

FLORIDA KEYS NATIONAL MARINE SANCTUARY ADVISORY COUNCIL

**Marathon Garden Club, 5270 Overseas Highway, Marathon
Tuesday, February 19, 2008**

MINUTES

Members Present

Chris Bergh
Jeff Cramer
Jack Curlett
Jon Fajans
Todd Firm
Dolly Garlo
Richard Grathwohl
Debra Harrison

Bob Holston
Jerry Lorenz
Martin Moe
Ken Nedimyer
George Neugent
Krueger Nicholson
Bruce Popham
Gary Randolph

Alternates Present

Jason Bennis
Peter Frezza
Doug Gregory
Corey Malcom

Richard Ross
Bob Smith
Cal Sutphin
Scott Zimmerman

Call to Order/Roll Call/Approve Minutes from December 11, 2007 Meeting

Chair Bruce Popham called the meeting to order at 9:10 AM. He encouraged all the alternates present to participate in the discussions. He noted that if the member for the seat is present, the member is the one who votes rather than the alternate. He stated that he had been given requests for two changes to the minutes from December 11, 2007 in advance of the meeting; Jim Sharpe requested that the acronym "ECCP" should be changed to "ECCD", for Environmentally Concerned Commercial Divers, and Don Kincaid requested that the depth of Bahia Honda channel should be "10 to 36 feet". Bob Holston moved that the minutes be approved with these changes, seconded by Chris Bergh. The motion passed unanimously.

Adopt Agenda for this Meeting

The agenda for this meeting was reviewed; Chair Popham said that a few issues arose at the last minute that should be considered for adding to the agenda. Normally, the agenda is issued at least two weeks ahead of the meeting with all the topics noted to provide plenty of public notice. Florida Keys National Marine Sanctuary (FKNMS) Superintendent CDR Dave Score, National Oceanic and Atmospheric Administration (NOAA), said that Bob Hoffman of the National Marine Fisheries Service is available to make a short presentation the status of the *Acropora* listing and the proposed critical habitat designation that is up for public comment. Chair Popham proposed adding this topic to the agenda at 1:00 PM, for approximately 20 minutes. There will also be a working group meeting on this topic later, and bringing information back to the SAC later. After the working group reports at 1:30 and prior to the Public Comment session, Chair Popham proposed adding an agenda item on working waterfronts. Dolly Garlo moved that the

agenda be approved with these changes, seconded by Commissioner George Neugent. The motion passed unanimously. At 10:45 AM, the agenda was amended again so that the topics prior to lunch were ordered as follows: Updated Council Charter and Next Round of Seat Applications, Sustained Ecological Assessment of the Florida Keys Seascape Update, a resolution on the Florida Forever and a successor state land conservation programs, and the Education/Outreach Presentation.

Chairperson's Comments, Introductions

Chair Popham asked people around the table to briefly introduce themselves. It was noted that there is a great amount of expertise and commitment around the table. CDR Score said he values the input SAC members provide to him, and the advice carries a great deal of weight.

Superintendent's Report--CDR David A. Score, NOAA, Superintendent, FKNMS

CDR Score noted there are two new hires at the sanctuary. Bill Precht is starting today as the Damage Assessment and Restoration Program (DARP) lead for the sanctuary, and he may come by in the afternoon to introduce himself. Karrie Carnes was also hired recently for the communications position, replacing Cheva Heck. She is currently working with NOAA in Silver Spring. Regarding the budget, it is still in flux. The planning base is \$4.9 million, same as last year, but gas is more expensive. In the first week of March, he'll be in Washington, D.C. educating folks in Congress about our budget. At the April SAC meeting, he hopes will be able to give a better sense of the budget and priorities, and perhaps will seek input on the priorities.

CDR Score also talked about the Coastal America partnership award received by sanctuary staff members and partners a few weeks ago, during the first anniversary of the Florida Keys Eco-Discovery Center. The award was in recognition of a coral relocation effort, as part of the Key West Harbor redevelopment. Over 7,000 healthy and diverse 50-70 year old corals were relocated as part of this very worthwhile, but expensive and time consuming, project. The U.S. Navy, U.S. Coast Guard, State of Florida, Mote Marine Laboratory and FKNMS all worked together on the process. Coral relocation has been done in other places as well for coastal redevelopment projects.

CDR Score read the new and repeat appointments on the Sanctuary Advisory Council. Lilli Ferguson will talk later about how the staff is working to get the SAC nomination and seat appointment process back on a logical schedule, as it has been out of synch for a couple of years. The appointments and reappointments are:

Michael Martin, Boating Industry, (Alternate); Dr. David Hawtof. Citizen at Large - Lower Keys (Member); Walt Drabinski, Citizen at Large - Lower Keys (Alternate); Debra Harrison, Conservation and Environment [1st of 2] (Member); Jana Fly, Conservation and Environment [2nd of 2] (Alternate); Don Kincaid, Diving - Lower Keys (Member); Robert Smith, Diving - Lower Keys (Alternate); Todd Firm, Diving - Upper Keys (Member); Martin Moe, Education and Outreach (Member); Richard Grathwohl, Fishing - Charter Fishing Flats Guide (Member); Steve Friedman, Fishing - Charter Fishing Flats Guide (Alternate); Ken Nedimyer, Fishing - Commercial - Marine/Tropical (Member); Scott Zimmerman, Fishing - Commercial - Shell/Scale (Alternate); Jon Fajans, Research and Monitoring (Member); Corey Malcom,

Submerged Cultural Resources (Alternate); Bob Holston, Tourism - Lower Keys (Member); and Richard Ross, Tourism - Upper Keys (Alternate).

