

Regular Workshop – May 18, 2015
Agenda Item 12

Agenda Item: Discussion Regarding Peafowl

Presenter: Town Manager

Summary: At the March 23, 2015 Regular Workshop Meeting the Town Commission requested that discussion regarding peafowl be scheduled for a future Commission Workshop Meeting.

Staff has prepared background information regarding past Commission discussion and actions regarding peafowl. Meeting minutes, Resolutions passed in 2008 and 2010, and Town Code Chapter 91.08 are provided as supporting documentation.

Attachments: 5-11-15 Memo, Manager to Commission;
5-5-08 Regular Meeting Minutes re Ordinance 2008-12;
5-5-08 Regular Meeting Minutes re Resolution 2008-19;
Resolution 2008-19;
3-1-10 Regular Meeting Minutes re Resolution 2010-08:
Resolution 2010-08;
4-28-11 Regular Workshop Meeting Minutes re Peafowl;
Town Code Chapter 91.08.

Recommended

Action: Pending discussion, provide direction to Manager.

M E M O R A N D U M

Date: May 11, 2015

TO: Town Commission
FROM: Dave Bullock, Town Manager
SUBJECT: Discussion Regarding Peafowl

At the March 23, 2015 Regular Workshop Meeting the Town Commission requested an update on the previous Commission action regarding peafowl.

- At the May 5, 2008 Regular Meeting the Town Commission held first reading on Ordinance 2008-12, Amending Peafowl Ordinance to Include Provision for "No Feeding". This Ordinance was tabled and no future action was taken.
- At the May 5, 2008 Regular Meeting the Town Commission passed Resolution 2008-19, which provided \$2,400 from Contingency funds for reimbursement of peafowl relocation expenses incurred by the Longbeach Village Association. (Meeting minutes and Resolution 2008-19 attached.)
- At the March 1, 2010 Regular Meeting the Commission passed Resolution 2010-08. This Resolution provided \$2,400 from Contingency funds to reimburse the Longbeach Village Association for peafowl relocation fees at \$40/bird. (Meeting minutes and Resolution 2010-08 attached.)

The last official Commission discussion regarding peafowl was at the April 28, 2011 Regular Workshop (meeting minutes attached). The minutes summarized the Commission discussion as:

- Commission position to not be in the animal control business
- Monetary contributions made
- Options to provide funding for an additional six months only
- Anticipated removal costs
- Amending the Code to remove the peacock requirements

Although there was discussion at the April 28, 2011 Regular Workshop Meeting regarding retaining only male birds in order to control propagation, there was no formal action, or consensus.

For your convenience, Town Code Section 91.04 is also provided.

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

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.

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

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.

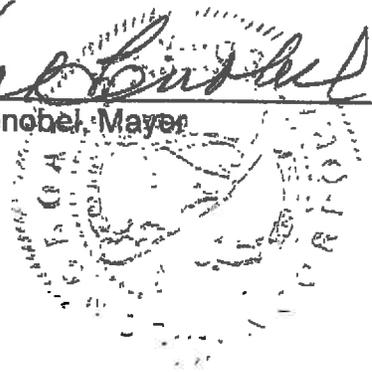
SECTION 2. The Town Commission hereby transfers Two Thousand, Four Hundred and No/100 Dollars (\$2,400) from account 001.3000.519.9901, Contingency in the General Fund; to account 001.3000.519.3104, Professional Services / Other in General Services in the fiscal year 2007-08 budget.

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

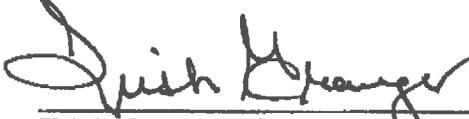
Passed by the Town Commission of the Town of Longboat Key on the 5th day of May, 2008.



Hal Lenobel Mayer



ATTEST:



Trish Granger, Interim Town Clerk

10. Ordinance 2010-07, Utility Bill Appeal Process - Continued

Town Clerk Trish Granger placed Ordinance 2010-07 on record by title only for second reading and public hearing.

Commr. Spoll moved to adopt Ordinance 2010-07. The motion was seconded by Commr. Jaleski.

Mayor Rothenberg opened the public hearing. As no one wished to be heard, the public hearing was closed.

