

Regular Workshop – April 28, 2011
Agenda Item 17

Agenda Item: Discussion Regarding Peafowl Issues

Presenter: Town Manager

Summary: Commissioner Younger requested an item regarding peafowl issues be forwarded to the April 28, 2011 Regular Workshop Meeting for additional discussion.

In order to familiarize Commissioners with past Commission action regarding this subject, materials from the April 17, 2008 Regular Workshop Meeting and May 5, 2008 Regular Meeting are included for reference.

Attachments: 4-18-11 Memo, Manager to Commission;
April 17, 2008 excerpt from meeting minutes;
April 17-2008 Regular Workshop Meeting materials;
May 5, 2008 excerpt from meeting minutes;
May 5, 2008 Regular Meeting materials.

Recommended

Action: Pending discussion, provide direction to Manager.

MEMORANDUM

Date: April 18, 2011

TO: Town Commission
FROM: Bruce St. Denis, Town Manager
SUBJECT: Discussion Regarding Peafowl Issues

Commissioner Younger has requested this item be forwarded to the April 28, 2011 Regular Workshop Meeting for additional discussion.

Because many of you were not on the Commission at the time this subject was last addressed in detail I have included minutes and agenda materials to help get you up to speed.

"Discussion Regarding Request to Amend Peafowl Ordinance" was placed on the April 17, 2008 Regular Workshop Meeting agenda.

As part of the May 5, 2008 Regular Meeting two separate agenda items were considered. They were "Ordinance 2008-12 Amending Peafowl Ordinance to Include Provision for "No Feeding"" which did not move forward, and "Resolution 2008-19, Budget Transfer in the Amount of \$2,400 from Commission Contingency to Facilitate Relocation of Up to 60 Peafowl from the Longbeach Village Area" which was approved.

Please don't hesitate to contact me if you have any questions.

5. Presentation of Regional Model for Sarasota Bay and Longboat Pass Study

Following comments by Town Manager Bruce St. Denis, Mr. Mohamad Dabees, PhD, P.E., with Humiston and Moore, presented a PowerPoint presentation on the results of the Regional Model for Sarasota Bay and Longboat Pass Study.
(1-2212)

Mr. Rusty Chinnis, 7091 Longboat Drive East, commented on the past placement of debris in the Longboat Pass.

Mr. Angelo Furgiuele, 7000 block of Gulf of Mexico Drive, inquired as to options to mitigate the hot spots in the Longboat Pass area. Discussion ensued.

Mr. Charlie Hunsicker, Manatee County Conservation Lands Management Director, inquired as to the anticipated impact of proposed renourishment of Coquina Beach.

Commr. Webster requested that Dr. Dabees provide a printed copy of the last page of the presentation (entitled Longboat Pass Study Recommendations). Town Manager St. Denis noted that the video recording of the meeting would be available for those who wished to purchase a copy.
(1-2715)



6. Discussion Regarding Request to Amend Peafowl Ordinance

To consider options to control the peacock population in the Village and review of previous activities/actions regarding the issue.

Town Manager Bruce St. Denis commented on the residents request for consideration to address the peacock population in the Village and advised that Town Attorney David Persson had reviewed the Town Code and the action by previous Commissions.

Mr. Michael Drake, 6821 Longboat Drive South, commented on the regulation of peafowl by previous Commissions to limit the flock to 12 birds, requested consideration for financial assistance in the culling of the flock, and supported an amendment to the Ordinance to prohibit the feeding of the peacocks. Mr. Drake estimated the current number of peacocks in the existing flock to be between 60 to 70 birds.

Mr. Rusty Chinnis, 7091 Longboat Drive East, supported the requests made by Mr. Drake to assist in the removal and prohibit the feeding of the peacocks.
(1-3025)

Discussions were held on the options to reduce flock size, provide funding based on record of previous meetings, and the prohibition of feeding the peacocks.

Mr. Michael Drake noted expenditures to date for the removal of thirty peacocks (\$1,200) by a State licensed firm, the anticipated increase in flock size (12 to 24 annually, dependent on the number of hens remaining), and the costs to maintain the flock culling.
(1-3284)

6. Discussion Regarding Request to Amend Peafowl Ordinance - Ordinance

Upon inquiry, Town Attorney David Persson noted the existing Ordinance includes the prohibition for any type of injury to or killing of the peafowl.

Following comments, there was consensus to draft an Ordinance to provide for the prohibition for feeding the peacocks, to provide for funding for the culling of the flock, and to provide future annual funding for maintaining the flock size.

Following clarification by Town Attorney Persson on the amendments required to the existing code, Town Manager St. Denis advised that a Budget amendment would be prepared to provide for the costs to cull the flock.
(1-3485)

7. Planning & Zoning (P&Z) Board Tree Subcommittee Update

To review the recommendations of the P&Z Board Tree Subcommittee.

Mr. Al Hixon, Chairman of the P&Z Board Tree Subcommittee, submitted and reviewed a revised copy of the recommendations of the subcommittee. Mr. Hixon commended the subcommittee members for their efforts. Discussions were held with Mr. Hixon on the following topics/issues:

- advisement/notification to Condominium Associations on issues being considered
- enforcement of tree regulations on private properties
- impact on existing versus new development
- statement pertaining to Staff's enforcement authority for tree protection as it currently exists versus proposed amendments
- proposed amendments to the site plan approval process
- long term impact on the protection of trees on private property/options to poll Condominium Associations for their preference relating to existing Tree Code
- existing Sarasota County ordinances relating to tree protection/request for information on Manatee County regulations
- reasonable approach to tree protection/regulations to maintain quality of life.

There was majority consensus to not support the recommendations outlined in the subcommittee's report.