Agency Report Highlights:

Florida Department of Environmental Protection (DEP) Report--Kent Edwards (DEP)

Mr. Edwards reported on some of the recent major activities within the sanctuary. NOAA is conducting an economic study of tourism, including fishing and diving activities, in the upper Keys. There are more than a half dozen coral relocation projects going on as part of the sanctuary's regulatory work, and there are more potential relocation projects. There have been a rash of groundings and plane crashes, and the sanctuary DARP and enforcement staffs have been great at responding to those. The *Lady Luck* has now been pulled out. The Education staff has been attending a number of festivals, including the Miami Boat Show. They will also be attending Oceans Day in Tallahassee. A community college course is also ongoing. The *Vandenberg* will be towed down and sunk in March and there have been planning meetings about this. This brief report gave a flavor of the many things the sanctuary staff is doing. Mr. Bergh inquired where the money comes from for coral rescue work. Mr. Edwards said it can come from both permit applicants and the sanctuary budget; it depends on the project.

U.S. Fish and Wildlife Service (USFWS) Report--Anne Morkill (USFWS)

Anne Morkill said she will be giving a presentation to the SAC in April about the Refuge Complex activities, particularly the comprehensive conservation planning effort. They have been focusing on a lot on terrestrial issues lately, but she will also provide an update on the activities relating to the sanctuary.

Florida Fish and Wildlife Conservation Commission (FWC) Report -- Major Mike Edwards (FWC)

Major Edwards reported that the captain of the *Gladding* was asked to assist with training and mooring buoy installation in Columbia, working with their people from their national park staff. Officer Lopez recently received working diver training, which allows him to help with both boat maintenance and lobster habitat issue. The enforcement staff helped with some federal enforcement cases where the VMS units were potential turned off, and citations were issued. They also worked several search and rescue cases recently. In the Marquesas, the individuals were successfully brought back to Key West. They also did the support for the *Walton Smith*, which would allow them to provide quick assistance if there were a diving emergency. He mentioned several other cases, including an Area to Be Avoided case, and a case about someone who was constructing an underwater wedding alter in the sanctuary. The *Legacy* continues to move and is 2/3 of the way complete. As mentioned, the *Lady Luck* has been removed. The *Green Chile* assessment is finished and they are now coming up with a restoration plan. More FWC assets will be involved in sanctuary enforcement and resource protection over the next year. Karen Raine continues to clear many settlements and she is doing an outstanding job. The three recent airplanes which crashed in the sanctuary have been removed. A trap theft case was made using a combination of FWC and sanctuary resources, including aircraft. There is a lot of planning going on with the *Vandenberg* sinking, since July. They will have five support vessels and a security team to ensure it goes off safely. A Card Sound cleanup is planned. Scotty Larosa was named officer of the year for the South Region, a well deserved honor. Chair

Popham said it would be great to have the opportunity to make a presentation to him at the next SAC meeting, and Major Edwards agreed.

Major Edwards answered several questions from the group. Regarding the number of current officer vacancies; he said that the number of officers is down by 40%; some officers are now going to school in Tallahassee and will be done within the next four months. Scott Zimmerman asked if there are plans to move the spotter plane to Broward County, and Major Edwards replied that it will remain in Marathon until the pilot retires, and at that time, it will be decided if the aircraft will move to a hub in West Palm Beach. He also reviewed the status of centralization of services in hubs. In response to a question from Jason Bennis, Major Edwards and CDR Score explained that FWC and NOAA both provide law enforcement for the sanctuary; there is a cooperative agreement in place, and state officers have power to enforce federal laws. Both civil and criminal actions can be made.

Public Comment

There was none.

Biocriteria for Coral Reef Ecosystems--Patricia Bradley, U.S. Environmental Protection Agency (EPA), Office of Research and Development

Ms. Bradley reviewed the mission of the EPA, to protect human health and the environment, and reviewed the EPA's Program Offices and regions. The Office of Water is most relevant to the sanctuary, and it is located in Region 4. Also relevant is the Office of Research and Development, for which she works. She is from the Rhode Island laboratory, but is currently based in Key West. Ms. Bradley then reviewed the Clean Water Act of 1972, its objective and key sections. Per Section 305(b), states must report on the condition of all waters every 3 years; DEP does that for Florida. Per Section 303(d), states must submit a prioritized list of waters that do not meet water quality standards and thus need Total Maximum Daily Loads. She described the process for state/territory/tribe development of water quality standards, and the EPA review and approval process. The criteria for toxic pollutants include biological monitoring and assessment methods. Biocriteria are numeric values or narrative descriptions that are established to protect the biological condition of aquatic life inhabiting waters that have been given a certain designated aquatic life use. She noted that the DEP has adopted a biocriteria approach in fresh water, and she has been talking to DEP staff members about developing and adopting them for coral. Coral biocriteria would be designed to find out if coral reefs improving or declining below acceptable levels. Ms. Bradley then reviewed what important biological indicators are, Florida's water classes, and what activities biocriteria data and bioassessments can support. She also provided an overview of the monitoring activities already undertaken by the state and within the sanctuary, and relationships with sanctuary plans and objectives.

Mr. Bergh inquired how causes of water quality could be determined when there are many factors at play, and Ms. Bradley responded that it depends on what is measured and a good monitoring design, which can establish a gradient of human disturbance. CDR Score noted that EPA Region 4 is supportive of her work, as she is here pursuant to a Memoranda of Understanding. He asked about next steps, and Ms. Bradley said that there is a group in Gulf Breeze supporting her, and that some people will be coming in May or June to work on the bioindicator issue and do some testing. They are also looking at other existing data sets to see

what can be teased out of them, and she would like to hold some workshops with scientist to work on monitoring and evaluation criteria. In Delaware, biocriteria have been used in developing watershed programs and as input for best management practices designed to reduce stressors.

