



Fort Myers Beach Special Magistrate Hearing

Bay Oaks Recreational Campus
2731 Oak Street
Fort Myers Beach, FL 33931
Tuesday, September 2,
2025

Minutes

9:00 AM

ORDER OF BUSINESS

I. CALL TO ORDER

Present: Town Clerk Amy Baker, Town Clerk Administrative Coordinator Lizzette Roman, Town Attorney Nancy Stuparich, Special Magistrate John Van Laningham and Emergency Services & Compliance Director Thomas Yozzo.

II. APPROVAL OF MINUTES

- A. Special Magistrate - August 5, 2025
Special Magistrate Van Laningham approved the minutes.

III. COMPLIANCE CASES

Special Magistrate Van Laningham swore in Officer Yozzo.

- A. FMB Case No. 20241095

FMB Case # 20241095

Property Owner: Tonino Dimillo Trust + Lynn Jackson Dimillo Trust

Property Address: 5790 Estero Blvd

Violation: Non-Compliant Structure

Recommendation: Dismissal due to compliance

Officer Yozzo testified that the property was in compliance. Special Magistrate Van Laningham dismissed the charges. The town did not seek an administrative fee.

- B. FMB Case No. 20250264

FMB Case # 20250264

Property Owner: Costantini Edmond D Jr & Costantini Patricia A

Property Address: 8387 Estero Blvd

Violation: Non-Compliant Structure (Storage Container)

Recommendation: Dismissal due to compliance

Officer Yozzo testified that the property was in compliance. Special Magistrate Van Laningham dismissed the charges. The town did not seek an administrative fee.

C. FMB Case No. 20241102**FMB Case # 20241102****Property Owner: MHC FISH LLC c/o KROLL****Property Address: 7295 Estero Blvd****Violation: Non-Compliant Structure (Storage Container)****Recommendation: Dismissal due to compliance**

Officer Yozzo testified that the property was in compliance. Special Magistrate Van Laningham dismissed the charges. The town did not seek an administrative fee.

IV. VIOLATION CASESA. FMB Case No. 20250286**FMB Case # 20250286****Property Owner: Brazdau Alin Adrian & Brazdau Mihaela Burnea****Property Address: 277 Ibis St****Violation: Non-Compliant Structure (Storage Container)**

Town Attorney Stuparich noted the property owner was not in attendance. Officer Yozzo reported that the property had come into compliance as of September 1, 2025. He submitted an affidavit of compliance to be entered into evidence. He asked that the case be dismissed with no administrative fee. Special Magistrate Van Laningham dismissed the case.

B. FMB Case No. 20241086**FMB Case # 20241086****Property Owner: First Baptist Church of Fort M****Property Address: 134/138 Connecticut St****Violation: Non-Compliant Structure**

Town Attorney Stuparich noted that the case was initially left off the agenda and the property owner and his attorney agreed to waive notice so it could be heard today.

Officer Yozzo reported that as of September 1, 2025, the non-compliant structures were still in place.

Town Attorney Stuparich indicated that one shipping container was removed, but another structure appeared to be in violation. The town has not received a certificate of elevation to determine compliance. The property owner indicated that it was in compliance.

Pastor Critser felt there was a miscommunication with Floodplain Manager Kelli because he submitted a current floodplain certificate for the property. Kelli indicated that she would get back to him to let him know how tall the trailers needed to be. He said they did not hear from her and were in limbo. He received a letter two days ago from the town stating that it did not look like the structure would be able to come into compliance. He said they were ready to elevate the structure as soon as he knew how tall it had to be. He clarified that the structure was three trailers sitting on blocks strapped to the ground. He added that he was not arguing with the town; he just wanted a

number.

Town Attorney Stuparich confirmed that the issue was elevation and had to come into compliance with FEMA regulations. Officer Yozzo confirmed there had not been a notice of violation issued.

Special Magistrate Van Laningham indicated that he could make a finding of violation with a compliance date and the church could work with the town to come into compliance before the compliance date.

