

apm NEWS

NEWS, ISSUES AND INFORMATION FOR COMMUNITY ASSOCIATIONS - FALL 1998

BUDGETING PROCEDURES FOR COMMUNITY ASSOCIATIONS

By John R. Math, LCAM

A budget is an operational document that puts forth policies and goals of the Association in fiscal form. A budget is an estimate, which is usually initiated two to three months before the fiscal year begins. An operating budget is a management tool developed and used by the Board of Directors of an Association to help achieve the goals of the Association.

A budget can be developed by a committee and/or by a Board of Directors, depending on the size and complexity of the operations. For this article, we will assume that the Committee will develop the budget to present to the Board of Directors. In all cases, the Treasurer and key operations personnel should be involved, as they have an intimate knowledge of the income and expenses of the previous year and would also be in the best position to make reasonable judgments for the coming year.

A budget will include a reasonable expectation of the amount of expenses the association shall incur during the coming fiscal year and the amount of income required to offset expenses. Once in place, the Board of Directors

monitors the budget by way of regular monthly or quarterly financial statements. These financial statements will contain a balance sheet, income and expenses, any changes in reserves, a statement of cash flows and a general ledger detail. In this manner, any major variances in either income or expense can be examined and explained with action being taken.

As a group, the Committee needs to agree on what specific goals they would like to achieve during the next year, what expense categories are required by the by-laws and or state statutes. After agreeing to certain goals, the use of last year's budget and historical file, a line by line comparison analysis and last year's variance reports can all be used to help compile the budget.

The previous year's budget and historical files will provide a recap of activity. The past year's actual expenses, projected for twelve months activity will also provide a guide to the Committee.

The budget format will consist of income, expense and reserve requirements. Income categories will include maintenance assessments, interest income, late fee income, and any other income which can be relied

upon throughout the year. Expense categories will include utilities, payroll/employee benefits, if any, operating, repairs and maintenance, administrative, general expenses and Reserves for Replacements, as mandated or required by the documents and current statutes.

The Committee will take each year-to-date line item, project that expense over a twelve-month period of time and then base this work on past performance and historical calculations. With this information, the Committee provides line item figures with any anticipated changes and variances. We like for Committees to provide a written explanation of each line item. This will help the Committee to explain the budget to the Board of Directors, provide a base of information for future Committees and may also be used as a guide when mailing out to the members.

The draft package will contain an overview of the proposed budget outlining pertinent facts and items of special interest. The Budget Summary will be the actual budget, with all major sub-headings, showing percentage of increase/decrease over last year's budget. Additional reports may be

presented to the Board of Directors
continued: on Page 2.
Budgets Continued:

such as "seasonalization" spreads and monthly "cash flow" analysis. Both reports will help the Board of Directors to operate throughout the year and should be used as a planning tool.

Included in this newsletter is a Budget Worksheet to help guide you in the budget process. You need to adapt this to your current budget.

Below are some tips to help you save time and have some continuity in the budget process:

1. Throughout the year have all abnormal expenditures reflected in the minutes of meetings, then use this as a guide.
2. Keep a historical file on the budget. Any committee, board or other meetings which could impact the budget, keep in the file.
3. Keep account codes to a minimum and keep the budget simple.

REMINDERS !

1. Financial Reporting requirements must be waived by Chapter 718 and 719 association members prior to January 1, 1999.
2. Any waiver of reserves for Chapter 718 and 719 association members must be voted on and waived prior to the beginning of the new fiscal year.
3. If the documents require, the amount of Directors for the coming year must be determined according to the by-laws prior to the first notice of meeting.
4. Any proposed amendments must be drafted, reviewed and proposed by the Board of Directors, prior to the members meeting or annual meeting.

ASK THE MANAGER

By John R. Math,
LCAM



Q. Over the last few years we have been experiencing problems with short-term renters and invited guests at our association. A group of owners want to amend the documents to impose stronger restrictions against these residents and the out-of-state owners who are involved. The Board went ahead and made rules concerning this problem but did not have the membership vote to amend the documents. Are these new rules enforceable?

A. *Any rule that countermands a right, which is granted by the declaration of condominium, is unenforceable. If a unit owner challenges this rule and the unit owner prevails, then the association will then be forced to pay for the costs and legal fees and eventually seek to have the rule changed with a proper amendment.*

Q. Most of our Directors are part time residents who live up north and are never here at the property. Is this fair and is it legal? Are they allowed to spend most of their time away from the association?

A. *Unfortunately, this is legal. There are no laws, which prohibit an owner from spending time away from the association. Next election, try to determine which prospective Directors will be full-time residents and vote accordingly.*

Q. Only a handful of our residents use the clubhouse showers and sauna. The Board of Directors have turned off the hot water to these facilities in order to save money. When we

came with hot water. Can the Board do that?

A. *This is not advisable action, as those facilities are a part of the overall condominium property and all owners have a percentage of ownership in them. Those facilities cannot be altered. But we may suggest that a smaller heater or timers be used to help regulate the costs. This way the few owners who enjoy the facilities are not inconvenienced and the costs to operate are lowered.*

Q. Every Board of Directors Meeting quickly becomes a mess when the Secretary reads the Minutes of the previous meeting, as there is a Board Member who insists that long discussions be made apart of the minutes, even though no action was taken. This person seems to have their own agenda before the needs of the Association. What is right?

A. *Minutes should reflect the Motion, who made the Motion, who seconded the Motion and then finally who cast what votes on the Motion. Reports and detailed presentations may be more specific and or attached to the Minutes. Discussions need not be apart of the Minutes.*

John R. Math is the President and sole owner of Associated Property Management of the Palm Beaches, Inc. He has been in association management field since 1974. You may send your questions to APM, attention "Ask the Manager" at 400 South Dixie Highway, Suite #10, Lake Worth, Florida 33460 or you may call him at 561-588-7210.