Updated Council Charter and Next Round of Seat Applications--CDR Dave Score, Superintendent, FKNMS

CDR Score reminded the council that a couple of meetings ago, the council provided input to him and adopted revised charter language. He noted that the charter subsequently provided to the council is different from what was adopted, based on requirements from the Office of National Marine Sanctuaries. Substantively, it is much the same. But, included in this charter are term limits for the Chair and Vice-Chair - national policy says it should be rotated every so often. Dan Basta has agreed the SAC can retain the Chair and Vice-Chair at this time, as per the desire of the council. At the next meeting, there will be elections. He, Chair Popham and Ms. Ferguson will get together on the process, and she will send some guidance to everyone. Ms. Ferguson noted that a written ballot is required and mailing in ballots is allowed. Chair Popham requested that people submit nominations to Ms. Ferguson. There were no objections to the wording of the new charter.

CDR Score also announced that Ms. Ferguson and Chair Popham will be going to a national meeting of council coordinators and chairs in May, if anyone has concerns they wish them to bring forward. Perhaps there should be a short discussion about this on the April agenda.

CDR Score noted that four seats will soon be announced as available for applications: Citizen at Large - Upper Keys, alternate; Conservation and Environment [2nd of 2], member; Fishing - Charter Sports Fishing, alternate; and South Florida Ecosystem Restoration, member. Filling these will get us back on track in terms of non-expired seats. The *Federal Register* notice will be coming out soon. Ms. Ferguson said she would send out the press release and the rest of the application package to the council once the notice is published.

CDR Score and Ms. Ferguson reviewed that they have been working to get the term expiration process back on track as right now terms expire at all different times. She has been working on a process to have the terms expire at logical intervals (one third of the seats in a given year, in October), and that not all the seats for a given category (i.e., Fishing) expire at the same time. Terms are normally for three years. Nominations are cleared both through the State and through NOAA, and the appointment process can take some time. The charter allows for partial terms, and so in the next few rounds of seat applications there will be some partial terms, which will allow for getting the terms back on track by 2011. CDR Score added that having the seats turn over one third at a time will help ensure that the historical perspective of the council is not lost, and the partial terms are not intended to short-shift anyone, but just to get the process in line and more transparent.

Sustained Ecological Assessment of the Florida Keys Seascape (SEAKEYS) Update--Jon Fajans, SAC Member

Jon Fajans said the Florida Institute of Oceanography, Keys Marine Laboratory has a team in the field updating water quality stations. Tide and wave data will be gathered at each of the stations.

The first DEP pre-proposal was submitted for ocean observing systems; originally he was going to seek the input of council members today, but the call for information came earlier, in January. They teamed up with folks from Florida International University (FIU) to install a new, first of its kind *in situ* nutrient monitor, to go into a North Florida Bay site (it will monitor the nutrients that are washing into bay from the West). If successful, they may put sensors at the other sites. They also asked for funding in the proposal to do a main water quality sensor for each of the stations with "plug and play" capabilities for other types of sensors. They should hear if the funding is going to be provided by the end of the month. They have teamed up with Mote Marine staff members from Sarasota and FWC in installing harmful algal bloom monitors. They hope to make the data available online sometime later this spring, and to have some continuous *in situ* monitoring of the algal bloom that has been ongoing. If there are any members of council or from the agencies with input about what should be monitored, and is currently not being monitored in the sanctuary, he asked that people contact him. There will be some additional funding sources coming through Florida Coastal Ocean Observing System and Southeast Coastal Ocean Observations Regional Association. The Keys serve as kind of a model for coastal ocean observing, with the 20-year existence of the SEAKEYS program, and people are interested in adding new sensor here.

In answer to a question, Mr. Fajans said that the new monitor will enhance what is monitored and send data every hour, but a sensor only monitors at that site. But, this type of technology can be placed at a temporary buoy with satellite capability and be moved. This is more cost effective than sending out a team monthly or quarterly and taking samples back to the lab.

Chair Popham inquired if it is it possible to follow how the algal bloom moves to see how it changes, and Mr. Fajans replied that FIU quarterly sampling can provide some spatial variation in cell counts on that particular day, but the best way to monitor this type of bloom is through satellite technology. The University of South Florida has a website, where people can see how the bloom changes over time. Data is also available from the National Data Buoy web site, the Atlantic Oceanographic and Meteorological Laboratory and the Key West NOAA National Weather Service. There was more discussion of what could be available on the SEAKEYS web site, and Mr. Fajans would check into what is there now and what might be added as a link.

Resolution Favoring Florida Forever--Chris Bergh, SAC Member

Mr. Bergh described that in 1990 the Preservation 2000 program was created, as it was recognized that is important to buy land for the state to hold for preservation purposes, including protecting water supplies and watersheds. The Florida Community Trust also buys land. Funding for Preservation 2000 of \$300 million/year was intended to last for ten years, to be bonded out and repaid with documentary stamps (a type of real estate tax). In 2000, the Legislature passed a successor program called Florida Forever, which was also funded at \$300 million/year for ten years. However, all the funding for FYs 2009 and 2010 are already spoken for, so it is time to start thinking about a successor program to be able to continue to have funds to buy lands. Audubon, The Nature Conservancy and others have gotten together to make an organized effort to initiate this now. They believe it should be initiated now and that funding should be doubled from \$300 million to \$600 million. They are hoping the Legislature will pass it this session, and the group is working with local governments to pass resolutions about this. Monroe County has already passed a resolution in favor of a successor program and doubling the

funding. He read a draft resolution based on the Monroe County resolution. Commissioner Neugent moved to approve it, seconded by Commissioner Neugent.

