TOOLS	\$1,950.00	\$1,052.00
FUEL, VEHICLES	\$5,900.00	\$2,675.00

PAGE 2:
OTHER
O&M
EXPENSES
[budgeted
amount vs.
6-month
actuals]

CATEGORY	2021 BUDGET	6/MO. EXPENSE
GROUNDS MATERIALS	\$3,900.00	\$6,383.00
BEACH REFURBISH	\$6,000.00	\$2,910.00
GROUNDS TOOLS	\$3,900.00	\$1,120.00
GROUNDS OUTSOURCE	\$37,000.00	\$20,971.00
BUILDING REPAIRS*	\$74,000.00	\$49,473.00
BLDG. CONTRACT LABOR	\$58,500.00	\$33,346.00
POTABLE WATER SYST.	\$13,000.00	\$10,707.00
GRAY WATER SYSTEM	\$18,200.00	\$22,016.00

**O&M FEES
V.
O&M
EXPENSES**

TOTAL RECURRING MONTHLY BILLS	\$65,143.00
AVG. "OTHER" MONTHLY EXPENSES	\$31,825.00
OTHER ANNUAL EXPENSES PER MO.	\$2,321.00
ACTUAL AVERAGE MONTHLY O&M EXPENSES	\$99,289.00

O&M FEES V. O&M EXPENSES

ACTUAL AVG MONTHLY O&M EXPENSES **\$99,289.00**

CURRENT O&M FEES AND WATER BILLS

MONTHLY O&M FEES **\$68,800.00**

MONTHLY AVERAGE WATER BILL **\$12,200.00**

= ~\$81,000/MONTH

\$81,000 (FEES) - \$99,289 (EXPENSES)

= APPROX. \$18,000/MONTH SHORT

ADDITIONAL
RECENT
BIG REPAIRS

\$91,000+



\$91,000+



- So far this year, we have spent over 91k on “infrastructure” repairs, in addition to 49k on “standard” repairs.
- These kinds of repairs/maintenance will likely continue because of our aging infrastructure.
- In the past, projects like this were funded by our Reserve Fund.
- However, these expensive projects are not Reserve Fund projects (discretionary or capital improvement projects). They are necessary repairs, that essentially have become part of our O&M.
- If we absorb this increasingly typical work into our standard O&M expenses, we would need to budget perhaps another \$12-15k/month into our O&M.

**MONTHLY
O&M FEES
V.
ACTUAL
O&M
EXPENSES**

TOTAL RECURRING O&M MONTHLY BILLS	\$65,143.00
AVERAGE "OTHER" O&M MONTHLY EXPENSES	\$31,825.00
OTHER ANNUAL EXPENSES PER MONTH	\$2,321.00
AVG INFRASTRUCTURE O&M	\$12,000.00
TOTAL MONTHLY O&M EXPENSES	\$111,289.00
TOTAL MONTHLY O&M INCOME	-\$81,000.00

O&M SHORTFALL = \$30,289/MONTH

THE RESERVE FUND

RESERVE FUND \$27,333.59/MONTH

O&M SHORTFALL = \$30,289/MONTH

**If we continue to use our Reserve Fund
for monthly O&M expenses. . .**

= No True “Reserve Fund”

A Comparison of 2-bedroom TOTAL MONTHLY Condo Fees (O&M, Reserve, Insurance combined)

COWPET WEST	Cowpet East	Anchorage	Mahogany Run	Sapphire & Point Pleasant	Elysian	Secret Harbor
\$1,268	\$1,477	\$1,395	\$1,475	\$1,961- \$1,996	\$1,167 +other fees	\$1,532

