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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.

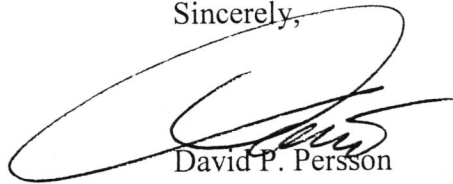
You will note that the problem with the peacocks was first brought to the Town's attention in March 1978. The first suggestion was to rid the Town of all but two peacocks, but this plan was met by opposition from other residents of The Village. A petition was circulated to keep the flock within The Village, 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
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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 read 'D. Persson', is written over the word 'Sincerely,'. The signature is fluid and cursive, with a large loop at the end.

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 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

TCRW 03-28-1978

Commission Directions, March 28, 1978 Workshop, Page 24. 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

BOOK 1 351

1978

TCRW 04-04-1978

COMMISSION DIRECTIONS, APRIL 4, 1978 WORKSHOP

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

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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 1 343

1978

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 Kirsteins' 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

RECEIVED 1 MAY 1978 366

TCRW 03-31-1981

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

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TCRW 05-12-1981

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.

TCRM 05-27-1981

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

1st Reading

TCRM 07-01-1981

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 (01-17)

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

2nd Reading
Indeped