Discussion ensued. Mr. Nedimyer commented that he would like to know about items up for a vote at least a day or two ahead of time. Commissioner Neugent stated that everyone around the table believes in the importance of acquiring properties for conservation. He also said there was a need for individuals to go to Tallahassee to work on getting the program renewed. The funding is needed and he thinks that the alternative is that the properties will be lost. He also talked about another fund, that had been capped. Todd Firm asked about the stamps and funding, and Mr. Bergh replied some information had been sent around previously in a handout; also, once the initial bond is done, there will be additional capacity and there is talk of making changes as well. Every year it changes, depending on various factors. Commissioner Neugent stated that there are tax implications for not acquiring the most environmentally valuable properties. Mr. Bergh added that the real estate market is in a down turn now, so it is a good time to go back to property owners who didn't want to sell to see if they wish to sell now. Ms. Morkill said that Florida Forever has created a demand among property owners that are willing to sell, and people have been contacting the USFWS about buying their properties. The USFWS is getting some land acquisition money this year, and there is high quality habitat to be bought; they buy property as is becomes available from willing sellers. But, Florida Forever is out of money. Mr. Grathwohl commented that he has had some wonderful experiences in those backcountry areas since he grew up here, and encountered his first water moccasin in one of the areas under discussion; Mr. Bergh added that is the only place in the Keys where they are found.

Chair Popham questioned language in the draft resolution that referred to directing the Council Secretary to take action and asked if it could be changed to the Council Coordinator [the Council does not have an officer position of Secretary]. CDR Score said that is should say, "...request the Superintendent..."; he will make sure it gets sent up. It was agreed to change the language to sanctuary Superintendent.

CDR Score asked about the priorities for acquisition. Mr. Bergh said the North Key Largo annex is substantially complete, the state will take the remainder of the property via eminent domain. This is an extreme situation, and is separate from Florida Forever. Other priorities include the land near the Key Deer Refuge and the Florida Keys Ecosystem project. Additional discussion covered priority properties within the Keys, costs, and the origin of the Florida Forever Program.

The language of the resolution follows:

DRAFT
**FLORIDA KEYS NATIONAL MARINE SANCTUARY ADVISORY COUNCIL
RESOLUTION FAVORING FLORIDA FOREVER**

A RESOLUTION SUPPORTING THE CREATION AND FUNDING BY THE FLORIDA LEGISLATURE OF A SUCCESSOR PROGRAM TO THE FLORIDA FOREVER LAND CONSERVATION PROGRAM AND URGING THE COUNTY LEGISLATIVE DELEGATION TO VIGOROUSLY SUPPORT THE CREATION AND INCREASED FUNDING OF SUCH A SUCCESSOR PROGRAM AND REQUESTING THE SUPERINTENDENT TO FORWARD A COPY OF THIS RESOLUTION TO THE PRESIDENT OF THE FLORIDA SENATE, THE SPEAKER OF THE FLORIDA HOUSE OF REPRESENTATIVES, GOVERNOR CHARLIE CHRIST, AND THE MEMBERS OF THE COUNTY LEGISLATIVE DELEGATION.

February 19, 2008

WHEREAS, the Florida Forever program and its predecessor Preservation 2000 program immeasurably contributed to environmental health, quality of life, recreation, and sustainability in Florida for this and future generations; and

WHEREAS, Florida Forever has acquired over 600,000 acres throughout Florida since 2000 and allocates \$300 million annually to purchase environmentally sensitive and other lands, and has done so through numerous successful partnerships with cities, counties, state agencies, water management districts, nonprofit organizations, private landowners, and others in achieving its conservation purposes; and

WHEREAS, Florida Forever, through its partnerships with the Florida Department of Environmental Protection, Water Management Districts, and others, produces benefits that include clean air and water; healthy fisheries and wildlife habitat; improved water supply protection; and protected open spaces including greenway corridors park lands forests and water bodies; and

WHEREAS, Florida Forever, through Florida Communities Trust, has assisted Florida's cities and counties in protecting their cultural and historical resources, meeting the challenges of growth management, directing development away from coastal high hazard areas and floodplains, fostering a healthier lifestyle for Floridians, and providing recreational outdoor experiences in both urban and rural settings; and

WHEREAS, Florida Forever has helped to save many of Florida's beaches, rivers, bays, forests, coral reefs and estuaries that provide the foundation for our \$3 billion tourism industry that attract more than 70 million visitors each year; and

WHEREAS, more than 50 Florida local governments have enacted land acquisition financing programs in the past decades, and this conservation finance programs serve to leverage Florida Forever funding and increase the impact of State land conservation funding; and

WHEREAS, Florida is experiencing rapid population growth, with approximately 1,100 new residents every day; and Floridians demand a high quality of life that includes green space, access to water, pastoral settings and recreational opportunities; and

WHEREAS, Florida Forever and other land conservation programs must compete in a land and housing market that has escalated dramatically in recent years; and

WHEREAS, the effectiveness of Florida Forever has diminished because of escalating land prices and the impacts of inflation; and

WHEREAS, virtually all of the funding for the Florida Forever program through the Fiscal Year 2009-10 is already obligated to or anticipated for planned land purchases, having virtually no funding for new conservation projects for two years; and

WHEREAS, research by the Florida Forever Coalition has found that over \$20 billion is currently needed to purchase parks and recreational facilities, wildlife and wilderness areas, and open space for our state's increasing population, and

WHEREAS, a 2007 public opinion survey conducted by members of the Florida Forever Coalition found that more than 70% of Florida's voters approve of the Florida Forever program; and

WHEREAS, the benefits of Florida Forever have included the purchase of such valuable local resources as Plantation Tropical Preserve, Green Turtle Hammock, Marathon Waterfront Park, Key West Tropical Forest and Botanical Garden, portions of the Overseas Heritage Trail and numerous natural areas from Key Largo to Big Coppitt Key within the North Key Largo Hammocks, Florida Keys Ecosystem and Coupon Bight/Key Deer Florida Forever projects; and

WHEREAS, the benefits of Florida Forever have included purchase of important portions of the Greater Everglades Ecosystem; now therefore

BE IT RESOLVED by the Florida Keys National Marine Sanctuary Advisory Council:

Section 1. That the Council hereby declares its support to the Florida Legislature for the creation and funding of a successor program to the Florida Forever program and requests Monroe County's legislative delegation to advocate for the creation and funding of a successor program to Florida Forever.

