



## Fort Myers Beach Local Planning Agency

Town Hall Council Chambers  
6231 Estero Boulevard  
Fort Myers Beach, FL 33931

Minutes

Tuesday, February 10, 2026

9:00 AM

### ORDER OF BUSINESS

#### I. CALL TO ORDER

Members present: Chair Anita Cereceda, James Boan, James Dunlap, Doug Eckmann, John McLean, Jane Plummer and Don Sudduth.

#### II. INVOCATION

Chair Cereceda.

#### III. PLEDGE OF ALLEGIANCE

#### IV. APPROVAL OF FINAL AGENDA

LPA Member Sudduth moved to approve the final agenda, seconded by LPA Member Plummer  
The motion carried unanimously.

#### V. APPROVAL OF MINUTES

A. Local Planning Agency — January 13, 2026  
LPA Member Dunlap moved to approve the minutes, seconded by LPA Member Boan.  
The motion carried unanimously.

#### VI. PUBLIC COMMENT

No public comment.

#### VII. PUBLIC HEARINGS

Town Attorney Stuparich explained the quasi-judicial procedures and the expedited variance process. Town Clerk Baker confirmed that all agenda items were properly noticed. She swore in those providing testimony.

A. VAR0260002, 102 Lovers Lane

**A RESOLUTION OF THE FORT MYERS BEACH LOCAL PLANNING AGENCY APPROVING / APPROVING WITH CONDITIONS/ DENYING VARIANCE 20260002, REQUESTING A VARIANCE FROM LDC SECTION**

**34-638(D)(2)(B), WHICH ALLOWS BALCONIES AND STOOPS TO ENCROACH INTO THE REQUIRED STREET SETBACK ON THE FIRST LIVING LEVEL OF RESIDENTIAL BUILDINGS WITHIN THE RC ZONING DISTRICT, TO ALLOW A SIMILAR BALCONY ENCROACHMENT ON THE SECOND LIVING LEVEL, FOR THE PROPERTY LOCATED AT 102 LOVERS LANE, GENERALLY REFERRED TO AS STRAP NUMBER: 30-46-24-W2-003N0.0080 IN FORT MYERS BEACH; AND PROVIDING FOR OTHER CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.**

Chair Cereceda read the title of the resolution. No ex parte communications were disclosed.

Community Development Senior Planner Jason Smalley reviewed the background of the request as stated on the yellow sheet. He noted the structure was erroneously approved and staff caught it during the as-built survey phase. Staff thought it was an approvable project and was not created by the applicant. Senior Planner Smalley clarified that the applicant was asking for one variance for the single-level balcony and will request a removal of the fees from the town council.

No public comment.

LPA Member Boan moved to approve the variance, subject to the four conditions and to recommend waiving the fees, seconded by LPA Member Dunlap.

The motion carried unanimously.

B. VAR20260001, 166/168 Coconut Drive

**A RESOLUTION OF THE FORT MYERS BEACH LOCAL PLANNING AGENCY APPROVING / APPROVING WITH CONDITIONS/ DENYING VARIANCE 20260001, REQUESTING A 4-FOOT VARIANCE FROM LDC SETBACK TABLE 34-3, WHICH REQUIRES A 7.5-FOOT SIDE SETBACK FOR PROPERTIES WITH A WIDTH OF 50 FEET TO 75 FEET IN THE RS ZONING DISTRICT, TO ALLOW REPLACEMENT OF A STAIRCASE WITH A 3.5-FOOT SIDE SETBACK, FOR THE PROPERTY LOCATED AT 166/168 COCONUT DRIVE, GENERALLY REFERRED TO AS STRAP NUMBER: 29-46-24-W2-0070A.0160 IN FORT MYERS BEACH; AND PROVIDING FOR OTHER CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.**

Chair Cereceda read the title of the resolution. No ex parte communications were disclosed.

Senior Planner Smalley reviewed the background of the request as stated on the yellow sheet. The applicant had an existing structure that was slightly damaged by the hurricane and the existing stairs had to be replaced. They wanted to keep the same footprint and the setbacks were difficult to meet with a new home. The applicants would like to replace what they had. Staff

recommended approval because it was an existing structure. Senior Planner Smalley reviewed the limits of the administrative approval for setbacks and noted that there were eight or nine different types of administrative variances. Mike Martell, owner, explained that he would completely remove the non-compliant downstairs unit, and build everything above the flood plane to the new building codes. He will remove the roof and use the framing and the structure of the second floor and build a structure on top of that structure. The engineers will beef up the second floor to support the third structure. The downstairs will be open and 300 feet will be used for storage. No public comment.

LPA Member McLean moved to approve the resolution with the conditions listed in the staff report, seconded by LPA Member Plummer. The motion carried unanimously.

## VIII. ADMINISTRATIVE AGENDA

### A. Ex Parte Communication Policy

#### **Ex Parte Communication Policy**

LPA Member Boan distributed a handout about how to regulate meetings with developers limited to quasi-judicial representation. He noted the Florida Sunshine Laws did not restrict the authority of any board or commission to establish rules or procedures governing public hearings or contacts with local public officials. He asked whether they wanted to recommend restrictive procedures to the town council when meeting with individual developers. He felt that if they were going to meet with developers, it should not be at Town Hall.