OUR RECOMMENDATIONS

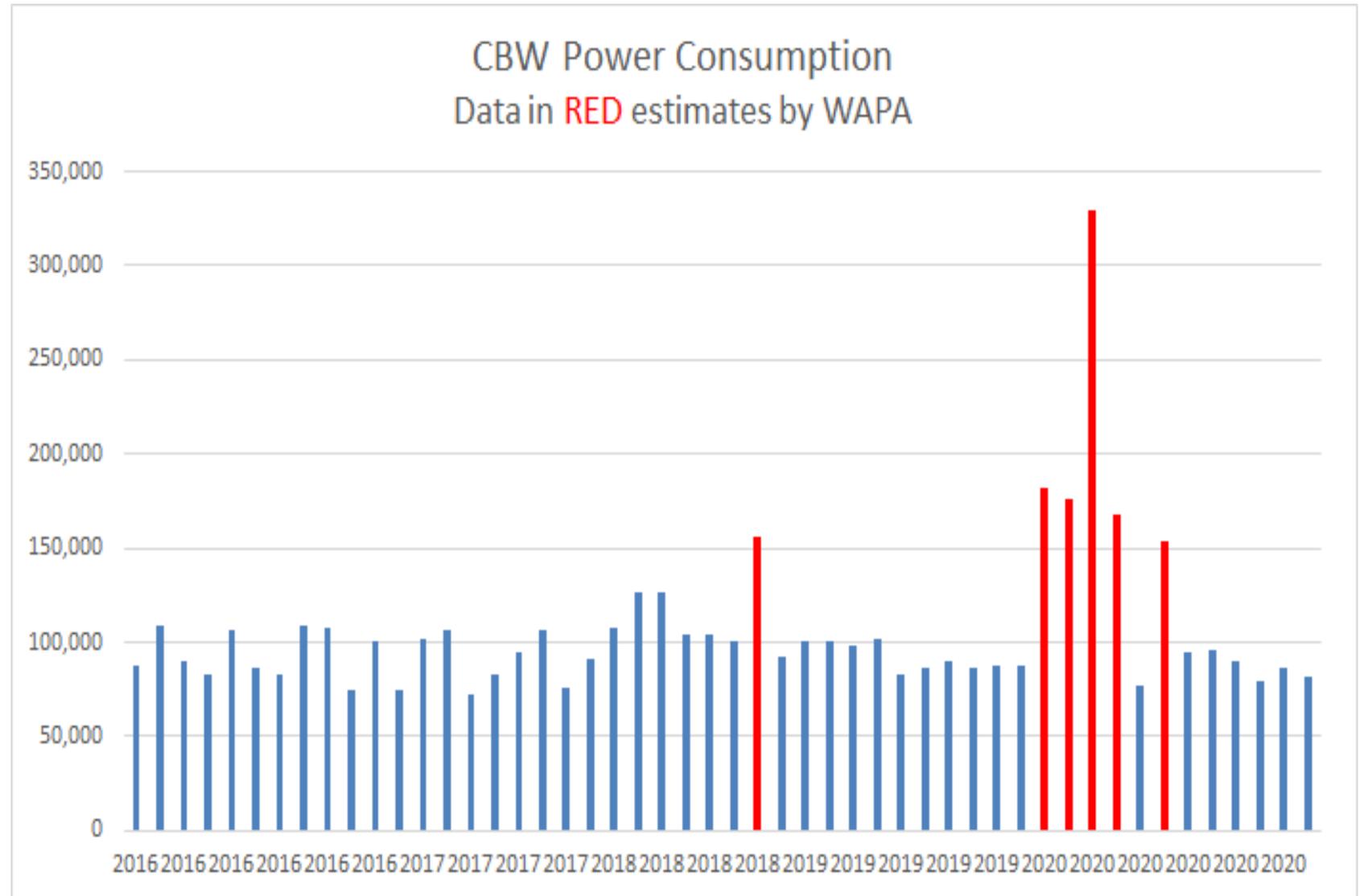
- **Reserve Fund fees can be left at the current rate as we build back a Reserve Fund for discretionary projects and emergencies.**
- **Insurance Fees will remain at current rate.**
- **An increase is needed in our O&M fees to more closely match our actual O&M expenses.**

Part 4:

The Unexpected “Curveballs”