Town Attorney Stuparich stated that the town had not received the recent email that the Pastor referred to. Pastor Critser responded that the email was from the town's attorneys and it said that if they did not come into compliance, they would probably recommend denial at the LPA meeting next week. He added that the LPA issue was totally separate. He felt some confusion stemmed from the church's several temporary RV permits. Town Attorney Stuparich said the letter Pastor Critser was referring to was on page 93 of the agenda materials. She read the letter and did not find it to be threatening.

Officer Yozzo stated that if the property owner raised the structure to the base flood level plus one with proper strapping, he would be compliant. He added that an engineer's report would have to be included. Pastor Critser agreed to do that.

Floodplain Manager Kelli DeFedericis was sworn in. She stated that Pastor Critser had to hire a surveyor to mark the elevation for the trailers and the town could not do anything until that was done. The underside of the structure had to be base flood plus one. Pastor Critser responded that there were certificates for the whole property and they did not need a surveyor before. All he needed was a measuring stick to determine the required elevation of the finished floor. Floodplain Manager DeFedericis agreed with the math, but said a surveyor was the only person qualified to sign the elevation certificate. She explained that 12 NAVD (North American Vertical Datum) is required to comply with the base flood.

Pastor Critser said that his contractor was qualified to sign the certificate; however, Floodplain Manager DeFedericis countered that, per FEMA, a surveyor must sign the certificate and the form was on the website. Pastor Critser indicated he needed something in writing from the town because he spent \$12,000.00 to move the trailers and had the surveyor stamp them at 12 feet. He cannot afford anything else that comes up. He felt that 30 days to raise the structure was feasible, but surveyors were at least six weeks out.

He revealed that the trailers would be moved from their current location and he wanted assurance that this would have nothing to do with his development order. Town Attorney Stuparich asked that the two issues not be mixed.

Officer Yozzo requested 30 days for a status check and 60 days for final compliance.

Special Magistrate Van Laningham ordered a status check in 30 days and a final compliance in 60 days.

Town Attorney Stuparich noted the next hearing was 29 days from today. Special Magistrate Van Laningham commented that it should be close

enough. Floodplain Manager DeFedericis revealed that there were three different flood zones on the property, so she could not advise what the finished floor was and it would have to be marked. Pastor Critser replied that he would submit the required information.

V. CERTIFICATION OF LIEN(S) (NON-COMPLIANCE)

A. FMB Case No. 20240994

FMB Case #: 20240994

Property Owner: Himmelstein Associates LLC

Property Address: 2815 Estero Blvd

Violation: Non-Compliant Structure (Storage Container)

Special Magistrate Van Laningham swore in Robert Himmelstein, property owner, and Jeff Walker, property manager.

Officer Yozzo stated that the property owner came into compliance on May 5, 2025, and an affidavit of compliance was submitted. There were 65 days between the Special Magistrate's order and the affidavit of compliance. The total was \$16,500.00 at \$250.00 per day and included the \$250.00 administration fee.

Town Attorney Stuparich noted the town requested certification of the lien for the 65 days the property was not in compliance. A copy of the Special Magistrate's order was on page 260 of the agenda materials.

Mr. Walker explained that they submitted a permit application on February 14, 2025, to elevate the containers, but after working with the town, found out that it was not feasible. They unloaded the materials from the containers and had to sell them. He asked for leniency, noting that they had incurred severe losses from the sale of the containers.

Mr. Himmelstein stated that he lost \$11,000.00 from the sale of the containers. He explained that they intended to raise them, but never received a permit.

Town Attorney Stuparich indicated that they could present their case in front of the town council and request a reduction of any lien the Special Magistrate might impose. Mr. Himmelstein requested that the fee be waived because it was not their fault that the town did not issue a permit.

Special Magistrate Van Laningham certified the lien and noted that they could present their case in front of the town council to seek a reduction.

VI. LIEN FORECLOSURE CASES

No cases.

VII. BUILDING OFFICIAL APPEALS

No appeals.

VIII. ADJOURNMENT

The hearing was adjourned at 10:07 a.m.

Minutes adopted as presented on October 1, 2025, by Special Magistrate Van Laningham.



Amy Baker (Dec 9, 2025 09:34:34 EST)

Amy Baker, Town Clerk

DOAH Minutes 09.02.25 - Final for Signature

Final Audit Report

2025-12-09

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