

Mayor David Browning, Seat 4  
Vice Mayor Ronald D. Jarriel, Seat 1  
Council Member Tom Goltzené, Seat 5  
Council Member Ryan Liang, Seat 3  
Council Member Jim Rockett, Seat 2



Town of  
LOXAHATCHEE GROVES

**TOWN OF LOXAHATCHEE GROVES**  
Unified Land Development Code Review Committee  
Thursday, September 19, 2013 at 5:30 p.m.  
Central Palm Beach County Chamber of Commerce  
13901 Southern Blvd., Loxahatchee, Florida 33470

Committee Chairman Virginia Standish  
Committee Vice Chairman Katie Davis  
Committee Member Beck Hyslop  
Committee Member John Ryan  
Committee Member Howard Voren

Town Manager Mark Kutney  
Town Clerk Susan Eichhorn  
Town Planning Consultant Jim Fleischmann  
Town Planning Technician Braeden Garrett

## **MINUTES**

### **1. OPENING**

a. Call to Order – *Chair Standish*

Chair Standish called the meeting of the Unified land Development Code Review Committee to order at 5:40 p.m.

b. Roll Call – *Town Clerk Eichhorn*

Upon roll call, Committee members present were Chair Standish, Vice Chair Davis, Member Hyslop, Member Ryan and Member Voren. Also present were Town Manager Mark Kutney, Town Planning Consultant Jim Fleischmann, Town Planning Technician Braeden Garrett, and Town Clerk Susan Eichhorn.

c. Approval of Agenda

Committee Member Ryan made a motion to approve the Agenda. The motion was seconded by Vice Chair Davis. The motion passed 5/0.

2. **MINUTES:** Approval of ULDC Review Committee Minutes for: August 15, 2013

**Motion:** Committee Member Voren commented that he objected to the language on page 4, wherein his motion regarding removing all verbiage regulating agriculture from the ULDC included the sentence: "The motion died for lack of a second." He noted that at a later point in the meeting, his motion had been tabled. He then made a motion to amend the minutes and bring them back for approval on the next Agenda. The motion was seconded by Vice Chair Davis. The motion passed 5/0.

3. **REGULAR AGENDA**

Committee Member Ryan made a motion to add an item to the Agenda: **Old Business No. 6. Discussion of Residential Enterprise, and to approve the Agenda, as amended.** The motion was seconded by Vice Chair Davis. The motion passed 5/0.

a. **Old Business**

1. Discussion of Agricultural Issues

Town Planning Consultant Jim Fleischmann provided information to use as a basis for Committee recommendations. He noted that he was not asking for any kind of action on it tonight, but it is was information that the Committee and staff could use to help in the decision making process and also to help to focus on some specific issues. The first handout:

- Matrix with definitions in Florida Statutes. This is for reference material and to be used as a reference point when discussing agriculture.
- Florida Map showing all of the bona fide designated properties in the Town and a table summarizing agriculture exemption classifications by the Palm Beach County Property Appraiser. He noted that some portions of properties designated

bona fide agriculture did not have the agriculture exemption and would be subject to the land development regulations – it creates a problem for the staff, because the Property Appraiser will not tell staff what portions of the property are agriculture and what portions are not agriculture.

- Copies of every section of the Town Code that deals with agriculture in any way. This could be used as a basis for the ULDC Committee recommendations. The agriculture sections are highlighted in yellow.

Discussion took place.

Town Planning Consultant Fleischmann stated that we may have to have something in the ULDC that deals with the circumstance when entire properties do not have the agriculture exemption. Perhaps having a survey done on the non-agriculture portion of the property may be the answer to help staff deal with these issues.

Committee Chair Standish said that she is puzzled because you have to have a survey when you buy the land. When you build you are asked to provide a survey of the land. The property owner sets the point within the land for the one acre where the house sits.

Mr. Fleischmann replied that we need to have a procedure in the ULDC as to how to deal with properties having split uses. Example: 10 acres and bona fide agriculture on part of it, and then you have a house, and then on the other 5 acres you want to do residential enterprise. Residential enterprise can be a non-agriculture business, and how does it go on that agriculture exempt property. The property owner would have to come in and get the approvals for a conditional use and do a site plan on a property that has an agriculture exemption. He summarized that all he was saying was that there should be a procedure in the ULDC to be sure that everyone, including property owners, knows how staff addresses those issues when they come up.