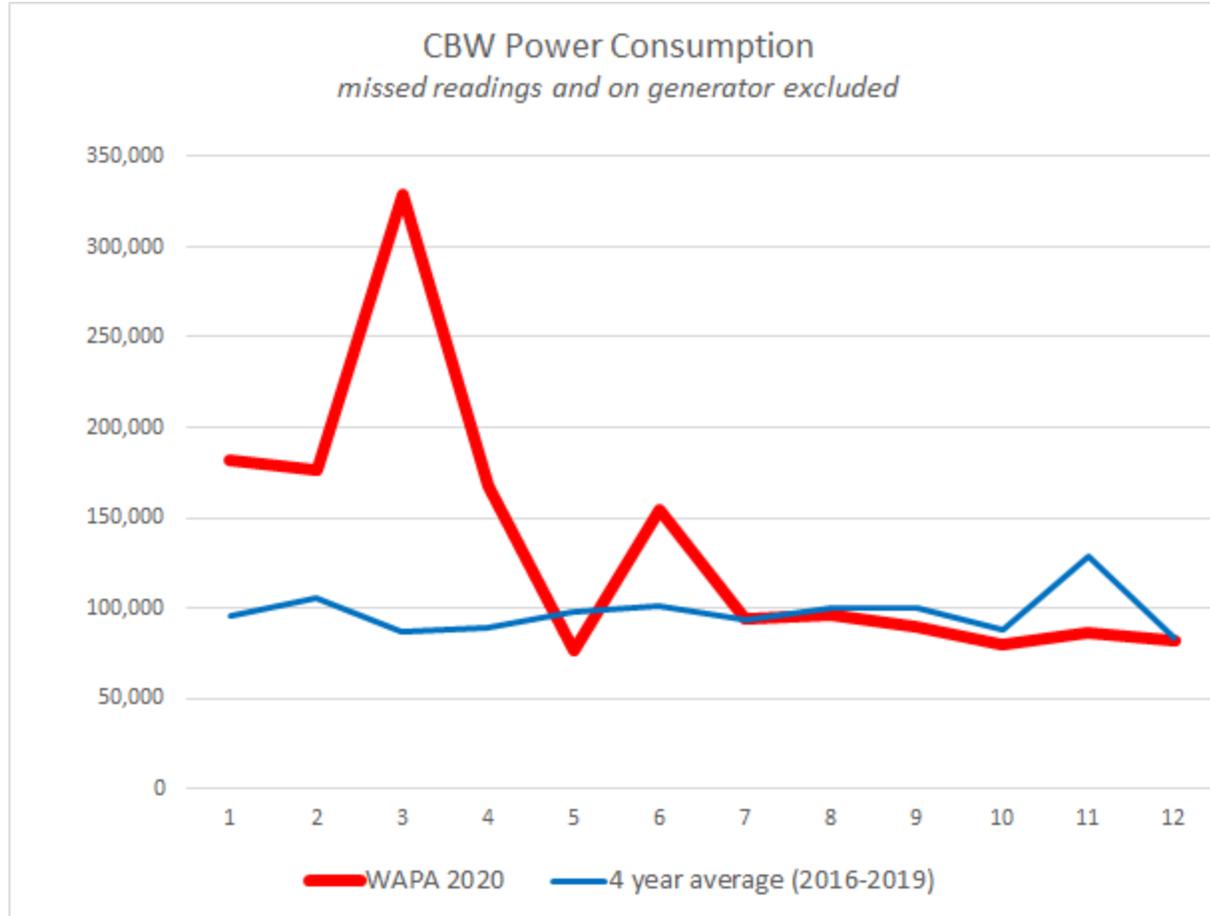


AN
UNEXPECTED
AND
CONTESTED
POST-
HURRICANE
WAPA BILL



EXCESSIVE WAPA CHARGES

\$186,195.41



Observations

- The Association for years was not collecting adequate fees to cover expenses
- As a result, money was "borrowed" from other funds
- The hurricanes exacerbated the situation!
- Insurance payments were delayed
- Funds were co-mingled
- Reserve and Insurance Funds were depleted
- Loans were required to cover expenses

Solution:

- Budget adequately for each account
- Eliminate co-mingling of funds
- Restrict our Insurance and Reserve Funds
- Conduct analysis of O&M funding and adjust to cover ongoing building structural repairs
- Increase O&M fees to achieve a balanced budget

CBW Board of Directors & Association Activities

Other Financial Activities and Initiatives:

- Levied a \$525,000 assessment – the amount of our Maria claim shortfall – in order to rebalance our Reserve, O&M and Insurance Funds.
- Set up separate, restricted-use bank accounts:
 - Operating funds
 - Property insurance
 - Reserve Fund
- Considering future Capital Asset Replacement Plan (CARP) fund as an extension of the Reserve Fund.
- Past tax returns submitted and paid in full
- Property tax lien cleared

CBW Board of Directors & Association Activities

CBW By Law & VI Condominium Code Compliance Initiatives:

- Arranged for property assessment* in compliance with CBW By Laws & Insurance Co. ** note: this may result in an increase in the property value and 2022 insurance premium*
- Arranged for independent financial audit, Theo Broodie, CPA in compliance with VI Condo Code
- Contracted engineer for complete structural audit of property
- Reviewed Declarations unit weighting values, confirmed By Law computation
- Clarified Rules and Regulations as per our by-laws

CBW Board of Directors & Association Activities

Quality of Life Initiatives

- **Created more strict guidelines and instated a scale of fines for "quality of life" issues that owners complained about: noise, trash, parking violations and dogs on property**
- **Initiated a new sticker "parking program" to address continual problems association and owners have had with parking violations**
- **With the help of the Mahadeos at W7 – we built a new CBW website that will be populated with information that hopefully will be useful to owners.**
- **Short-term rental policies are under review as per Commissioner of Consumer Affairs directive**

CBW Owner's Committees

- **By Law Committee** - reviewing 2012 version of By Laws and Declarations for possible revisions
- **Benchmark Committee** – comparing costs of services and structural organization with other condo associations
- **Landscaping & Beautification Committee** – studying property, submitted proposals for tree trimming, new STYC stairway and future landscaping plans
- **Systems Committee** - conducted property walk-about with Holly & Matuba to gain an understanding of CBW systems and areas of concern
- **Finance Committee** - reviewed P&L, Balance Sheet and summary of account balances; submitted list of questions for CBW office staff, conducted Zoom meeting to address these questions.

**Cowpet Bay
West . . .
still
considered
the best
condominium
complex on
St. Thomas**