Section 2. That the Council hereby declares its support to the Florida Legislature for an immediate doubling of funding for Florida Forever because of the enormous need for land conservation funding in all parts of Florida and request Monroe County's legislative delegation to work actively for this increase in funding.

Section 3. The Superintendent is hereby requested to forward a copy of this resolution to the President of the Florida Senate, the Speaker of the Florida House of Representatives, Governor Charlie Christ, and to the members of the Monroe County legislative delegation.

Passed unanimously on this date: February 19, 2008.

The Council is an advisory body to the sanctuary superintendent. The opinions and findings of this publication do not necessarily reflect the position of the Florida Keys National Marine Sanctuary, the National Oceanic and Atmospheric Administration, the Florida Department of Environmental Protection, or the Florida Fish and Wildlife Conservation Commission.

Education/Outreach Presentation: Florida Keys Green Living & Energy Education (GLEE)--Alison Higgins, GLEE

After a brief introduction by Mr. Moe, Ms. Higgins provided an overview of what GLEE is and the activities it has undertaken. There was an Expo in March 2005, with presentations on a wide variety of topics, and one booth. The Extension service did a lot of the work of the Expos, and so GLEE was formed as a nonprofit organization, and began building its infrastructure. The second Expo in Marathon missed the businesses and service providers, so they began to reach out to businesses and policymakers. They came up with citizens, businesses, and policy makers as the three audiences they wanted to reach and came up with different ways to serve each one.

The next Green Living Expo will be this May (May 9-11 at the Marathon High School), and will include more items, such as a film festival and green tours. GLEE is working on such things as a green business guide and certification, a keys-wide sustainability project for policymakers, a monthly e-newsletter, monthly events, awards, proclamations and a green gift store. The idea is not to reinvent the wheel, but to work with and build on programs that already exist, like the DEP Green Lodging and Clean Marina programs, Green Thumb-certified Florida Keys nurseries, the Green Restaurant Association, and the Tourist Development Council.

So far, the effort has been mostly led by volunteers, but The Nature Conservancy has granted Ms. Higgins some staff time to work on the policymakers projects, and GLEE is hoping to hire its first staff person, for the Expo, soon. Mr. Moe asked her to let the group know if there is anything GLEE needs help with, and that he thought people would be willing to help with whatever is necessary.

Coral Conservation under the Endangered Species Act (ESA)--Bob Hoffman, Endangered Species Branch Chief, NOAA, National Marine Fisheries Service (NMFS), Southeast Region

Mr. Hoffman spoke on the topic "Coral Conservation under the ESA." His office did the *Acropora* listing (listed as threatened under the ESA May 6, 2006), and have been working on a proposed rule on the topic. December 14, 2007, proposed ESA 4(d) regulations were published in the Federal Register. This rule extends certain prohibitions to threatened species (elkhorn and staghorn coral). February 6, 2008, a proposed critical habitat designation was published in the Federal Register (comment period closes: May 6, 2008). March 4 and 5, 2008, there will be proposed critical habitat public comment hearings in Dania Beach and Marathon. The proposed rule has exemptions for conducting approved scientific research, enhancement activities and certain restoration activities. Mailed in comments are also accepted.

Mr. Hoffman showed a map of the proposed critical habitat area in Florida. For these corals, physical and biological features critical for conservation (termed PCEs) will allow for recruitment of new individuals into the species, either through sexual or asexual reproduction. Substrate of suitable quality and availability, in water depths from 0 to 30 meters (0 to 98 ft), to support larval settlement, recruitment, and reattachment of asexual fragments. Not all substrate within the proposed critical habitat area will be suitable.

Mr. Holston inquired how the proposed rule will work in conjunction with the existing sanctuary management plan and the economic well being of the tourism economy? Mr. Hoffman said a Section 7 consultation, including writing a biological opinion, would be done on the activities under that plan. It is possible that if there would be a taking, it could be exempted from the prohibitions. They do consultations now on listed activities in the management plan.

Mr. Bergh noted that the area of potential critical habitat is large. How would the regulations work for something like a trap fishery, if it is not known exactly where the critical habitat is? Mr. Hoffman said it would have to be determined if the activity would harm the PCE, for example would dropping a trap hurt hard bottom? If it doesn't, then it is not a problem.

Mr. Cramer noted that the crab and lobster fisheries are mostly regulated by the state, and asked if there was a standard for causing an effect, and Mr. Hoffman replied that the activity would have to render the area not useable for coral sexual/asexual reproduction. Also, there are two different things, the effect on the animal and the effect on the critical habitat. If a trap is dropped on hard bottom, it probably would not affect the hard bottom. But, if there is elkhorn coral there, the animal could be affected, which would be a take under the ESA and prohibited. CDR Score stated that the fishery is exempt from the sanctuary's regulations. Hoffman said that if it is a state fishery, the state would need to work on getting the section 10 permit for that fishery. Getting such a permit would give authorization. They did one for a flounder fishery in North Carolina which involved sea turtles, and the state held a Section 10 permit. Setting in or on top of coral would be a take, in violation of Section 9. Cramer stated that the fishermen don't fish on the coral; they always fish in the sand off the coral. But, in a hurricane, the traps can move quite a bit. He is trying to get together with people to figure out where the corals are so they can be protected and impact will be minimized, but there are areas within the shaded area where there will never be coral. Mr. Hoffman said it is not critical habitat if it is sand, even within the shaded area. But, they don't have enough information to draw more discrete boxes.

