

**FLORIDA KEYS NATIONAL MARINE SANCTUARY ADVISORY COUNCIL**

**Marathon Garden Club, Marathon  
Tuesday, June 16, 2009**

**MINUTES**

**Members Present**

Chris Bergh  
Jeff Cramer  
Jack Curlett  
Jon Fajans  
Dolly Garlo  
Richard Grathwohl  
Debra Harrison  
David Hawtof  
Don Kincaid

Jerry Lorenz  
Rob Mitchell  
Martin Moe  
Ken Nedimyer  
George Neugent  
Bruce Popham  
Brad Simonds  
Jim Trice

**Alternates Present**

Jason Bennis  
Walter Drabinski  
Bruce Frerer  
Peter Frezza  
David Makepeace

Corey Malcom  
Krueger Nicholson  
Marvin Schindler  
Bob Smith  
David Vaughan

**Call to Order/Pledge of Allegiance/Roll Call/ Approve Minutes from April 21, 2009 Meeting/ Adopt Agenda for this Meeting/Chairperson's Comments/Introductions**

Chairman Bruce Popham called the meeting to order at 9:01 A.M. County Mayor George Neugent then led the group in the Pledge of Allegiance.

- Chair Popham thanked the staff for organizing the meeting and noted the Sanctuary Advisory Council (SAC) appreciated all the hard work, and thanked the Sanctuary Friends Foundation of the Florida Keys (SFFFK) for providing the refreshments. - He mentioned that there were two public comment periods and when they were, and that people wishing to comment should fill out a public comment form and pass them to [Sanctuary Advisory Council Coordinator] Lilli Ferguson. He said he would call people to speak during the public comment periods in the order in which he received the forms.
- After review of the draft minutes from the April 21 meeting, County Mayor Neugent moved that they be approved, and Jack Curlett seconded the motion; Chair Popham then deemed the minutes approved.
- Chair Popham asked if there were any additions or changes to the agenda and, as there were none, deemed the agenda for the meeting approved.
- Chair Popham announced that the August 18 SAC meeting would be held in Marathon at the Marathon Garden Club. He said the October 20 SAC meeting would be held in Key Largo at the Ocean Reef Club, and he thanked Mr. Curlett for arranging that again and noted that the SAC appreciated it. Finally, he said that the December 8 meeting would be held in Key West at the Eco-Discovery Center. He noted that, already, the agendas for the August and October SAC meetings were starting to fill up.
- Chair Popham welcomed Marvin Schindler to his first meeting [appointed in April, Mr. Schindler was not able to attend that meeting].
- Chair Popham said there had been a change among the commercial fishermen, and said he understood that Scott Zimmerman was no longer the Executive Director of the Florida Keys Commercial Fishermen's

Association (FKCFA). He recognized, in the audience, Karl Lessard, who used to serve on the SAC and also the Water Quality Steering Committee. Mr. Lessard introduced Hal Osburn, the new Executive Director of FKCFA and described some of his qualifications. Mr. Osburn said he was looking forward with working with the SAC, that the number that was formerly Mr. Zimmerman's could be used to reach him, and he would be setting up his office in the Keys. Chair Popham noted Mr. Osburn would be applying for the seat Mr. Zimmerman had held.

### **Superintendent's Report – Sean Morton, Acting Superintendent (Florida Keys National Marine Sanctuary [FKNMS])**

- Sean Morton welcomed Mike Buchman who was sitting in the audience. Mr. Buchman is the new FKNMS Chief of Staff for Programmatic Integration, who recently moved here from Seattle, Mr. Morton said. He also introduced, in the audience, Joel Labissoniere, who the head of the National Oceanic and Atmospheric Administration's [NOAA's] General Council for Ocean Service, and Oceana's Ocean Hero this year, John Halas. Mr. Morton noted this was a tremendous accomplishment, and that Mr. Halas had done a lot of hard work over the years. Mr. Halas is also the longest serving public employee in the Office of National Marine Sanctuaries [ONMS], he noted.