Discussion ensued on the process to be considered and the action to be taken on the existing Tree Code, issues to be addressed in the existing regulations, and options for continued review by subcommittee with specific recommendations made to existing code with input from Town Staff.
(2-0696)

MEMORANDUM

Date: April 10, 2008

TO: Town Commission

FROM: Bruce St. Denis, Town Manager

SUBJECT: Discussion Regarding Request to Amend Peafowl Ordinance

At the April 7, 2008 Regular Meeting several residents of the Village spoke to the Town Commission asking for assistance in addressing the proliferation of peacocks that has occurred in their community.

The Town Attorney was asked to do some research on the Town's activities in this regard and to report back to the Town Commission.

Attached is a copy of a letter from the Town Attorney that provides the information requested.

Please don't hesitate to contact me or the Town Attorney if you have any further questions.

Hankin, Persson, Davis, McClenathen & Darnell

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April 10, 2008

Mr. Bruce St. Denis
Town Manager
Town of Longboat Key
501 Bay Isles Road
Longboat Key, Florida 34228

RE: Pea Fowl Protection

Dear Bruce:

At the most recent Town Commission regular meeting, the Town Commission asked for some research concerning protection of peacocks from an historical standpoint. With the assistance of Jo Ann Mixon, I offer the following:

Section 91.04 of the Town's Code prohibits injuring or destroying pea fowl. That regulation was promulgated by Ordinance 81-17. A copy of Ordinance 81-17 and the minutes concerning the peacocks are attached to this letter.

You will note that the problem with the peacocks was first brought to the Town's attention in March 1978. The first suggestion was to rid the Town of all but two peacocks, but this plan was met by opposition from other residents of The Village. A petition was circulated to keep the flock within The Village, but to limit the flock to approximately 12 adult birds. There was also discussion concerning destroying or removing the birds. After much discussion to protect the peacocks from harm, Ordinance 81-17 was promulgated.

I think you will find the minutes of interest. There was no referendum held by the Town that we are able to locate. The problem concerning peacocks appears to reoccur every ten years or so.

Mr. Bruce St. Denis
April 10, 2008
Page Two

I hope this letter has been of some assistance. If I can answer any questions, I'll be pleased to do so.

Sincerely,

A handwritten signature in black ink, appearing to be 'DPP' with a stylized flourish.

David P. Persson

DPP/dgb
Enclosure

cc: Trish Granger
Jo Ann Mixon

ORDINANCE NO. 81- 17

AN ORDINANCE MAKING IT UNLAWFUL TO INJURE OR DESTROY PEAFOWLS WITHIN THE TOWN OF LONGBOAT KEY; PROVIDING FOR SEVERABILITY OF PARTS; PROVIDING FOR PENALTIES; REPEALING ORDINANCES IN CONFLICT AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE TOWN OF LONGBOAT KEY:

Section 1. It shall be unlawful for any person to intentionally injure, kill or destroy any peafowl within the Town of Longboat Key by throwing stones or other objects, shooting at or using any implements with the intention of killing or injuring any peafowl within the Town.

Section 2. If any section, subsection, sentence, clause or provision of this Ordinance is held invalid, the remainder of the Ordinance shall not be affected.

Section 3. Any person found guilty of violating this Ordinance shall, upon conviction thereof, be punished by a fine not exceeding \$500.00 or by imprisonment for a term not exceeding sixty (60) days.

Section 4. All ordinances and parts of ordinances in conflict herewith shall be and the same are hereby repealed, however Section 4-1.5 of the Code is not repealed.

Section 5. This ordinance shall take effect upon second reading in accordance with law, and the Charter of the Town of Longboat Key.

Passed on first reading this 27th day of May, 1981.

Passed and adopted finally on second reading this 1st day of July, 1981.

Mayor

Attest:

[Signature]
Town Clerk

1978

Commission Directions, March 28, 1978 Workshop, Page 2

4. Peacock Problem Discussed

The Commission heard Bob Cannon, resident of Russell Street, relate that the peacocks which are at large in the Village area have caused damage to his swimming pool cage and shrubbery, and asked that they be removed to some place such as Jungle Gardens. He further stated there are now also two domestic turkeys wandering loose. Mayor Ochs inquired if the Cannons had tried every possible means to discourage the peacocks from coming onto their property and Mr. Cannon assured him they had. Mike Ford stated he would object strongly to any thought of killing the peacocks and was assured by the Commission this had never been considered. Mr. Cannon also stated he did not wish to see the peacocks killed. Mr. Ford stated he would not object to having the flock reduced to two and the others taken to Jungle Gardens or perhaps Myakka. Commissioner Ridyard stated he had had as many as 12 peacocks on his property at one time and they are very messy. He recommended retaining only two cocks. Town Manager Allgire stated that Jungle Gardens will accept them if the Town transports them, as will an individual who has a ranch on the Myakka River. Jean Russell read a letter from Jeanette Nichol also stating the hope the fowl would not be killed. Commissioner Jenkins said he was awaiting a call from someone in the Audubon Society who is knowledgeable about peacocks who may shed some light on how to best handle the problem. This will be discussed again at the next workshop and in the meantime the Administration will attempt to get information about moving the majority of the birds.

5. Arvida Non-Conforming Sign

John Siegel of Arvida Corp. discussed with the Commission the non-conforming signs which Arvida has for their office complex and Longboat Key Towers - Privateer. Mr. Siegel stated that if the Commission so directed he would take the necessary steps to bring the existing signs into conformance. However, he would prefer, if given 120 to 180 days, to completely replace them with better looking conforming signs. Commissioner Seegel inquired of the Town Attorney whether a letter of intent from Mr. Siegel would be helpful in the Town's litigation with Port Of Call about their non-conforming sign. Mr. Whitesell stated it would and Mr. Siegel agreed to provide such a letter. It was agreed that 120 days would be allowed, but an extension would be considered if found to be necessary.