Mr. Cramer said he would like to get FWC staff and fishing organizations together to try to work something out, if possible, and Mr. Hoffman said that would be great. A member of the audience, DeeVon Quirolo, said Reef Relief has submitted comments all along. She wondered how this will improve water quality. Mr. Hoffman said the critical habitat rule may not help that much, but the 4(d) rule will cover any new project, including those that cause nutrient increase, and could also cover renewal of permits. If nutrients are causing a take, then they would need to look at further. But, the ESA doesn't stop things in its tracks. Incidental take permits may be issued. For NMFS to put a stop to a permit, the activity would have to lead to jeopardy, causing a species not to recover, or up to extinction. Even then, that wouldn't necessarily stop it, but would it cause NMFS and the agency that wants to issue the permit to come up with a reasonable alternative and take the jeopardy away. If they can't come up with one, it goes to the "God

Squad" (a Presidential-appointed body) which decides if the project can go forward or not. They have only overturned one jeopardy project in 30-40 years. Ms. Quirolo would like to see NMFS address incidental takes more vigorously. In response to a later question by CDR Score about who makes the determination if an activity may have an effect on an endangered species, Mr. Hoffman said it is the federal agency that issues the permit, working with the applicant to get information on the potential impact.

Mr. Moe said that the area is dynamic, not static, and it can change relatively quickly. NMFS needs to allow for that, and look at cases individually, based on the conditions of individual areas at a particular time.

Chair Popham urged members of the council to talk with Mr. Hoffman at the end of the meeting due to the limited amount of time, and reminded people that they can individually comment on this at any point. Members also need to get back to their constituent groups. There will not be for the working group to come back to the SAC prior to the public comment period closing. Mr. Nedimyer said that since May 6 is the deadline for comment on critical habitat, the *Acropora* Working Group will try to meet and to get back to the council at the April meeting with recommendations for the critical habitat rule. For the 4(d) rule, people will need to do individual comments.

Mr. Firm asked if each of the normal, historical activities managed by the sanctuary management plan will each have to undergo the consultation process. Will Mr. Hoffman and CDR Score have to get together for each activity to issue a permit? Mr. Hoffman replied that it would depend on how the sanctuary wanted to do it. If the sanctuary wanted to do a programmatic consultation of what is in the plan, they could do it that way. CDR Score said that also, there are certain activities that the sanctuary does not necessarily regulate (for example, trap fishing is exempt), but that does not mean they do not fall under purview of the ESA.

Regulatory Process Planning and Implementation--CDR David Score and Leigh Espy, FKNMS

Leigh Espy, Chief of Staff, provided an update on the sanctuary Management Plan and the regulatory review process. The Management Plan update was finished and released on 1/14/08. It is available online on the FKNMS website; once printed, the sanctuary staff will get a hard copy to each SAC member. It is not much different from the draft plan update that they had been working on, except for some wording changes. CDR Score noted that the thing that is considerably different is the performance measures.

Through the update process, a number of topics were raised for potential regulatory actions, such as pollution discharge, construction project permits, clarifying dive areas restrictions, prohibiting touching coral, clarifying research-only area restrictions, reducing impacts from salvaging and towing, and more. Other issues may arise in the future.

The process for considering regulatory changes will involve public meetings and extensive public involvement, reaching out to stakeholders, SAC working group assistance (from existing or new working groups), and updates at SAC meetings. It will be a multitier and multistakeholder approach. Some topics will be simple, and some more complex.

FKNMS staff members are reviewing current authorities now, with lawyers in both the state and federal agencies. The workshop in March is part of the process. Targeted meetings with stakeholder groups will be planned from April to July 2008. Then, the sanctuary staff will move forward with issues that require only simple clarification of language on noncontroversial issues and will identify resource needs for issues and topics requiring more extensive review. In Federal FY 2009, the sanctuary staff may move forward on the somewhat more complex topics, and perhaps in FY 2010, will start on the most complex topics.

CDR Score said that some of the topics may be binned together, if they will follow the same processes or authorities. The staff will try to look for efficiencies, and to move forward as quickly as possible.

Mr. Grathwohl asked if the zoning includes the Wildlife Management Areas, and if it will happen this year. Ms. Espy replied that it is not likely to; any changes in Sanctuary Preservation Areas, WMAs, other zones, etc. will probably be binned together as "marine zoning," and not looked at separately. CDR Score added that a marine zoning working group may be formed. However, if it is determined that the sanctuary needs to go forward with one issue, the staff will, being careful not to be predecisional.

Ms. Quirolo, from the audience, encouraged the SAC to support the extension of the no dumping zone to all federal waters. This would close the loop on the needless dumping of sewage in the ocean.

CDR Score stated that he wants to hear from the SAC on which issues SAC feels are most important to be addressed first, so the staff can be efficient, productive and responsive. The FKNMS staff is planning to do binning by priority tiers, but will subsequently probably come back to the SAC in tangent with public meetings, and will ask if those are the right issues to look at and which to expedite. Binning may be done based on need, or it may be done based on process. For example, issues may be binned based on if an Environmental Impact Statement is needed for them. Mr. Bergh said that if anything regarding the process for zoning could be expedited, that would be helpful for the March 25 workshop. CDR Score said the plan is to try to lay out what the process would look like for the workshop.

