



# HISTORIC TOWN OF EATONVILLE, FLORIDA CODE ENFORCEMENT BOARD MEETING MEETING MINUTES

Thursday, July 17, 2023, at 5:30 PM

Town Hall (Council Chamber) - 307 E Kennedy Blvd. 32751

**SPECIAL NOTICE:** These meeting minutes are presented in an abbreviated format intended as a public record discussion of stated meeting according to the Florida's Government-in-the-Sunshine law. Meetings are opened to the public, noticed within reasonable advance notice, and transcribed into minutes for public record. *\*\*Audio Recording are available through the Town's website on the Council Agenda Page.*

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## CALL TO ORDER AND VERIFICATION OF QUORUM:

Attorney Clifford Shepard called the meeting to order at 5:33 p.m. and no quorum was established through roll call through Mrs. Veronica King. (\*\*No quorum during roll call but later established with Board Member Michael Mills returning to the chambers).

**PRESENT: (4) Board Members:** Jacqueline Haynes; Dwayne Rackard; Todd Jenkins; Michael Mills (Stepped out before roll call and returned); (**Absent:** Ryan Novak)

**STAFF: (3)** Veronica King, **Town Clerk;** Baruti Abdallah-Nosakhere, **Code Enforcement Officer;** Clifford Shepard, **Town Attorney**

## INVOCATION AND PLEDGE OF ALLEGIANCE:

Attorney Clifford Shepard led Invocation through a moment of silence followed by the Pledge of Allegiance

**PUBLIC PARTICIPATION:** – (Angela Johnson) Inquired about what constitutes a violation. (Shepard) In response, today is mostly pertaining to policy and procedures; to the extent that questions can be answered on violations, as long as there are no specifics to an individual property or case. The jurisdiction of the code board is spelled out in the code which will be discussed with the board members; we cannot comment on cases that have not been heard; if an individual notifies the code enforcement board of a violation, is the name public record or anonymous (Shepard: Not anonymous). Has concerns about retaliation.

**INTRODUCTIONS** – Attorney Shepard introduced himself as town attorney tasked with trying to get this board back up and running in the proper way, what is the involvement of the board members and how the board functions. Board members introduce themselves along with the Town Clerk. It is unusual for the attorney to run the meeting; currently do not have a chair.

## BOARD DISCUSSIONS –

Code Enforcement Board Policy Procedures - Discussed code enforcement, the involvement of the code enforcement officer, the involvement of the attorney for the code enforcement board, and potentially the involvement of person who would assist the code enforcement officer as a prosecutor. Further discussions included: Ordinances associated with code enforcement (2016-11, 2010-16, both appearing in Chapter 6 of the Code), MuniCode (Code was handed), Section 2-253A (Jurisdiction, Florida building Code). Jurisdiction covers things like occupational licenses, land development code, the lot clearing code, the abandoned vehicle code, garbage, trash, and weed code, fire code, and all other town adopted codes. The board serves as judge, as a collective judge, for whether someone who is charged with a violation, which is the job of the code enforcement