6. Far Horizons Gulf Front Sign Discussion

A representative of Sager Associates displayed to the Commission the sign which Far Horizons had at Town direction removed from the beach front. He displayed sketches which he hoped the Commission would allow, including a sizeable replica of a pelican from the previous sign. Town Manager Allgire pointed out that the sign ordinance has a variance provision except for size. Also, that each business should have only one sign unless the combined total square footage of two signs is limited to 32 square feet. Further, that if the Commission wish to permit a 2' x 2' directional sign on the beach in addition to the 32 square foot sign in front, this would be a policy decision and he felt it should be made a matter of record. This was forwarded to the April 5th agenda for decision.

7. Post Office Parking Problem

Letter of request had been received from the Longboat Key Postmaster that the Town limit parking in the post office parking spaces to 15 minutes. Town Attorney

1978

TCRW 04-04-1978

COMMISSION DIRECTIONS, APRIL 4, 1978 WORKSHOP

Present: Mayor Ochs, Commissioners Bell, Jenkins, McCall, Ridyard, Sedrick, Seegel

Also Present: Town Manager Allgire, Town Attorney Whitesell (early part of meeting only)

Absent: None

1. Peacock Problem Discussion

Gene Schlatterer of Longboat Drive stated that the Village peacocks spend time on a vacant lot next to his house and he does not find them disturbing. He asked the Commission not to get rid of them. Mayor Ochs stated it had been the Commission's intent to keep two peacocks and to try to have the remainder of the flock transported to Jungle Gardens or some other appropriate place. However, no one had yet been found to capture and move them. He hoped to get in touch with a forester from Oscar Scherer Park who might have information as to how the peacocks could be moved.

2. Bike Path Facilities Discussion

Commissioner Jenkins stated that if benches and water fountains are to be installed along the bike path, and the dedication plaque paid for, authorization to spend \$1200 is needed. Prices have been obtained, and material to build benches in place would run \$36.00 each. If the Town builds non-decorative water fountains the total can be kept to \$1200. If ready-made fountains are used it would cost more. Further, that there is money left in the bike path fund from the one time tax levy. The Town Attorney stated that if there is money left and the path is paid for it can be used for any lawful purpose of the Town. There was some disparity of opinion among Commissioners as to whether these facilities are needed, or should be paid for by taxpayers rather than attempting to have them donated by a service club. Inasmuch as the Garden Club had suggested their need, this matter was deferred to a later workshop and representatives of the Garden Club will be asked to be present to discuss it.

3. Viente Condominium Coastal Construction Setback Variance Request

Attorney Don McClelland and David Tichenor, architect for Viente, a proposed condominium to be located between Four Winds and Beachcomber, presented a report from Smally, Wellford and Naiven relating to their requested variance from the Coastal Construction Setback Line. The Town Manager pointed out that the report addressed itself to engineering and safety of construction but not to protection of the dune line, vegetation or beach stability as it should have. Commissioner Seegel felt that consideration of the engineering criteria should be sufficient. The Commission informed the petitioners that they would in making a decision, keep in mind the fact that existing seawalls on either side of the property have probably contributed to beach erosion. Nevertheless, Mr. McClelland was asked to obtain information which will show what erosion has taken place over the past several years and this matter was placed on the workshop agenda two weeks hence.

BOOK 1 356

1978

TCRW 04-18-1978

COMMISSION DIRECTIONS, APRIL 18, 1978 WORKSHOP

Present: Mayor Ochs, Commissioners Bell, Jenkins, McCall, Ridyard, Sedwick, Seegel

Also Present: Town Manager Allgire, Town Attorney Whitesell

Absent: None

1. Peacock Transporting Discussion

Mayor Ochs stated that since the last discussion of peacocks being a nuisance in the Village the Town Manager has been able to work out a possible solution. Mr. Allgire reported that the Police Chief has found the Sarasota County Humane Society will capture them for a price, and the Town has four or five offers of places to which they can be taken. Further, that if the Commission so directs he will have all but two males caught and moved. The Commission was in agreement that the Manager should handle the matter as indicated.

2. Amendment to Pension Trust Agreement

The Town Attorney stated he had, as directed by the Commission, prepared an amendment to the Pension Trust Agreement to change from the Southeast Bank to Ellis Sarasota Bank. According to further direction from the Commission the amendment would also limit investments to government bonds and corporate bonds rated A or better by Moody's or Standard & Poor. Pension Board member Ed Petrick spoke about the recommendations which had gone into preparation of the proposed amendment. It was agreed to defer discussion until later to hear from Board Member Sam Gibbon who had not yet arrived.

3. Utility Easement Exchange Indenture

The Town Attorney presented a proposed Utility Easement Exchange Indenture to release the easement the Town had for utilities in the old right-of-way in Longboat Key Club Unit 1 in exchange for a utility easement in Longboat Key Club Unit 3. Commissioner Seegel commented he did not think paragraph 5 of the proposed agreement spelled out Arvida's obligation to pay for this exchange. Mr. Whitesell explained that paragraph 5 does not pertain to the relocation, but to repair, maintenance or new main installation after the exchange. Mr. Seegel asked that paragraph 5 be changed so it could in no way be interpreted there was any obligation on the Town's part to spend Town funds. Mr. Whitesell said he felt there was no problem, but to make it absolutely clear it could be done and he would amend that paragraph by the following night. This was forwarded to the April 19 meeting agenda.

4. Coastal Construction Setback Line Variance Request

Attorney Don McClelland inquired whether every Commissioner had seen a letter dated April 10, 1978 from consulting engineer Robert Malven concerning the requested Coastal Construction Setback Variance for Viente Condominium. The Commission had read the letter which indicated that the beach in that location is about as stable as any in the area. The Town Manager said the Staff recommends approval of the variance and this was forwarded to the April 19 agenda.