Chair Cereceda indicated that the LPA had to decide whether to maintain the county's code, which prohibited discussing anything with anyone. The LPA decided that being a small town would be difficult and they decided that they would disclose information through ex parte communications. When Margaritaville came forward, they did extensive public outreach, but they did not include individual council members or LPA members because Chair Cereceda was the liaison. She said that now members had to disclose ex parte, but the public could not ask questions. She asked whether they would treat developers and residents differently. She proposed expanding the disclosure responses to provide the public with more information.

LPA Member Sudduth thought treating residents and developers differently was a slippery slope and felt residents and developers were the same.

LPA Member Dunlap gathered a lot of information through interactions with developers to establish a baseline and assess the impact. He described the number of interactions with the EIBC regarding food trucks. He preferred a hybrid and felt they should disclose everything they do, but the community had networks, conversations and a culture that expected them to take that into consideration.

LPA Member Eckmann felt that meeting with applicants was an opportunity to hear their side of the story. He was okay with providing more disclosure. LPA Member Plummer sometimes felt pressure from developers to disclose whether she agreed or disagreed and she preferred not to.

Chair Cereceda noted that they were not disclosing the information in quasi-judicial hearings that could or would impact their vote to the public and for the record. She questioned whether it was the quantity or the quality.

LPA Member Boan commented that the perception was that meeting with developers without complete disclosure left a gray area for the public. The public was entitled to know what transpired.

LPA Member Boan indicated that some developers were residents and the project concerned the neighbors. He felt it was important that he be as prepared as possible regarding issues from the community and the developers. He was open to meeting with anyone, but he did not think adding extra steps was practical. The meetings allowed him to probe the issues further, identify areas he would like to question and raise them at public discussions. He felt it was up to them to ensure they considered only the information presented on the record.

LPA Member Eckmann asked when they should have guidelines for disclosing communications, such as who, what, and when. Chair Cereceda thought that was a good starting point. She suggested that developers meet at the Town Hall to discuss hot-topic issues. Her goal was to present to the public, applicants and staff as much information as possible about where they were and how they got there when they entered the hearings.

LPA Member Dunlap would like to focus on disclosure guidelines and require an obligation to follow them and disclose accordingly.

Chair Cereceda asked whether they should not have meetings at all. LPA Member Boan commented that everyone had the option to say no, but guidelines might be a good step.

Town Attorney Stuparich noted that the Code of Ordinances talked about disclosures being made before or during the meeting, where the vote is taken, so that persons who have opinions contrary to those are given a reasonable opportunity to refute or respond. In the LPA's Policies and Procedures manual, there is a section regarding quasi-judicial matters and ex parte communications. She recommended that they use the framework and process that they have and comply with the rule.

Consensus was reached to allow Patrick Vanesse to comment.

Mr. Vanasse stated that some jurisdictions allow developers to meet with elected officials, while others only allow discussions before the application is in process and submitted. He felt the ability to meet one-on-one was constructive and an equal playing field. When he found out what the opinions were and what they liked and disliked, he could make adjustments to the project as they went along. He felt flexibility was good, that it worked well, and that education was the key.

LPA Member Plummer noted that most of the meetings happened before they received their agenda packet, and the meetings were informational for her. She felt the meetings were important so they could digest the information. He preferred that meetings be held at the Town Hall. Members agreed to start with the who, what, where and when for ex parte communications.

#### **IX. LPA MEMBERS ITEMS/REPORTS**

LPA Member Dunlap asked whether Senior Planner Smalley could provide a current status on all projects in March. He replied positively. Chair Cereceda asked for an update on where the projects were in the process. LPA Member Boan suggested adding the information to the website. Senior Planner Smalley replied that he would provide a running list so they could see where the projects were.

Chair Cereceda suggested inviting the developers to provide a general update on their project.

No items from other members.

Deputy Town Manager Traci Kohler noted that they would soon have a virtual assistant for the town's website. Another digital tool is Gov Well, which will help with the permitting process. A code compliance piece was coming down the road. Madison AI will keep the public records request and will help generate Senior Planner Smalley's report.

#### **X. LPA ATTORNEY ITEMS/REPORTS**

No items.

#### **XI. COMMUNITY DEVELOPMENT ITEMS/REPORTS**

Senior Planner Smalley introduced Luke Kornbau as a new staff Planner. Senior Planner Smalley stated that no large projects were coming up.

#### **XII. ITEMS FOR NEXT MONTHS AGENDA**

LPA Member Plummer requested an excused absence for March.

#### **XIII. ADJOURNMENT**

LPA Member Dunlap moved to adjourn, seconded by LPA Member Plummer.

The motion carried unanimously.

The meeting was adjourned at 10:37 a.m.

Minutes adopted as presented on March 10, 2026 by LPA Member Eckmann and seconded by LPA Member Sudduth.

Passed 5-0



---

Amy Baker, Town Clerk