Committee Member Voren stated that it was his impression, from the last meeting, that we were supposed to be presented with some compelling reason as to why we should leave agriculture in the ULDC.

Town Manager Kutney responded that right now the Town is an agricultural residential (AR) community. If agricultural was taken out of the AR district, then you would have only a residential district, which would then be residentially zoned.

Chair Standish explained that the Committee was asking agriculture to be removed from the ULDC and allow Florida State Statutes to govern agriculture.

Committee Member Ryan distributed a memo to the Committee members that he said simplifies the process.

Mr. Fleischmann noted that he also has put together a book that gives all of the State Statutes related to agriculture. Chair Standish asked that it be emailed to the members of the Committee.

Town Manager Kutney provided information on zoning districts and how they work. He explained that the Town has a stand-alone system. In those stand-alone systems are three components:

1. Purpose and Intent.
2. Permitted Uses
3. Supplementary Material

Public Comment:

Nina Corning, 2834 E Rd.: Commented regarding Florida Statutes and bona fide agriculture, suggesting that the ULDC simply reference the Florida Statutes. In reference to the definition in the non-bona fide area, they should be reviewed.

Committee Member Ryan commented that we should get staff out of the consulting business, and let the property owner make his own determination as to what he can do with the property. The property owner would need to go to the property appraiser, or get a lawyer or a consultant if he wants to go beyond that.

Public Comment:

Todd McLendon, 3481 D Rd.: Commented that if property is bona fide agriculture it is not regulated by the ULDC. If it is a hobby agriculture it can be regulated. Florida Statutes say agriculture is not development.

Town Manager Kutney responded that the ULDC does not just strictly relate to development – it relates to all rules and regulations. The ULDC implements the Comprehensive Plan. The ULDC is a very broad code covering many areas.

Further discussion took place.

Public Comment:

Nina Corning, 2834 E Rd.: Commented regarding the financial obligation on property owners having to provide a bond.

Town Manager Kutney made one distinction regarding hobby agriculture – someone who is a hobby agriculture, but the primary use is still a single family home and it could not be made a farm all of a sudden.

Public comment:

Nina Corning, 2834 E Rd.: Commented that it has become much harder to get bona fide agriculture exemptions. There will be a lot of horse farms who will not be bona fide, but who will need protection with the ULDC.

Maureen Lefkowitz, 3485 D Rd.: Commented that she respected the sanctity of the country and the environment that this Town represents, and she recognized that people have come here for different reasons, and there should be a respect of neighbors too.

At this time, Town Manager Kutney noted that the Committee and staff had discussed having two meetings in October, November, and December, and requested a schedule. He also noted that he had asked the Town Council to give him any final items that they wanted the ULDC Review Committee to discuss.

It was determined that the next meeting dates would be October 3<sup>rd</sup> and October 17<sup>th</sup>; November 7<sup>th</sup> and November 21<sup>st</sup>; December 5<sup>th</sup> and December 19<sup>th</sup>. All would begin at 5:30 p.m.

Chair Standish stated that at the next meeting she would like to see a bullet point of all of the issues to be discussed. Mr. Kutney said he will provide that after October 1<sup>st</sup>, when he hears from the Town Council.

2. Article 75 – Non-conforming Issues

Town Manager Kutney advised that Article 75 will take some time to discuss and he suggested that discussion take place at the next meeting.

3. Update Regarding Flood Insurance Rate Maps and Flood Plain Ordinance

Town Manager Kutney advised that he would give one final update at the next ULDC Review Committee meeting, and then this item will come off of the agenda.

4. ULDC Article 87 - Native Tree Preservation, Soil Stabilization and Invasive Exotic Removal

Committee Member Voren read his email dated August 16, 2013, to Mark Kutney, regarding invasive tree species, into the record.

Town Manager Kutney advised that staff is working on an ordinance that was going to say that the existence of any Brazilian Pepper, Australian Pine or anything on the species list (Class 1) put out by the State will not be permitted within 10 ft. of the District or Town right-of-ways, and that it would not be permitted to exist; that the Town would remove it one time and the people would not be allowed to have it grow back.

Public Comment:

Nina Corning: because of the root systems, you have to be very careful with herbicides/chemicals when you start to affect root systems that are not in the right of way.

Town Manager Kutney replied that staff is working on it, and that he thought it would address Mr. Voren's concerns.