- Last week was Capitol Hill Ocean Week (CHOW), and Mr. Morton and Dolly Garlo, who was the FKNMS nominee for the National Marine Sanctuary Foundation's (NMSF's) Volunteer of the Year award, attended. This year's theme for CHOW was the blue economy, and how the ocean economy relates to the national and world economies. There were a series of panels throughout the week on various topics, and he and Ms. Garlo visited some Representatives on Capitol Hill, and Billy [Causey, Ph.D. (Hon.)] made some additional visits. Mr. Morton and Ms. Garlo talked during the visits about the SAC and the accomplishments and challenges of the FKNMS. Ms. Garlo passed around some information about the visit, and said it was a pleasure to be at CHOW with Mr. Morton and Dr. Causey. She said there is a recognition program put on by the NMSF every year, and nominees from all the sites were there this year. They were all very interesting people, in terms of their contributions, she commented. The highlight for her was the 30-year commercial fishermen chosen as the NMSF Volunteer of the Year; he was surprised at winning. She reviewed some of the other activities during the week, saying it started out with Ocean Day, and ended with the formation by President Obama of a national ocean policy at the end of the week. She noted the NMSF is a strong advocate for the sanctuaries, and she also said she was proud that we were on the forefront in many areas. The NMSF put together packets for the visits, and she noted one of the items in the packets was *Sanctuary Watch*, which focused on climate change. Chair Popham thanked her, and added that this year's NMSF event was the most successful ever in Washington, D.C., raising the most money; Mr. Morton affirmed this. Mr. Morton said that he would try to get more copies of *Sanctuary Watch*. ***ACTION ITEM:*** Mr. Morton to attempt to obtain additional copies of *Sanctuary Watch*. He concluded by saying as part of gearing up to go to Capitol Hill, there was a special House Caucus briefing in which they talked about sanctuaries and the economy; it was well received.

### **Agency Report Highlights:**

#### **NOAA ONMS Southeast Region Report – Dr. Causey, NOAA**

- Dr. Causey mentioned he was diving at Gray's Reef [National Marine Sanctuary] yesterday, and had just returned.

- The Blue Ocean Film Festival was just held in Savannah, and it was a larger event than in the past. The Gray's Reef National Marine Sanctuary film festival, held the past five years, merged with it. There were four days of films and 500 entries. He said "The Cove" was a spectacular, moving film, which included some covert filming of some things going on in the Pacific. In the student category, a lionfish film shot off of Gray's Reef won. He said he would be getting copies of the film to get out to the group. ***ACTION ITEM:*** When copies of a lionfish film shot off of Gray's Reef are provided to him, Dr. Causey to get them to the SAC.

