

**BOARD OF ZONING APPEALS**

**August 28, 2009**

**A. Roll Call**

Present:

Mr. Marvin Rhodes  
Ms. Barbara Moody  
Mr. William Watkins  
Mr. Jack Fraley

Absent:

Mr. Mark Wenger

Others present:

Mr. John Rogerson, Senior Zoning Officer

**B. Minutes**

**C. Old Business**

**D. New Business**

**Discussion of Current Legal Matters**

Ms. Moody stated that pursuant to Virginia Code Section 2.2-3711(A)(7), *Consultation with Legal Counsel*, a public body may hold closed meetings for the purpose of consultation with legal counsel, by briefings by staff members, or consultants pertaining to actual or probable litigation where such consultation or briefing in open meeting would adversely affect negotiating or litigating position of the public body and consultation with legal counsel employed or retained by a public body regarding specific legal matters requiring the provision of the legal advice by such counsel. Mr. Fraley made a motion to recess in a closed session for the purpose of consultation with legal counsel pertaining to litigation that has been filed against the board referencing ZA-0008-2008. Mr. Rhodes seconded the motion.

The motion was passed unanimously by voice vote (4-0).

After going into closed session the Board reconvened at 6:15 pm.

Ms. Moody requested Mr. Rogerson read the resolution.

Mr. Rogerson stated now, therefore be it resolved that the Board of Zoning Appeals of James City County, Virginia, hereby certifies that, to the best of each member's knowledge; (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies; and (ii) only such public business matters were heard, discussed, or considered by the Board as were identified in the motion, made pursuant to Section 2.2-3711 (A)(7), to receive legal counsel.

Mr. Fraley seconded the motion.

The motion was passed unanimously by voice vote (4-0).

Once returning to the public hearing Mr. Fraley made a motion to have the law firm of Hatten, Wornom, Patten, and Diamonstein represent the Board of Zoning Appeals in an upcoming court case "pro bono".

Mr. Rhodes seconded the motion.

The motion was passed unanimously by a roll call vote of (4-0).


#### **F. Adjournment**

Mr. Rhodes motioned to adjourn, Mr. Fraley seconded the motion.

Ms. Moody adjourned the meeting at 6:22 pm.



Mark Wenger  
Chairman

  
Melissa C. Brown  
Secretary