CONDOMINIUM & HOMEOWNERS ASSOCIATION BUDGET CONSIDERATIONS

An Article from the Law Firm of St. John, Dicker & Caplan

In many ways, the financial operation of an association is very similar to that of a business. Both require the planning and analysis of projected income and expenses. Such a financial plan is called a "budget". A budget is an estimate of future income and expenses. It is not mandatory that the budget be followed. Budgets may be changed as circumstances change during the budget year. Developing an association budget takes time. Most associations need to begin developing a budget at least three months prior to its final enactment.

Budget preparation is the responsibility of every association board of directors. Only in a very few cases do governing documents require that the members of an association approve the budget. The governing documents of the association dictate the requirements of many aspects of the budget process. The Florida Condominium Act specifies numerous budget requirements for condominium associations. A few homeowners association documents have provisions similar to those found in the Condominium Act.

The homeowners associations ("HOA") provisions of the Not-For-Profit Corporations Act ("HOA Act") provides that a board meeting at which assessments will be enacted must be noticed with an agenda 48 hours prior to the meeting. This would be the case at a board meeting that approves a budget. The notice must be posted conspicuously on the property and must also identify all of the agenda items to be discussed at the meeting.

The Condominium Act contains more detailed requirements. Once the budget has been prepared, the next step is to have the budget adopted. The procedure for adopting the budget will be found in the association's documents as well as the Condominium Act. Most documents grant the board authority to approve a budget, and very few require unit owner approval of the budget. The Condominium Act has several requirements that must be followed when the board presents the proposed budget to the unit owners.

First, the notice of the budget meeting, agenda and a copy of the proposed budget must be mailed or hand delivered to every unit owner at least 14 days prior to the budget adoption meeting. Second, if an association's adopted budget exceeds 115 percent of the previous years assessments, after deducting for reserves, anticipated expenses not expected to be incurred on an annual basis and assessments for betterments to the property, then ten percent of

the voting interests would be entitled to petition the Board to hold a special unit owner meeting in which to reconsider the proposed budget or to enact a new one. This special meeting must be called by the board within thirty days and written notice of the meeting must be given to the unit owners not less than ten days prior to the date of the meeting.

A particular association's documents may provide for a different amount of time for the notice requirement. In the case of a condominium, it is important to note that the statutory notice requirement is the minimum amount of time required for posting of the notice. Therefore, less than 14 days written notice in advance of the meeting, even though allowed by the governing documents, would still be considered a violation of the statute.

The Condominium Act requires that reserves must be established for certain items. These include roof replacement, painting of buildings, pavement resurfacing and any other item that would have a deferred maintenance expense or replacement cost of more than \$10,000.00. The Act requires that reserves must be set up for these items, but it does not mean that reserves can be created for these items only. In addition to the statutory reserves required for condominiums, the condominium board can include any other reserves, such as a "rainy day" fund, which can be utilized by the board without any owner approval.

Deferred maintenance is defined as any type of maintenance or repair that will be performed less frequently than yearly and which would serve to maintain the useful life of the asset. A simple example of this would be the resurfacing of the swimming pool. The resurfacing process would not have to be done on a yearly basis (or less than yearly), and doing so would maintain the useful life of the pool. On the other hand, using funds from a pool reserve to pay for a pool service to come and clean the pool would not be permissible because such a service must be done several times each year and would not directly affect the useful life of the pool.

Condominium reserve funds for certain items are required, as discussed previously, but these funds may also be waived or reduced. In order to do this, the Condominium Act requires that a vote of the majority of members voting at a meeting where quorum is present to vote in favor of waiving or reducing the reserves. If the unit owners do not vote to waive or reduce the reserve funds, then the reserves must be fully

MAILING LABEL

APM NEWS
C/O ASSOCIATED PROPERTY MANAGEMENT
400 SOUTH DIXIE HIGHWAY, SUITE 10
LAKE WORTH, FLORIDA 33460

Page 4.

APM NEWS

Fall 1998

Continued from Page 3.

Finally, it must be determined how the assessments are allocated among the units. The source of this information can be found in the association's documents. In a residential condominium created after April 1, 1992, allocating assessments must be based on the units square footage or on an equal pro-rata basis. The association must also determine how often the assessments are to be made, whether they be monthly, quarterly, or bi-annually. The Condominium Act requires that assessments be assessed at least four times per year.

St. John, Dicker & Caplan represents more than 800 community associations in Palm Beach County, including homeowner, condominium, cooperative, country club and golf club communities. The firm is rated "AV" by Martindale-Hubbell, the principal United States law directory that has been rating attorneys and law firms for over 100 years. This is the highest rating given. If you wish to contact the firm they may be reached at 561-655-8994.

LANDSCAPING & WEATHER NOTES

Over the next few weeks you will begin to see a tapering off of our seasonal rains. It is suggested that you fertilize shrubs, lawns and palms for the winter. Low nitrogen fertilizer is suggested for shrubs and trees. Grasses can use nutritional help too, as you may begin to see yellow & green streaks in the lawn. Slow release nitrogen & potassium fertilizer is recommended for palms and a 4-6-8 fertilizer for citrus. New mulch is recommended too. It is a good time to begin planting annuals for colors. Stay alert to early freezes. Early morning watering is recommended. Otherwise, water plants and lawns at least two times a week in the dry season. 1/2 to 1 inch of water is required to penetrate at least 12 inches below the surface. Roots at this point are in the 12 to 18 inch deep range. Light watering only encourages roots to stay near the surface and will cause more problems during the dry