- He, Dan Basta and Matt Stout went on part of a research cruise of the NOAA R/V NANCY FOSTER; the scientists are tagging grouper and snapper, to look at their movements.
- About the CHOW Hill visits, he said there was a different atmosphere this year. These visits are done twice a year, and they went to provide information about the National Marine Sanctuaries Act reauthorization and resources. He said they got into a lot of offices, but many offices did not want to talk business.
- Dr. Causey said that on June 4, the first [Southeast] regional quarterly meeting of SAC chairs, coordinators and Superintendents and himself was held. This sort of came out of the SAC Summit in Alpena, to increase communication among the SACs in the region and some of the issues coming up. Some of the issues identified as important were work on lionfish on a regional basis; ocean acidification, which the West Coast sites have been working together on, and which Mr. Basta, the director of the program would like to see a more consistent a national approach to, with perhaps resolutions from individual councils and the program. Education and outreach and enforcement similarities were also discussed briefly.
- There is a lot of interest in the area right now for other sanctuaries in the region, he commented. The only way to have one now is if Congress designates one, which tends to make NOAA frown as that is not the process we use. The best thing we can do right now is to raise awareness, work on reauthorization of the Sanctuaries Act, and discuss it with communities, he said. Mr. Basta has opened the door to go out and look for [potential] sites he said. However, Dr. Causey noted the pie is big in the program, and you can't keep cutting slices, so he did not think there would be any more sanctuaries in the next year or so. However, people will continue seeing a lot of activity and a drum beat building up; there had been interest around the National Estuarine Research Reserve around St. Augustine, off the East coast of Florida, Puerto Rico, and the Gulf of Mexico. He said he would keep the SAC informed and that the group would be the first to hear as things moved forward.
- Debra Harrison asked about the status of lionfish, if any more lion fish had been sighted, and if more stickers had been distributed; she felt people seemed generally unaware. Mr. Morton responded that six were spotted and five were captured, most off of Key Largo, but one off of Bahia Honda. Regarding outreach, he thought all the dive shops had been hit. Karrie Carnes said distribution of the orange lionfish sticker started with the dive shops, FKCF, and the SAC, and that the Reef Environmental Education Foundation (REEF) had provided the money to print and distribute those, so we really wanted the effort to be focused. She said the Florida Fish and Wildlife Conservation Commission (FWC) had done messaging on the topic. FKNMS has worked with the media, including the paper and radio, to get the word out to the public. She added that it is on the FKNMS radar to work on more management strategies, including raising public awareness. She asked that SAC members do the same with outreach to the groups they represent. Ms. Harrison asked if there were more stickers, which could be provided to SAC members, and commented that there might be an opportunity to provide information at kiosks at boat ramps. Mr. Morton said that the staff would check on how many were available, and if there are some, they would be provided. ***ACTION ITEM:*** FKNMS staff members to check on how many lionfish stickers are available for distribution, and if enough are available, to provide them to the SAC to distribute.
- Dr. Causey concluded with a few more announcements: *Sanctuary Watch* reported that Corey Walters of Mote won the "Star of the Sea" for her work with Bleach Watch; and Don DeMaria, who has been working on Riley's Hump with some fishermen, sent an impressive photo of mutton snapper spawning.
- Dr. David Vaughan added that Mr. Morton spoke that morning on the radio about lionfish and did a good job, and that there are two workshops about lionfish coming up in the Keys. He gave kudos to REEF, FKNMS and the Marine Ecosystem Event Response Assessment for their efforts on lionfish, and noted that Mote wanted to focus on the lionfish cause with the Protect Our Reefs funding this year. He mentioned also that Ms. Walters and Lad [Akins] were trying to put together a citizen response network for lionfish.

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

- Kent Edwards said that there were a lot of activities geared up for the summer, including mooring buoy work, Team O.C.E.A.N. and damage assessment. He focused the remainder of his update on some of the FKNMS work recently done on the *Vandenberg*. He focused mostly on the mooring buoy work, but acknowledged Mr. Halas worked on getting the anchoring right and that Joe Scarpa was out there for 3-4 days. He said that five anchors with buoys were put out, with four being rigged prior to the ship being sunk. The ship went down two minutes after detonation of the explosives, and the four mooring balls came to the surface afterwards, which was key to clearing the divers to doing their jobs. The staff also replaced the temporary line with final line. During the sinking, he noted the dishes came off, and said they are currently strapped down with cable. Those will have to be looked at in the future. The FKNMS permit has a restriction that anything that comes off of the vessel has to be picked up.

-Bob Smith said he worked on the *Vandenberg*, too. He said the first day, there was a barracuda on it, and he understood more joined it over the following days. He wanted to enter into the record a brief statement on *Vandenberg* safety, of copy of which he said he would give to Ms. Ferguson. *ACTION ITEM*: Mr. Smith to provide Ms. Ferguson with a copy of a statement of safety related to the *Vandenberg*. His oral statement was:

On Sink Day, Clearance Divers conducted over fifty dives on the *Vandenberg* in less than four hours immediately following her descent. Significant challenges to these dives included depths of up to 150 feet, penetration of confined spaces, limited visibility (did not look like it), mixed gas breathing supplies, and staged decompression.

All of these dives were completed successfully, including verification that all cutting charges had discharged, and identifying structural abnormality requiring stabilization.