BOOK 1 363

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TCRW 04-25-1978

Commission Directions, April 25, 1978 Workshop Page 2

In the proposed adopting ordinance, however, he had been asked to put in that the use of aluminum conductors be forbidden by the Town of Longboat Key. Although he thinks aluminum conductors are a fire hazard and would like to see it done he was of the opinion that it might not be possible under State law. Fire Chief Bullard stated he thinks there are precedents for banning the aluminum conductors and he thinks it can be done. The Commission directed the Town Attorney to proceed with final draft of the adopting ordinance leaving in this exclusion and the Building and Fire Departments to research to develop information to substantiate the exclusion at the public hearing.

5. Telemetry Equipment Bids

Fire Chief Bullard reported bids had been received for purchase of new telemetry equipment to expand the Town's paramedic programs. Two bids were received on each of two items. The combined cost for a Telecare II unit would be \$9,885, and for combined bids for Motorola telemetry unit and Physio Control defibrillator EKG equipment would be \$4800 and \$5950 respectively or \$10,750. Both sets of equipment had been tried out by the Emergency Rescue Squad and the Telecare II was recommended. There is \$4,000 which was donated to the Volunteer Fire Dept. for this purpose. It is estimated the existing equipment can be sold for \$3,000 and the remainder is in the Town budget. This item was forwarded to the May 16 workshop since bids in the used equipment will be received May 4. The Commission can then determine exactly how much of an expenditure needs to be authorized.

6. Privateer Extra Unit Request

Vice-Mayor Seegel asked that this agenda item be deferred and that Col. Dawson be notified it will be on the next workshop agenda.

7. Peacock Discussion

Ginny Pier, a resident of the Village area, presented a petition containing 190 signatures requesting that the Commission not proceed with their plans to remove all except two peacocks from the Village. She stated there was agreement the flock should be controlled by removal to an appropriate place when necessary all but 12 to 15 birds, which is roughly the size of the flock at present. The Commission agreed to take no action to remove any birds at this time but asked Mrs. Pier to keep an eye on the size of the flock and to let the Town know when it gets too numerous.

8. Litigation Reports

Town Attorney Whitesell reported that the principal involved in Sarasota Excavating Co. has declined to give the personal guarantee which Vice-Mayor Seegel wanted if the agreement was entered into for installment payments of the judgement the Town obtained against Sarasota Excavating. They have agreed to provide quarterly financial statements and there is a stipulation that if the Town feels in jeopardy, the payments could be accelerated and executed. Mr. Whitesell said it might be advantageous to take the voluntary payment of the judgment as opposed to an execution. Amount of the judgment was approximately \$3600. This was forwarded to the May 3 regular meeting agenda to authorize settlement with removal of the personal guarantee requirement.

Mr. Whitesell further reported receipt of a letter from the counsel for the Kirssteins' in the rezoning suit. The matter is now before the Supreme Court on a petition for certiorari. The proposal received was to settle by agreeing to thirteen permitted

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COMMISSION DIRECTIONS, MARCH 31, 1981 WORKSHOP, 2:00 P.M.

Present: Mayor Bell, Commissioners Fernald, Kirst, Lewin, Ochs, Riter, Seegel

Also Present: Town Manager Allgire, Town Attorney Whitesell, Town Clerk Pool,
Consulting Planner Whelan

Absent: None

1. Peacock Petition

Ginny Pier, resident of the village, explained that all except one male peacock of those which had roamed free in the Village had disappeared. She stated the peacocks had been pets and loved by people in the Village, so four additional grown peacocks had been purchased as replacements. Ed Crowe had kept them in a temporary cage until they became used to their surroundings but they had now been turned loose. She presented a petition with 128 signatures asking that the peacocks be permitted to live and roam free in the Village and stating that the flock would be kept to about 12 adult birds. Mrs. Pier stated that a letter had been received by the Town objecting to Mr. Crowe's "raising" peacocks but that the ones purchased were adults and he was not raising peacocks. She stated they had called on every house in the Village, with the exception of a few where no one was living, and had had no other objections to the peacocks. Town Manager Allgire stated that a section prohibiting keeping of livestock, fowl or domestic animals other than household pets had been added to the Town Code when the peacocks had become controversial some years ago. He stated that purchase of the peacocks should not have been done without the knowledge or prior approval of the Town. Further, that if the majority of residents are in favor of allowing peacocks in the Village it should be dealt with by amending the ordinance to permit it. Mrs. Pier requested that if the ordinance is amended a section be added to say the peacocks shall not be harmed. Mr. Allgire stated he could not condone the procedure by which the peacocks were acquired in violation of the ordinance, but apparently they are not now in violation as the ordinance does not specifically prohibit their roaming, it just says they cannot be kept. Town Attorney Whitesell suggested that peacocks could be made an exception to the leash law and then another ordinance be drafted protecting them from harm by air rifles, etc. Mr. Whitesell was asked to draft the appropriate ordinances.

2. Impact Fee Report

Gene Engman, of the consulting planning firm of Adley Associates, made a presentation assisted by Data Base Administrator Carole McGeehan, explaining a proposed Capital Improvements Program based upon an Impact Fee. The system would be designed to capture only capital costs incurred by the general fund to serve new residents, with the impact fee imposed on new residents. In a general guide to procedure, Mr. Engman had listed 12 steps which he said would be used as a device for filtering out those projects which are capital projects and allocating the costs over specified years.

The question was raised whether additional operating costs brought about by new residents could be included. Mr. Engman's opinion was that would require a much more complicated program than the proposed one and he thought those costs should be covered by ad valorem taxes. The Town Manager stated that a study on that

Commission Directions, May 12, 1981 Workshop, Page 2

the amount of money saved by the Town as a result of their recommendations. However, their letter stated they based their public safety work on a flat fee basis and would do it for Longboat Key for \$18,400 - the remainder of their contract amount after subtracting the \$1,350 for work they did in relation to Social Security deduction payments. Mr. Allgire said that consolidation studies had been done earlier by a citizens advisory group and by Tampa Bay Regional Planning Council. MICA's report would be on how to implement consolidation and how far to go with it and a proposed timetable for carrying it out. It was agreed the Town Manager should consult with the Town's labor attorney and, unless he said not to, to invite the MICA representative to the next workshop.