Education and Outreach Working Group Report--Martin Moe, SAC

Mr. Moe said that minutes of the Education and Outreach Working Group meetings are available to those who request them. The status of funding of education and outreach from the Sanctuary Friends of the Florida Keys Foundation was reviewed at the meeting. Also, the Action Plan was revisited. There are three primary objectives of the working group: maintain a standard education and outreach SAC working group; establish/improve communication between the SAC and the community; and promote understanding of the Florida Keys National Marine Sanctuary and its sustainable use. The group will work on action items during the next meetings. Mary Tagliareni provided an update to the Working group on a variety of things the staff has been working on, including an inventory of environmental organizations, the sanctuary web site, sea grass awareness month, the updated Management Plan and more. Mr. Moe then reviewed the suggested organizations to give Education and Outreach presentations at SAC meetings in 2008:

April-Dave Vaughan, Mote Marine Laboratory; June-Reef Environmental Education Foundation; August-SeaCamp; October-Organized Fishermen of Florida/Florida Keys Commercial Fishermen's Association; and December-Diving Museum. Other suggestions, and council members are welcome to send more suggestions to him or Mrs. Tagliareni, include the World Wildlife Fund, The Nature Conservancy, Monroe County Extension, Mel Fisher Maritime Museum and several others. The members of the Education and Outreach Working Group will help to inform their represented constituents about the upcoming marine zoning workshop once the draft agenda is ready. Working Group members are also available to help with breakout groups and other tasks as well. The group is meeting quarterly in January, April, July and October. Finally, Mr. Moe provided a suggestion about saving water in the bathroom for consideration.

Ecosystem Restoration Working Group Report--Jerry Lorenz, SAC

Mr. Lorenz noted that the Ecosystem Restoration Working Group met on February 7. It will now be meeting the first Wednesday of every month that the SAC is meeting. He noted the Everglades Coalition recently met, and several of the workgroup members attended. One of the topics was a discussion about the bass fishery in the central Everglades; these fishermen want to keep canals as they are. But there are other fisheries affected by the canals; there is a \$50 million shellfish fishery in the sanctuary alone, besides all the other fisheries. Ms. Harrison suggested the SAC should have another workshop, taking issues involving restoration and examining them from the standpoint of how they would affect the sanctuary. One example is boating impacts. It would be good to engage the Keys community (i.e., sport fishermen) with groups on the mainland. Mr. Grathwohl felt September or October would be a good time to hold it. The group would like feedback on that from the council, and will make a proposal at the next SAC. Mr. Lorenz noted the General Management Plan is ongoing, and wants to bring this up as a topic at the proposed workshop. Also at the Everglades Coalition meeting, there was a panel on the various estuaries. The presentations really brought home how estuaries are impacted by water management practices. The C-111 affects Florida Bay, and the water management district called a workshop after that meeting, pledging \$70 million to a project that may provide 30% of restoration. It could really help raise water levels, reducing seepage and getting water into the Park where it belongs.

Mr. Bergh noted the draft agenda for the marine zoning workshop provided to the SAC is pretty close to the final agenda. The workshop will be held Tuesday, March 25 at Key Colony Beach City Hall. Jon Day of the Great Barrier Reef Marine Park Authority is one of the speakers, who will be sharing that agency's experiences. The group hopes to get confirmation on remaining speakers this week or early next week. Since it is being considered as part of the sanctuary regulatory process, the group has tried to make it clear the no decisions will be made or resolutions passed during the workshop; it is for information only. In the afternoon, there will be breakout groups to discuss questions, to get ideas out.

Mr. Bergh reviewed the Florida Reef Resiliency Program - The Nature Conservancy, World Wildlife Fund and many others have been working on finding areas of the reef that are resilient. They want to understand why they are resilient and develop new management approaches around that. There will be workshops and a conference (April 22-24 at the Marriott in Key Largo) about this. They have been going out to existing reef user groups, and will continue that this week.

They will talk about some of the results so far, and get feedback from reef users, primarily divers and fishermen, about what as a user group they can do to foster resilience and make sure there is a reef to use in the future, and what they think the reef managers can do to roll the information into management practices.

Mr. Lorenz noted there is an FKNMS algae workshop coming up, being put together by Scott Donohue, scheduled for March 13 and 14. March 13th is an evening meeting open for public comment. The meeting on the 14th will be open to the public but is geared towards discussion among the scientists. There will be a report in April on the conclusions.

Public Comment

Commissioner Neugent noted that Dr. Susan Nugent (not his wife), has written a book, Women Conserving Florida Keys. The Sanctuary Friends of the Florida Keys Foundation may be sponsoring a book signing event, as suggested by Ms. Harrison and Commissioner Neugent.

Ecosystem Restoration Working Group Reports Cont.

Regarding the algae workshop, CDR Score said Mr. Donohue has been working on it for a long time. The objectives have been developed with the Ecosystem Restoration Working Group in mind, but he encouraged people to come to the evening session to ask the questions of the scientists for their comprehensive discussion the next day. He encouraged people to contact himself, Mr. Donohue or Mr. Lorenz if there is anything council members particularly want to have come out of the workshop.

Ms. Harrison said that people are very concerned about what is happening to the fishing industry and the working waterfront efforts. She was asked to prepare a motion for the council's consideration, which she read it. It was moved by Mr. Cramer and seconded by Ms. Harrison. Discussion followed.

There was general agreement that the Commission shouldn't have acted as it did. Mr. Cramer stated that it is very important to protect working waterfront. People are interested in their work and like to see traps and docks when they visit. Chair Popham offered a friendly amendment to include public access (wherever referenced), as it is also important. It was accepted. His wife, a commissioner, resigned after this issue came up at the Commission. Mr. Cramer noted that those that rely on the bigger fish houses have to go along with what they want. Commissioner Neugent added that the citizens should be outraged about how discussion and public input was eliminated at the Commission meeting. Someone got up at the last minute and passed out a 50-70 page document and it was immediately passed by a 3-2 vote, with no commissioner having read the content of what a developer proposed.

CDR Score asked what the recommendation is. Ms. Harrison said the motion needs to be provided to Thomas Pelham, Secretary of the Department of Community Affairs, and to the Monroe County Commission. Commissioner Neugent stated that the charge of the council is that it makes recommendations to the sanctuary manager and he finds a way to share them. CDR Score said he can share it with the appropriate people.

