

COUNTY OF HENRICO, VIRGINIA
BOARD OF SUPERVISORS
SPECIAL MEETING
November 3, 2011

The Henrico County Board of Supervisors convened a special joint meeting with the Planning Commission on Thursday, November 3, 2011 at 4:00 p.m. in the County Manager's Conference Room, Administration Building, Henrico County Government Center, Parham and Hungary Spring Roads, Henrico, Virginia.

Members of the Board of Supervisors Present:

Frank J. Thornton, Chairman, Fairfield District
Richard W. Glover, Vice Chairman, Brookland District
James B. Donati, Jr., Varina District
David A. Kaechele, Three Chopt District
Patricia S. O'Bannon, Tuckahoe District

Members of the Planning Commission Present:

Chris W. Archer, C.P.C., Fairfield District
Thomas M. Branin, Three Chopt District
E. Ray Jernigan, Varina District
Bonnie-Leigh Jones, Tuckahoe District
Ernest B. Vanarsdall, C.P.C, Brookland District

Other Officials Present:

Virgil R. Hazelett, P.E., County Manager
Joseph P. Rapisarda, Jr., County Attorney
Joseph T. (Tom) Tokarz II, Deputy County Attorney
Lee Ann Anderson, Senior Assistant County Attorney
Rhysa G. South, Senior Assistant County Attorney
Benjamin A. Thorp, Assistant County Attorney
Jason M. Hart, Assistant County Attorney
Karen W. Grizzard, Business Supervisor, County Attorney's Office
Barry R. Lawrence, CMC, Assistant to the County Manager/Clerk to the Board
Tanya B. Harding, Administrative Assistant/Deputy Clerk to the Board
C. Michael Schnurman, Jr., Legislative Liaison
Wilbert J. Childress, Technology Support Specialist, Manager's Office
Angela N. Harper, FAICP, Deputy County Manager for Special Services
Leon T. Johnson, Ph.D., Deputy County Manager for Administration
Robert K. Pinkerton, P.E., Deputy County Manager for Community Operations
Randall R. Silber, Deputy County Manager for Community Development
John A. Vithoukias, Director of Finance

Ralph J. (Joe) Emerson, Jr., Director of Planning

Douglas Laycock, Professor of Law and Religious Studies, University of Virginia

Mr. Thornton called the meeting to order at 4:03 p.m. He welcomed the Planning Commission and staff.

Mr. Hazelett noted that the Board and staff were here for a training session, which was expected to last approximately two hours.

Religious Land Use and Institutionalized Persons Act (RLUIPA)

Mr. Hazelett recognized Mr. Rapisarda, who noted that the County was required to provide training on RLUIPA to designated County officials under a federal court order. A handout was distributed to each of the officials who were present, which included a copy of the presentation slides, trainer biographical sketches, the text of RLUIPA, the consent order entered by the United States District Court, a timeline for actions under the consent order, and illustrative RLUIPA cases. Mr. Rapisarda introduced Mr. Laycock as an expert on this statute and advised that he and Mr. Laycock would be jointly presenting information during this session.

Mr. Laycock offered introductory remarks, providing historical perspective on the RLUIPA statute and examples of religious discrimination of concern to Congress in residential and commercial rezoning cases. He then narrated the first portion of a slide presentation, which addressed the following areas: what is RLUIPA, what Congress was trying to accomplish with RLUIPA, basic RLUIPA requirements, the definition and case examples of "religious exercise," the definition of and court rulings on "substantial burden," the two tests collectively known as "strict scrutiny," what are and are not "compelling governmental interests," the "least restrictive means" standard, the "equal terms" and exclusion provisions, and enforcement of RLUIPA. During Mr. Laycock's presentation, he and Mr. Rapisarda responded to questions from the Board, Planning Commission, and staff. There was considerable discussion regarding how the courts have applied RLUIPA to specific local zoning requirements, what are compelling governmental interests for RLUIPA purposes, and how the courts have interpreted the "equal terms" provision.

Mr. Rapisarda presented the second part of the training. He reviewed what the consent order from requires of the County. Mr. Rapisarda and Mr. Laycock responded to questions from the Board and the Planning Commission concerning the degree to which religious institutions must comply with local zoning and building code requirements. Mr. Glover commented on the importance of staff being well trained in the provisions of RLUIPA. Mr. Rapisarda continued the presentation by addressing the duration of the consent order, noting it will last until September 12, 2016, or when a certificate of occupancy is issued for the mosque at 7705 Impala Drive, whichever comes first. Reporting, notification, monitoring, and record-keeping requirements will remain in effect until September 13, 2013. Mr. Rapisarda concluded the presentation by discussing several hypothetical cases. He, Mr. Hazelett, Mr. Laycock, and Mr. Thorp responded to further questions and comments from the Board pertaining to RLUIPA's impact on local zoning and building code requirements.

There being no further business, this meeting was adjourned at 6:08 p.m.

Frank J. Thornton
Chairman, Board of Supervisors
Henrico County, Virginia