officer. The general rule is to educate before you violate; the purpose is compliance with the town's codes. The appropriate penalty for that action is determined by the board. The role of the code enforcement officer and/or the assisting prosecutor, or code enforcement staff is to present the case and explain what provisions of the various codes you have authority over, and codes believed to have been violated, present evidence of violation. Once the case (prima facie for preliminary case) has been presented. The alleged violator can/will be heard as part of the hearing. There are two ways of doing code enforcement, through a board or by a trained professional, a lawyer as the magistrate. Once any questions are asked as a board or individual members of either the prosecution, the code enforcement officer, or the property owner, or any witnesses, then eventually the proceeding would be over, and will come back to the board for decision after deliberation. A motion will be formulated finding that there's a violation, because it's been proven by a preponderance of the evidence. Cases are presented and determined by the Code Enforcement Department and driven by two different philosophies, complaint driven or proactive, or by both (hybrid). The code enforcement board does not tell the code enforcement officer to investigate no more than a member of town council and a strong mayor government get to tell the code enforcement officer to investigate. If sitting as the judge and jury, you do not direct the prosecution. The role of the board is judge and jury and is totally separate from the enforcement department, who present cases and the board must decide if the case was proven or not. The attorney is the board's legal advisor and would be able to advise on interpretations or what words might mean in the code. Legal does not make the decision nor can tell you how to decide. Under section 2-252 legal counsel, it says an attorney may be appointed by the town council to attend meetings of the Code Enforcement Board and assist the Code Enforcement Board during the hearings. It also says a member of the attorney's staff may represent the Code Enforcement Attorney by presenting the case before the board; in no case shall the attorney or member of the staff serve in both capacities. The board does not have to agree, a majority vote carries. In the case of a five-member board, a 3/2 vote is a conviction is a conviction, an acquittal or a dismissal. If there is a 2/2 split, an alternate can vote. On the other hand, if there is a tie, then there is no conviction that day on a 2/2 split. Notices are sent out through the Code Enforcement Department, to notify of the violation, the date for correction, and when the hearing is going to be if not corrected. It is generally sent by certified mail, and sometimes posted at the property. To not have a quorum there may be some due process issues if the hearing does not take place. As an appointed officer, it is important for the board to be present. The role of the clerk is to help notice the meeting and provide the proper information needed in order to prepare for the hearing; the information will come from the code enforcement officer. It is important to communicate an absence in advance before the meeting is set.

Re-establishing Code Enforcement Meetings – Will need to establish a standard meeting time that does not conflict with another board; will wait next time we get together. We can determine a chair and vice chair at the next meeting. Other Information – A preponderance of the evidence simply means a vote by fifty percent plus one believing that a violation was proven or not proven, the exact same standard that applies in a civil lawsuit.

Sunshine Law and Public Records – A link to a video on Sunshine Law was provided and all were encouraged to watch the video. As board members, you cannot talk to each other about anything that possibly could come before you, not in person, via email, or through snail mail, U. S. mail, texting, nor voicemail. Must avoid conversations or exchanges of information, except in a publicly noticed meeting, where minutes are being kept. If this dictate is not followed and there is an exchange information with another board member, a person who might have a violation can complain that they did not get a fair hearing and can led to a charge that can lead to jail for violating the Sunshine Law. Any form of communication, voicemail, text, email, handwritten note, and it involves the business that comes for you, it is a public record (there are no anonymous names). To not provide the information as part of a public record request could result in potentially committing a criminal act. If someone claims to never have received a communication and it shows up by proof of someone else to the prosecutor, it will then guarantee a prosecution. To serve and keep yourself out of trouble, treat records that are public like public and treat the Sunshine Law a device designed to escape all measures of avoidance. You can talk to legal and staff but not to board members. If you talk to the code enforcement officer, it will have to be disclosed, the best place to talk to the officer is at the podium while case is being presented.

**COMMENTS:**

**Code Enforcement Officer (Baruti Abdallah-Nosakhere ) – No Comments**

**Town Clerk (Veronica King) –** Some have been provided your certificate of appointment, please sign and return back tonight. It is the official appointment to the Code Enforcement Board. A copy of the resolution has been provided where Town Council voted by majority vote the appointment to the code enforcement board. As an appointed board member to the Code Enforcement Board, the Form One form (Statement of Financial Interest) has been provided. All elected, appointed, and charter officers are required to do a financial statement because based upon state law.

**Town Attorney (Clifford Shepard) –** Provided additional information on the Form One and the requirements for disclosure. There is Form Six that is more detailed that the Council members will have to complete for this year. Both forms are filed in July of every year. In the board package, pages 35 through 54, Ordinance 2003-8 (Provided as historical reference), talk about the establishment of a code enforcement hearing officer. That is an old procedure before the town went to the code enforcement board in 2016. There is currently no hearing officer, the board is now established. The code enforcement board is doing the work of a hearing officer. The board is a collective group asking as the hearing officers for code enforcement. (King) concerning Form One, it is a very simple form to complete, if not completed it will lead to a fine.

**\*\*There were no further comments from the Board Members.**

**ADJOURNMENT** by Attorney Clifford Shepard. **Meeting Adjourned at 6:21 P.M.**

**Respectfully Submitted by:**

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**Veronica L King, Town Clerk**