The motion passed unanimously upon roll call vote. The wording of the motion is:

Whereas, the Florida Keys National Marine Sanctuary was established as a multiple use management program; and

Whereas, the Florida Keys fishing industry and public access are recognized as a historic activity within the waters of the Sanctuary; and

Whereas, the Florida Keys fishing industry and public access are major contributors to the economy, both locally and to the State of Florida; and

Whereas, the fishing industry and public access are highly dependent upon the availability of deep water marinas and adequate lands for operations; and

Whereas, the State of Florida, recognizing the rapid conversion of working waterfronts to upscale development passed legislation to increase protection of working waterfronts throughout the state; and

Whereas, Monroe County Planning Department began a process to assure protection of local working waterfronts over three years ago; and

Whereas, at the end of the extensive public process, a lengthy amendment proposal was submitted during public comment to the Board of County Commissioners with a request for replacement of the publicly-vetted proposed working waterfront ordinance; and

Whereas, without review by the public, the Monroe County Planning Department, the Planning Commission or the Board of County Commissioners, the amendment was adopted on a 3-2 vote and was transmitted to the Florida Department of Community Affairs; and

Whereas, upon review of the adopted ordinance it is realized that critical elements of the original ordinance that were intended to protect existing working waterfronts including, but not limited to allowances for large-scale hotel developments and the elimination of the no-net-loss provision, were changed, leaving the future of the Keys fishing industries and public access in greater peril.

Therefore, the Florida Keys National Marine Sanctuary Advisory Council voices its objection to the process by which the final working waterfront ordinance was adopted, and recommends that the Secretary of the Florida Department of Community Affairs reject the ordinance as transmitted and return it to Monroe County for further consideration and public input.

The Council is an advisory body to the sanctuary superintendent. The opinions and findings of this publication do not necessarily reflect the position of the Florida Keys National Marine Sanctuary, the National Oceanic and Atmospheric Administration, the Florida Department of Environmental Protection, or the Florida Fish and Wildlife Conservation Commission.

Water Quality Protection Program Steering Committee Update--Commissioner George Neugent, SAC

A Water Quality Protection Program Steering Committee meeting was held in January in Marathon. Commissioner Neugent noted the mandate to meet the best available wastewater technology and treatment by 2010 and a half is fast approaching. The lack of funding is quite apparent from the state and federal levels. These are funded on project by project basis as funding dries up. Those people not part of a funded municipal project would be looking at paying the full costs. After the deadline, people not in compliance could get noncompliance letters from an agency, and could be fined. A person might have to pay to put his/her own treatment plant on the property to come into compliance, which could cost \$13,000-17,000. Some people may be able to partner with their neighbors. Unless things are changed legislatively, he believes this is what will happen in non-sewered areas. One proposal to find the money to make the changes is to implement a new sales tax of one penny. Stormwater will also cost equally to wastewater implementation. Commission Neugent said a revenue source is needed to mitigate impact on property owners.

Mr. Moe said he is a part of the water quality citizen committee in Islamorada. There was a suggestion to the village council to float a bond to pay for the sewer work for the community, but the council rejected it and said everything would be fine. Commissioner Neugent said that at some point, the EPA will come in, as nutrients will be contributed to outstanding Florida waters.

Ms. Harrison said there is no confidence at the state level in the County due to the actions the County has taken, fighting the state at every step of the way. This affects the cities and towns in the county. She recommended people to get involved in what our leadership looks like, and that this fall there will be an opportunity.

Mr. Bergh said he lives in a remote area in Big Pine Key, and wondered if it was clear who would be in the areas to get a centralized sewer. For those people outside the area, can the County work with people to get collective bargaining to get package systems at a cheaper price? Commission Neugent replied that he is going to his property owners association with exactly these questions; he doubts the County will be able to do this. He will also be hosting some meetings that address the Lower Keys areas. We are looking at the second year of no funding from the state, and have had abysmal funding from federal agencies. Without a sales tax increase, we will have to wait to see what is proposed. Layton already put their system in, but said they would support a County sales tax increase. He hasn't talked to all yet, but has other indications of support. Chair Popham added that he understands there is not likely to be any bond funding this year; it would be next year at the earliest.

Unfinished/New Business

Update on Proposed Ocean Current Turbine Project--Relevant SAC members

Chair Popham noted that this agenda item was included to allow SAC members to provide updates stemming from the proposed ocean current turbine discussion in December. Mr. Edwards stated that the company got a permit to store the test unit, in the pond at the Community College. The larger issue of if the company is going to be able to do test has not been confirmed.

The U.S. Army Corps of Engineers received some new information on the proposed project, and told Mr. Edwards that the project would be renoticed.

Lionfish--Ken Nedimyer, SAC Member

Mr. Nedimyer would like to have the lionfish issue included on the April or June agenda. They are well established in the Bahamas; we don't have a plan here if they become established, and it would be good if we had one. Mr. Fajans said he participated in a three-month study this past summer involving relocating juvenile lionfish to hatcheries with other native fish in them. Over three months, only the lionfish remained, and the doubled in size.....they grew a lot over that time, and there were no other fish. CDR Score said it appears that they are working their way clockwise around the Caribbean. Mr. Grathwohl said there was an outfit in the Bahamas that had been raising them, but he is not sure what happened to it. Mr. Nedimyer concluded that sooner or later they the lionfish will make it here and will create a big problem.

Acropora--Ken Nedimyer, SAC Member

Mr. Nedimyer would like to have *Acropora* added to the April agenda.

Offshore Aquaculture Meeting--Chris Bergh, SAC Member

Mr. Bergh provided a heads up that there is a meeting at the Islander about offshore aquaculture in the Gulf and south Atlantic in the evening, after the SAC meeting.

Adjourned, 3:40 PM.

Submitted respectfully by Lilli Ferguson.