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

11. Ordinance 2010-09, Establishing a Town Policy for Mandatory Training in Sunshine Law, Public Records, and Ethics

Public hearing to consider Ordinance 2010-09, to establish a policy for mandatory training in Sunshine Law, Public Records Law, and Ethics. The Town Commission forwarded Ordinance 2010-09 for second reading and public hearing to provide for all Town Board and Committee members to receive mandatory training in public records, sunshine law, and ethics. Recommended Action: Pending second reading, public hearing, and discussion, adopt Ordinance 2010-09.

Town Clerk Trish Granger placed Ordinance 2010-09 on record by title only for second reading and public hearing.

Commr. Brown moved to adopt Ordinance 2010-09. The motion was seconded by Commr. Lenobel.

Mayor Rothenberg opened the public hearing. As no one wished to be heard, the public hearing was closed.

Vice Mayor Siekmann noted that Manatee County's Attorney was holding a seminar on April 23, 2010, on the Sunshine Law, Public Records, and Ethic Laws Seminar.

Upon inquiry, Manatee County Commissioner John Chappie confirmed that there would be sufficient room for attendance by members of the public and Town Manager Bruce St. Denis advised that information would be provided to members of the public wishing to attend.

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

RESOLUTIONS

12. Resolution 2010-08, Budget Transfer in the Amount of \$2,400 from Commission Contingency to Facilitate Relocation of Peafowl from the Longbeach Village Area

To consider Resolution 2010-08, a budget transfer in the amount of \$2,400.00, from the Commission Contingency fund to reimburse the Village Association for peafowl removal.

- * 12. Resolution 2010-08, Budget Transfer - Relocation of Peafowl - Continued
At the May 5, 2008 Regular Meeting the Commission adopted Resolution 2008-19, providing funds to reimburse the Longbeach Village Association for peafowl relocation. Resolution 2010-08 provides for a budget transfer to fund reimbursement for peafowl removal activities within the Longbeach Village area. Recommended Action: Pending discussion, pass Resolution 2010-08.

Town Clerk Trish Granger placed Resolution 2010-08 on record by title only.

Commr. Brown moved to pass Resolution 2010-08. The motion was seconded by Commr. Lenobel.

Commr. Jaleski noted the extent of the issue and Mr. Michael Drake commented on the number of birds in the flock (50-60 birds) and noted the reason for delay in the culling.

Commr. Jaleski noted that a company called Nuisance Wildlife Removal is available and noted additional options to limit the reproduction of the birds.

Mr. Drake inquired as to the placement of the nets and Commr. Jaleski suggested the "K" lot at the end of Fox Street and suggested that the Village Association contact the company.

Town Manager Bruce St. Denis noted the Town's participation through funding and suggested that the Village Association handle the removal.

Mr. Drake advised that he would contact Nuisance Wildlife Removal to begin the process of removal.

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

13. Resolution 2010-09, Waste Management CPI and Fuel Adjustment

To consider Resolution 2010-09, applying the Consumers Price Index (CPI) and fuel cost decreases in the solid waste, yard trash, and recyclable materials base rates. The Town has a Franchise Agreement with Waste Management (Ordinance 06-24) that provides for an annual CPI and fuel adjustment. This year the rate adjustment provides for a *rate decrease* for all Longboat Key customers. Resolution 2010-09 is forwarded for your consideration in approving the franchise rate adjustments effective April 1, 2010. Recommended Action: Pending discussion, pass Resolution 2010-09.

Town Clerk Trish Granger placed Resolution 2010-09 on record by title.

Vice Mayor Siekmann moved to pass Resolution 2010-09. The motion, seconded by Commr. Spoll, carried by a 7-0 roll call vote, as follows: Siekmann, aye; Spoll, aye; Jaleski, aye; Lenobel, aye; Brown, aye; O'Connor, aye; Rothenberg, aye.

RESOLUTION 2010-08

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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 2009-2010 in the amount of \$2,400.00 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,

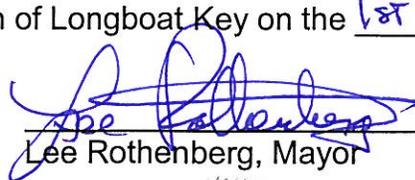
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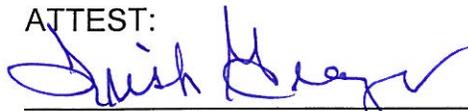
SECTION 2. The Town Commission hereby transfers Two Thousand, Four Hundred and No/100 Dollars (\$2,400) from account 001.3000.519.9901, Contingency in the General Fund; to account 001.3000.519.3104, Professional Services / Other in General Services in the fiscal year 2009-2010 budget.