4. Peacock Protection Ordinance

As directed by the Commission, the Town Attorney had prepared an ordinance which would provide for protection of peafowl. Howard Ridyard inquired who would be responsible for damage done by protected peafowl and the Town Attorney replied there had been an admission as to who had brought them to Longboat Key and it would be a civil matter with those parties. Ginny Pier stated she had found out from an eminent authority that it is impossible for peafowl to transmit Parvo virus to animals. Mayor Bell asked her to save her presentation for public hearing on the ordinance. The ordinance was forwarded to the May 27 agenda for first reading.

5. Ansel Cottages Disposition Discussion

Town Manager Allgire reported that the Sandy Beach cottages which the Town acquired along with the Ansel property had been found unfit for habitation, the occupants had moved out and the cottages were now boarded up. The Commission consensus was that they should be gotten rid of as soon as possible. Town Manager Allgire was asked to determine the possibility of selling them and to report back within 30 days. In his workshop report, Mr. Allgire had stated that if the cottages are not sold, or secured for future Town use as field office for recreational purposes or for storage, they could be burned by the Fire Department as training and then the debris removed.

6. Interval Ownership Legislation Discussion

Mayor Bell reported she had a call from Sarasota County Planning Director Doug James who had informed her a resolution was being prepared protesting adoption of Sec. 721.25 of HB 1068 and SB 882, which would be an obstacle to control of interval ownership by means of zoning. He said it was hoped that all the municipalities in Sarasota County would join in adoption of the resolution. Since a special meeting was scheduled at 4 P.M., it was agreed the Commission would adopt such a resolution at that time and deliver it to Mr. James.

7. Arvida Sign Request

Town Manager Allgire reported a request from Arvida Corp. to place a sign at the location from which their temporary real estate office was being moved to indicate where it had been moved. The sign ordinance does not specifically cover this situation, but the Commission could grant the request by variance. This item was forwarded to the 4:00 P.M. special meeting.

MINUTES OF SPECIAL MEETING OF LONGBOAT KEY TOWN COMMISSION, MAY 27, 1981, 8:00 P.M.

Meeting called on written notice in accordance with Article II, Sec. 15 of the Town Charter.

Vice-Mayor Riter called the meeting to order at 8:00 P.M.

Present: Vice-Mayor Riter, Commissioners Batten, Fernald, Kirst, Ochs

Also Present: Town Manager Allgire, Town Attorney Whitesell, Town Clerk Pool, Consulting Planner Whelan

Absent: Mayor Bell, Commissioner Lewin

There being a quorum present, the meeting was in order.

The Pledge of Allegiance to the Flag was given.

1. COMMITTEE REPORTS

Commissioner Ochs reported he had been in touch with the local Legislative delegation because there is a bill before them with a provision which, if adopted, would kill the ordinance the Town is trying to formulate to control time sharing. Mr. Ochs had suggested an amendment to that provision of the bill. He had also been in communication with the Florida League of Cities and they had come up with an alternate proposed amendment which, if adopted, would be alright. Sen. Neal is pressing Mr. Ochs' amendment to the Senate and is trying to get the Senator who moved the bill originally to agree to it or face a floor fight. He thought the corresponding House Bill was on the floor this day. He had asked Sen. Henderson and Rep. Danson to be on the watch for it and to take part in getting the provision amended.

2. COUNTRY CLUB SHORES CANAL DREDGING DISCUSSION DEFERRED

With the concurrence of the majority of the residents of Country Club Shores who were present, the Commission deferred until the June 3 meeting discussion of proposed dredging of canals in Country Club Shores.

3. PEACOCK PROTECTION ORDINANCE (81-17)

At the direction of the Commission, Ord. 81-17 making it unlawful to injure or destroy peafowls within the Town was placed on first reading by title only. It was moved by Kirst, seconded by Ochs that Ord. 81-17 be passed on first reading. Commissioner Batten pointed out Sec. 4-1.5 of the Town Code prohibits maintenance of livestock, fowl or domestic animals. Since Sec. 4 of Ordinance 81-17 would repeal all conflicting ordinances he thought adoption of it might thereby repeal that code section and open the way for keeping of livestock, etc. Town Attorney Whitesell stated that Sec. 4 could be changed to specifically not repeal Sec. 4-1.5 of the Town Code. The Manager stated the Police Chief had asked for a change in Section 1, to read as follows, "It shall be unlawful for any person to intentionally injure or destroy any peafowl within the Town of Longboat Key by any means whatsoever." As the ordinance was written it would prohibit injury or destruction only "by throwing stones or other objects, shooting at or using any implements with the intention of killing or injuring". The Chief felt it might be difficult to determine exactly what means had been used. Commissioners Kirst and Ochs moved and seconded to pass Ord. 81-17 on first reading with the amendments discussed.

5/27/81

BOOK 5

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1st Reading

MINUTES OF REGULAR MEETING OF LONGBOAT KEY TOWN COMMISSION, JULY 1, 1981, 8:00 P.M.

Mayor Bell called the meeting to order at 8:00 P.M.

Present: Mayor Bell, Commissioners Batten, Fernald, Lewin, Ochs, Riter

Also Present: Town Manager Allgire, Town Attorney Whitesell, Town Clerk Pool

Absent: Commissioner Riter

There being a quorum present, the meeting was in order.

The Pledge of Allegiance to the flag was given.

1. MINUTES APPROVAL

The minutes of regular meeting June 3, 1981; special meeting June 10, 1981, special meeting June 15, 1981 and special meeting June 23, 1981 were approved as submitted.