Committee Member Voren suggested getting away from the word "right-of-way," and use thoroughfare. Chair Standish requested that staff provide the list of which class of species, which list you are referring to, and provide both lists to the Committee.

5. Discussion of Questions for the AGO (*Howard Voren*)

After discussion, it was the consensus of the Committee that the discussion relative to the questions for the AGO would be tabled to the next meeting

6. Discussion of Residential Enterprise

Town Manager Kutney stated that the Town Council had referred this issue for discussion of the ULDC Review Committee, and was looking for input.

Mr. Fleischmann said that for a variety of reasons the Town Council had decided it needed to take a look at a couple of issues related to residential enterprise, which is a conditional use. In Article 80-020, the Town Council wanted the deletion of Item H. Staff had initially thought it was to be revised, but the Town Council wanted it to be eliminated.

Town Manager Kutney explained the situation that had led to the Town Council amending Section 80-020 of the ULDC, however, when the Planning and Zoning Board had reviewed it, they recommended denial of the amendment, because all residential properties would be allowed to be commercial if the amendment passed. When the ordinance got to the second reading for approval, it failed. The Town Council then requested that the amendment come back again in another ordinance. Staff took that to the Planning and Zoning Board, where again the Planning and Zoning Board recommended denial.

Mr. Fleischmann explained that the amendment to Section 80-020(h) would allow up to three customers on the premises. After the Planning and Zoning Board had recommended denial for the second time, the amendment went to the Town Council, as Ordinance No. 2013-05. The Town Council passed a motion to approve on first reading, with the direction that the entire residential enterprise section of the ULDC was referred to the ULDC Review Committee for

comment. Mr. Fleischmann noted that if the three customer limit was removed, that would tell him that someone could have as many customers as they wanted.

Town of Loxahatchee Groves Councilman Goltzené commented that if Mr. Kline cannot have people show up, his ATF license cannot work. If the Town Council feels that the Town is opened up to too much exposure, then perhaps Mr. Kline would need to rent some commercial space. ATF said that the current situation was not working, and Mr. Kline came to the Town Council to ask for some accommodation.

Town Manager Kutney stated that he understood the Town Council's dilemma in trying to accommodate Mr. Kline; however, he would never recommend the adoption of any regulation on the basis of one person. He warned that there could be an erosion of the AR zoning district by having a commercial component.

Public Comment:

Nina Corning, 2834 E Rd.: Commented regarding regulations as to the number of customers allowed, etc. that could be applied to residential enterprise.

Town Manager Kutney also noted that people leasing property want to have a home office, but staff cannot give them a Business Tax Receipt (BTR) because they have to have a homestead exemption. That is also something that needs reviewing

Discussion took place.

**Motion made by Committee Member Voren to remove the homestead exemption requirement in order to have a home office. The motion died for lack of a second.**

**Motion made by Committee Member Ryan to leave Section 80-020, paragraph "h" of the ULDC the way it was originally stated, and that Mr. Kline seek other alternatives or options that are available to him. The motion was seconded by Committee Member Voren. The motion passed 5/0.**

**b. New Business**

1. Discussion of ULDC Sign Provisions – Article 90

Town Manager Kutney reported that the Town Council has had two discussions relative to the Palms West Plaza about some of the issues going on. He noted that he had reported Tuesday night that Mr. Yee, the landlord, had indicated that he would like to make changes to the Plaza, and do some upgrades. There were a number of conditions that were approved in the Plaza in 1988. When staff had first issued the violations in March, a number of sign issues came out. The Town itself was in violation, and had been prepared to change our signage.

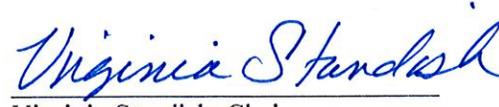
Discussion took place regarding tailoring the sign code to the community. Chair Standish requested that staff bring pictures of what they are talking about or even drawings, with examples of the signs that are not permitted.

**Motion: Vice Chair Davis made a motion that staff look at different signs and show the Committee pictures and indicate what staff liked. The motion was seconded by Committee Member Hyslop. The motion passed 5/0.**

### 3. CLOSING & ADJOURNMENT

There being no further business the ULDC Review Committee meeting of August 15, 2013, was adjourned at 9:10 p.m.

  
Susan Eichhorn, Town Clerk

  
Virginia Standish, Chair

(SEAL)

*These minutes were approved at the October 3, 2013 ULDC Review Committee Meeting.*