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

Passed by the Town Commission of the Town of Longboat Key on the 18th day of March, 2010.



Lee Rothenberg, Mayor

ATTEST:


Trish Granger, Town Clerk



16. Planning, Zoning, and Building (PZB) Department Presentation - Continued

Planning, Zoning, and Building (PZB) Department Director Monica Simpson gave a PowerPoint presentation on the services and budget for the PZB Department. Discussions were held on the following topics/issues:

- fee schedule for Fire Department
- past layoff and procedures within the office
- notification to contractors on insurance requirements
- sign permit expiration notices/consideration of establishing procedure
- determination of future fines and fees (Code Enforcement violations)
- signs/zoning code violations driven by complaints received
- permit inspections.

RECESS: 2:32 p.m. - 2:47 p.m.

17. Discussion Regarding Peafowl Issues

At the March 24, 2011 Regular Workshop Meeting several residents expressed concerns with the growing population of peafowl in the Longbeach Village neighborhood. Commissioner Younger requested that this item be forwarded to the April 28, 2011 Regular Workshop for additional discussion. Recommended Action: Pending discussion, provide direction to Manager.

Town Manager Bruce St. Denis advised that previous agenda materials were included in the agenda packets for reference

Commr. Younger noted concerns expressed at a past meeting relating to the peafowl population in the Longbeach neighborhood.

Mr. Samir Ragheb, Bayside Drive, commented on the peacock issue and the time expended by Staff and the Commission on the issue.

Mr. Michael Drake, Longboat Drive South, commented on the amount of peacocks removed to date and the expenditures to date. Upon inquiry, Mr. Drake commented on the removal and suggested that the twelve males be retained.

Mr. Ragheb commented on violations of other Ordinances by Village residents.

Mr. James Braha, Fox Street, commented on the removal of the peacocks and advised that he has selected a removal company.

Mayor Brown commented on the complaints received from other residents and Mr. Drake commented on the removal of females and retaining males only. Upon inquiry, Town Manager St. Denis noted that a funding transfer would be accomplished if the Commission elected to continue with the previous decision to reimburse the Village Association.

Discussion ensued on the following topics/issues:

17. Discussion Regarding Peafowl Issues - Continued

- Commission position to not be in the animal control business
- monetary contributions made
- options to provide funding for an additional six months only
- anticipated removal costs
- amending the Code to remove the peacock requirements.

Mr. Drake requested reconsideration on a six-month time limit for removal.

18. Discussion Regarding Request from Longboat Library

At the February 21, 2011 Regular Workshop Meeting representatives of the Longboat Library Board requested Commission consideration to assist with some of the Library's operational and maintenance needs. Town staff was directed to work with the Library to identify costs and feasibility and to report to the Commission at the April 28, 2011 Regular Workshop Meeting. Recommended Action: Pending discussion, provide direction to Manager.

Town Manager Bruce St. Denis commented on the request from the Library and advised of the following:

- the land belongs to the Town/the building belongs to the Library
- insurance cannot be provided under the Town's insurance as the Library is not a public entity
- costs for grounds maintenance
- phone service through the Florida Department of Management Services
- expansion of wi-fi services by the Library to provide additional revenue source.

Upon inquiry, discussion ensued on options for the Library to transfer ownership of the library building to the Town with a lease-back to the Library, and option to provide funding to the Library for the costs, savings gained through the phone service, and options for the Library to provide proposals for Town consideration.

There was consensus for the Library Staff to provide options for Town Commission consideration.

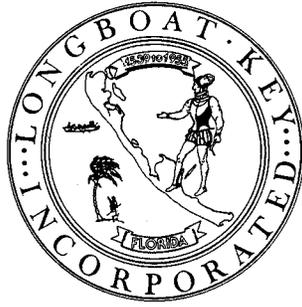
19. Federal Funding Options for Beach Nourishment

During discussions held in the Fall regarding the upcoming Town beach project the Town Commission requested Town staff to investigate the feasibility of seeking Federal funds for Town beach projects. The Town Manager and Beau Suthard of Coastal Planning & Engineering will present information regarding Federal funding options available to the Town for future beach nourishment projects. Recommended Action: Pending discussion, provide direction to Manager.

91.04 Injuring or destroying peafowl.

It shall be unlawful for any person 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. (Ord. 81-17, passed 7-1-81)

Cross reference—Penalty, § 91.99



End of Agenda Item