2. COMMITTEE REPORTS

Commissioner Ochs reported that Gov. Graham had signed a time share bill which leaves the paragraph covering the matter of zoning and building with one sentence left in. He felt the Town can live with the legislation because what was taken out indicated the Legislature had watered down the original paragraph. The sentence left in says, "That all laws, ordinances and regulations concerning buildings or zoning shall be construed and applied with reference to the nature and use of such property without regard to form of ownership." Town Attorney Whitesell stated he felt the Town's Ord. 81-12 was within the adopted language. Mr. Ochs said he thought Ord. 81-10 was too.

Commissioner Fernald reported attending a public hearing on the Estech Phosphate mining requests in Manatee County. Several people had made very fine statements and Mrs. Fernald had presented a petition with about 600 signatures opposing the mining in any area that would interfere with the purity of Manatee's water supply.

3. PEACOCK PROTECTION ORDINANCE (81-17)

At the direction of the Commission Ord. 81-17, making it unlawful to injure or destroy peafowls within the Town, was placed on second reading by title only. Pursuant to published notice, public hearing on the ordinance was opened. No one wished to be heard and the hearing was closed. It was moved by Ochs, seconded by Lewin that Ord. 81-17 be passed on second reading and finally adopted. Motion carried: Batten, aye; Riter, aye; Fernald, aye; Ochs, aye; Lewin, aye; Bell, aye.

4. RECREATION BOARD ORDINANCE 81-20

At the direction of the Commission Ord. 81-20, providing for creation of a Recreation Board, was placed on second reading by title only. Pursuant to published notice, public hearing on the ordinance was opened. Ted Sedwick spoke in opposition to adoption of the ordinance. He suggested as an alternative that a select committee be appointed to report back to the Commission in six months. Ginny Pier stated she felt the Town did need a group of interested people who might come back to the Commission and report what the recreational needs of the Town are. No one else

7/1/81

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2ND
Reading

7. Quasi-Judicial Hearing on Ordinance 2008-10, Petition to Vacate an Emergency Access Easement at 3460 Mistletoe Lane - Continued

Town Attorney David Persson commented on the requirements of a quasi-judicial hearing.

Mayor Lenobel opened the public hearing.

Planning, Zoning, and Building Department Planner Richard Hartman presented on overview of the requested vacation, advised that the Police and Fire Departments have issued letters of no objection to the vacation, and noted the Planning and Zoning Board's recommendation for approval.

Attorney Ryan Featherstone noted agreement with the presentation by Mr. Hartman and had no additional comments.

As no others wished to be heard, Mayor Lenobel closed the public hearing.

Commr. Clair inquired and following comments by Town Attorney Persson, Attorney Featherstone advised that he would review the legal description of the easement included in the proposed Ordinance. Town Attorney Persson advised that an additional copy of the Exhibit could be provided at second reading on the Ordinance.

Commr. Webster moved to pass Ordinance 2008-10 and to forward to the June 2, 2008, Regular Meeting for second reading and public hearing. The motion, seconded by Commr. O'Connor, carried by a 7-0 roll call vote, as follows: Webster, aye; O'Connor, aye; Spoll, aye; Lenobel, aye; Siekmann, aye; Rothenberg, aye; Clair, aye.

ORDINANCES - FIRST READING



8. Ordinance 2008-12, Amending Peafowl Ordinance to Include Provision for "No Feeding"

To consider proposed Ordinance 2008-12, amending Chapter 91, Animals, Section 91.04, Injuring or Destroying Peafowl, to provide for the prohibition of feeding the peafowl.

Interim Town Clerk Trish Granger placed Ordinance 2008-12 on record by title only.

Commr. Spoll moved to pass Ordinance 2008-12 and to forward to the June 2, 2008, Regular meeting for second reading and public hearing. The motion was seconded by Commr. Rothenberg.

Commr. Clair inquired, and Town Manager Bruce St. Denis noted that Staff will provide information on the effect of feeding the flock, as it pertains to the growth of the flock, at the public hearing on June 2, 2008.

Vice Mayor Siekmann commented on the hobby of feeding wild birds and suggested consideration to reword the language in the proposed Ordinance.

8. Ordinance 2008-12, Peafowl Ordinance - Continued

The following individuals commented on the proposed Ordinance,

Ms. Philomenia Perry, 671 Fox Street
Ms. Joyce Kessler, 690 Fox Street
Ms. Pam Coleman, 7094 Longboat Drive East
Mr. Tony Gerich, 7074 Longboat Drive East
Ms. Lila Gerich, 7074 Longboat Drive East

(1-1466)

Commr. Clair moved to table the motion until such time that a report can be provided pertaining to technical data on the effect of a prohibition on feeding the peacocks as it relates to flock control. The motion, seconded by Vice Mayor Siekmann, carried by a 7-0 roll call vote, as follows: Clair, aye; Siekmann, aye; Webster, aye; O'Connor, aye; Spoll, aye; Rothenberg, aye; Lenobel, aye.

QUASI-JUDICIAL ORDINANCES - SECOND READING AND PUBLIC HEARING

9. Quasi-judicial - Ordinance 2008-06, Longboat Key Moorings

Public hearing and second reading on proposed Ordinance 2008-06, a request by LFL Marina, LLC, property owner, for approval of an Outline Development Plan (ODP) amendment to increase the number of boat slips from 278 to 291 for the Longboat Key Moorings, with conditions.

Interim Town Clerk Trish Granger placed Ordinance 2008-06 on second reading and public hearing by title only and administered the oath.

Mayor Lenobel advised that materials distributed or presented for the hearing must be filed with the Town Clerk's office for the record.

Upon inquiry, Town Attorney David Persson noted that additional information submitted and provided by Attorney Brenda Patten earlier this date would be incorporated into the record and reviewed the ex-parte communication disclosure requirements.

Commr. Spoll noted that members of the Moorings had contacted him regarding the parking issues discussed at the previous hearing.

Upon inquiry, Attorney Patten and Planning, Zoning, and Building Department Planner Steve Schield noted no objection to participation in the consideration of the proposed Ordinance by Commr. Spoll based on his disclosure.

Mayor Lenobel opened the public hearing.

12. Ordinance 2008-08, Amending Chapter 30.01(D) Changing the Start Time for Regular Workshop Meetings from 10:00 AM to 11:00 AM - Continued

Subsequent to discussion on the time frame for completion of Workshop meetings, the amendment to the motion carried by a 5-2 roll call vote, as follows: Siekmann, aye; Rothenberg, aye; Clair, no; Lenobel, aye; Spoll, aye; O'Connor, no; Webster, aye.

The main motion, as amended, carried by a 7-0 roll call vote, as follows: Spoll, aye; Siekmann, aye; Webster, aye; O'Connor, aye; Lenobel, aye; Clair, aye; Rothenberg, aye.

(2-0958)

RESOLUTIONS

13. Resolution 2008-17, Supporting a Fixed Span Bridge for Replacement of State Road (S.R.) 64-Manatee Avenue Bridge

To consider proposed Resolution 2008-17 supporting the replacement of the S.R. 64/Manatee Avenue Bridge with a fixed span bridge.

Interim Town Clerk Trish Granger placed Resolution 2008-17 on record by title only.

Vice Mayor Siekmann moved to pass Resolution 2008-17. The motion, seconded by Commr. Webster, carried by a 7-0 roll call vote, as follows: Siekmann, aye; Webster, aye; Rothenberg, aye; O'Connor, aye; Spoll, aye; Clair, aye; Lenobel, aye.

(2-1014)



14. Resolution 2008-19, Budget Transfer in the Amount of \$2,400 from Commission Contingency to Facilitate Relocation of Up to 60 Peafowl from the Longbeach Village Area

To consider proposed Resolution 2008-19, a budget transfer in the amount of \$2,400.00, from Commission Contingency to facilitate the relocation of up to 60 peafowl from the Longbeach Village area.

Interim Town Clerk Trish Granger placed Resolution 2008-19 on record by title only.

Vice Mayor Siekmann moved to pass Resolution 2008-19. The motion was seconded by Commr. Webster.

Town Manager Bruce St. Denis noted that the Resolution provides for reimbursement to the Village Association for removal costs and does not provide for any other action by the Town.

14. Resolution 2008-19, Budget Transfer, to Facilitate Relocation of Up to 60 Peafowl from the Longbeach Village Area - Continued

Subsequent to comments on up-front funding requirements, the motion carried by a 7-0 roll call vote, as follows: Siekmann, aye; Webster, aye; O'Connor, aye; Spoll, aye; Rothenberg, aye; Clair, aye; Lenobel, aye.

(2-1112)

NEW BUSINESS

15. Appointments to Town Boards and Committees

To consider appointments for the expiring seats on Town Boards and Committees (Code Enforcement Board, Planning & Zoning Board, and Zoning Board of Adjustment, Citizens Tax Oversight Committee and Metropolitan Planning Organization Citizens' Advisory Committee).

Commr. Rothenberg requested consideration to schedule a workshop item to consider policies for term limits for Board and Committee members.

Subsequent to comments on items to be considered and the impact on current terms, there was consensus to schedule a workshop agenda item for discussion pertaining to the appointment policies for all Town Boards/Committees.

Interim Town Clerk Trish Granger polled the Commission for the expiring seats, with results noted as follows:

Code Enforcement Board: reappointed Seymour Ridges to Seat 3, for a term effective through May 11, 2011.

Applicants → Comms. ↓	Andrew Aitken	T. Mark Benjamin	Claudia Fuller	Glenn Peterson	Seymour Ridges	Beverly Shapiro	Mark Wickersham
Clair					X		
Lenobel					X		
O'Connor					X		
Rothenberg					X		
Siekmann					X		
Spoll					X		
Webster					X		
TOTALS					7		

ORDINANCE 2008-12

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE TOWN OF LONGBOAT KEY, FLORIDA, BY AMENDING CHAPTER 91, ANIMALS, SECTION 91.04, INJURING OR DESTROYING PEA FOWL; PROVIDING FOR THE PROHIBITION OF FEEDING PEA FOWL; PROVIDING FOR ENFORCEMENT AND PENALTY; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ALL ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, there has been a proliferation of peafowl within the Town; and

WHEREAS, this proliferation has been caused in large part by the feeding of peafowl on public and private property; and

WHEREAS, peafowl can be loud, aggressive, cause harm to plants and property, create unsanitary conditions and thus interfere with residents' and visitors' reasonable enjoyment of their dwellings and lodgings and pose a threat to the public health, safety and welfare of the Town; and

WHEREAS, the Town has provided for the protection of peafowl within the Town, but wishes to maintain a peafowl population that the Town can sustain; and

WHEREAS, the Town wishes to discourage the feeding of the peafowl on both public and private property.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN OF LONGBOAT KEY, FLORIDA, THAT:

SECTION 1. The above Whereas clauses are true and correct and are hereby ratified and confirmed.

SECTION 2. Chapter 91, ANIMALS, SECTION 91.04, INJURING OR DESTROYING PEA FOWL, is hereby amended to read as follows:

91.04 Feeding, injuring, or destroying peafowl.

It shall be unlawful for any person to feed, either on public or private property, or to intentionally injure, kill, or destroy any peafowl within the Town ~~by throwing stones or other objects, shooting at, or using any implements with the intention of killing or injuring any peafowl within the Town.~~

SECTION 3. Any person found in violation of this Ordinance shall be liable for fines and/or imprisonment as outlined in Chapter 91, Section 91.99, Penalty, of the Town Code.

SECTION 4. If any section, subsection, sentence, clause, or provision of this Ordinance is held invalid, the remainder of the Ordinance shall not be affected.

SECTION 5. All ordinances or parts of ordinances in conflict herewith shall be and the same are hereby repealed.

SECTION 6. This Ordinance shall take effect upon second reading in accordance with Law and the Charter of the Town of Longboat Key.

Passed on the first reading the ____ day of _____, 2008.

Adopted on the second reading and public hearing the ____ day of _____, 2008.

Hal Lenobel, Mayor

ATTEST:

Trish Granger, Interim Town Clerk

MEMORANDUM

Date: April 29, 2008

TO: Town Commission

FROM: Bruce St. Denis, Town Manager

SUBJECT: Resolution 2008-19, Budget Transfer in the Amount of \$2,400 from Commission Contingency for the Safe Relocation of up to 60 Peafowl from the Longbeach Village Area

At the April 17, 2008 Regular Workshop Meeting the Town Commission reached consensus to reimburse the Village Association for relocation of peafowl. Resolution 2008-19 is an estimate of the cost to relocate enough peafowl to get the flock down to approximately 12.

I strongly suggest to the Town Commission that these funds be a reimbursement for actual expenses to the Village Association for the relocation effort and not a commitment by the Town to take responsibility for the peafowl relocation. I have had experience in the past and do not believe it is a position the Town should be in.

Please don't hesitate to contact me if you have any questions.

RESOLUTION 2008-19

A RESOLUTION OF THE TOWN OF LONGBOAT KEY, FLORIDA, AMENDING THE FISCAL YEAR 2007-08 BUDGET BY TRANSFERRING BUDGETED, BUT UNALLOCATED FUNDS, FROM THE CONTINGENCY ACCOUNT IN GENERAL SERVICES TO THE GENERAL SERVICES PROFESSIONAL SERVICES/ OTHER ACCOUNT IN THE AMOUNT OF \$2,400; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town of Longboat Key has budgeted, in the Commission Contingency Account in General Services, unallocated funds to be used at the Town Commission's discretion to provide for unexpected costs and projects in the Town of Longboat Key; and

WHEREAS, the peafowl population is primarily located within the Village at the north end of the Key; and

WHEREAS, the peafowl population has grown in numbers in recent years; and

WHEREAS, the overpopulation of the peafowl has created a risk to the health, safety, and welfare of the citizens and visitors of the Town of Longboat Key; and,

WHEREAS, the Town Code prohibits harming of peafowl; and,

WHEREAS, the Village Association has requested that the Town reimburse it for relocation of peafowl to off island locations; and

WHEREAS, peafowl can be safely relocated by a private company; and,

WHEREAS, the private company will be directed to leave at least twelve (12) peafowl in the Town of Longboat Key; and,

WHEREAS, the Town finds that the expenditure of public money for the relocation of peafowl is a valid public purpose and will agree to reimburse the Village Association up to \$2,400 for the costs associated with the lawful relocation of peafowl; and

WHEREAS, a budget transfer in fiscal year 2007/08 in the amount of \$2,400 of available funds must occur to reimburse the Village Association to relocate up to sixty (60) peafowl at \$40 per bird; and,

WHEREAS, the Town of Longboat Key, Town Charter, Article V, Section 9(d) provides for such action; and,

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COMMISSION OF LONGBOAT KEY, FLORIDA, THAT:

SECTION 1. The above Whereas clauses are true and correct and are hereby ratified and confirmed.

SECTION 2. The Town Commission hereby transfers Two Thousand, Four Hundred and No/100 Dollars (\$2,400) from account 001.3000.519.9901, Contingency in the General Fund; to account 001.3000.519.3104, Professional Services / Other in General Services in the fiscal year 2007-08 budget.

SECTION 3. Effective Date. This Resolution shall become effective immediately upon adoption.

Passed by the Town Commission of the Town of Longboat Key on this _____ day of _____ 2008.

Hal Lenobel, Mayor

ATTEST:

Trish Granger, Interim Town Clerk

REQUEST TO BE HEARD

Request is hereby made to be heard during the discussion of the following agenda item:

Date: 4/28/11 Agenda Item: 17
Subject: # ~~17~~ Pledge
Name: (Please print legibly) Samir English
Address: 7015 Bayside Dr
*E-Mail Address (optional): _____
*Phone # (optional): _____

Please read the Pledge of Public Conduct and Town Code Section 30.06(E), Addressing the Commission, printed on the back of this form. **Give this request to the Town Clerk** for submission to the Mayor. The Mayor will call upon you to speak at the appropriate time.

***Note:** Under Florida law, e-mail address and phone number are considered public records when submitted to a government entity. If you do not want this information released in response to a public records request, you should not complete this section of this form. All written documents are also considered public records and open for inspection upon request.

REQUEST TO BE HEARD *Last on the subject.*

Request is hereby made to be heard during the discussion of the following agenda item: *Please*

Date: 4/28/2011 Agenda Item: 17
Subject: Peafowl
Name: (Please print legibly) Michael Drake
Address: 6821 Longboat Drive South
*E-Mail Address (optional): _____
*Phone # (optional): _____

Please read the Pledge of Public Conduct and Town Code Section 30.06(E), Addressing the Commission, printed on the back of this form. **Give this request to the Town Clerk** for submission to the Mayor. The Mayor will call upon you to speak at the appropriate time.

***Note:** Under Florida law, e-mail address and phone number are considered public records when submitted to a government entity. If you do not want this information released in response to a public records request, you should not complete this section of this form. All written documents are also considered public records and open for inspection upon request.

REQUEST TO BE HEARD

Request is hereby made to be heard during the discussion of the following agenda item:

Date: 4-28-11 Agenda Item: ~~Item 17~~ 17

Subject: Perkowl

Name: (Please print legibly) JAMES BRAHA

Address: 680 Fox St

*E-Mail Address (optional): _____

*Phone # (optional): _____

Please read the Pledge of Public Conduct and Town Code Section 30.06(E), Addressing the Commission, printed on the back of this form. **Give this request to the Town Clerk** for submission to the Mayor. The Mayor will call upon you to speak at the appropriate time.

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