These dives were conducted without a single safety incident; no out-of air emergencies, no entrapment, no lost divers, no drowning or near-drowning, no decompression illness, etc.

Within hours of the completion of these dives and stabilization of the structural problem, one out-of-air emergency (thankfully without injury) and two cases of decompression sickness were reported in connection with *Vandenberg* dives.

The message here is very clear, with actions speaking louder than words.

The *Vandenberg* can, and in fact has been dived safely by those who are properly trained and equipped for their particular dive profile and who apply the self-discipline to remain within that profile.

- Dr. Causey said he wanted to make it known that the commitment made in 1990 was fulfilled, that FKNMS said it would support three vessels as artificial reefs in the sanctuary, and when done, that the staff would step back and take a look to make sure they were doing the right thing. The three vessels were the *Busch*, the *Spiegel Grove* and the *Vandenberg*. FKNMS agreed to those via handshake. There is some monitoring data coming in on the vessels. He said he has heard some rumors [about more vessels as artificial reefs], but he noted our agreement had been fulfilled. He noted he would appreciate the SAC's help on pushback of the rumors, as FKNMS and others in sanctuaries across the nation are not sure vessels as artificial reefs are the right thing to do. This is the only National Marine Sanctuary that has allowed an artificial reef, Dr. Causey said.

- County Mayor Neugent said he had also heard rumors, about sinking a new ship off of Marathon. He said he knew there are a lot of people not happy about the ship sinkings. He suggested Dr. Causey, Mr. Morton, Mr. Edwards and maybe even the SAC might take a public position early, that there would be no more sinkings until the analysis and scientific monitoring is done. He felt all relevant parties should be involved before someone commits money to another project like this. Chris Bergh said sinking a ship of

that size should be built into the regulatory process, to include National Environmental Protection Act compliance, etc. Dr. Causey said it was there in the FKNMS regulations already, and that FKNMS can give conditions to the [Army] Corps [of Engineers] permit. The Corps permit had Environmental Impact Statements already built into their national permitting. The *Vandenberg* had a sanctuary permit and an Environmental Assessment, per Mr. Halas. Dr. Causey said any new ones would have to apply for an additional sanctuary permit, and Dr. Causey said they would never get a new one through the ONMS.

#### **South Florida Water Management District (SFWMD) Report -- Thomas Genovese, SFWMD**

Tom Genovese said that the District was moving forward with the third version of the contract for the acquisition of the sugar lands. There is still opposition, and they are still holding bond validation workshops. Planning workshops would continue to be held now through December, twice a month. He also said he wanted to clarify the cost of the C-111 canal project, which is close to \$70 million, not \$41 million, as some have reported.

#### **Everglades National Park Update – Tracy Ziegler, National Park Service (NPS)**

Tracy Ziegler said that Everglades National Park was very glad that she was now a part of the SAC. She said she was just hired in December as the new marine biologist for the Park. They are establishing a phytoplankton/algal bloom monitoring program throughout Florida Bay, and she said she has met with some FKNMS staff about sensors, and maybe the sanctuary can be included in the future. She is also working on a seagrass restoration plan for Florida Bay. She concluded by saying Fred Herling told her he was looking forward to receiving the comments on the General Management Plan from the SAC.

#### **Florida Fish and Wildlife Conservation Commission (FWC) Report – Major Michael Edwards, FWC and Bill Sharp, FWC**

- Major Michael Edwards reviewed the reduction in FWC funding, which has been discussed before. It is hard to keep people in the positions; four new people are currently being trained, he reported. He said since 2007, when he arrived here, and looking at past history, there has been a nearly 50% reduction in personnel, and most of those left the agency for higher paying positions (and a few retired or transferred).  
- He mentioned work is being done on groundings and that they are working on safe snorkeling guidelines.

- He noted that the *Seahawk*, *Gladding* and Aviation are combining their forces. They are working on mutton snapper and in the backcountry on casita issues.

- The *Vandenberg* was a big issue since the last meeting, Major Edwards said, and FWC assisted with security at the site, and patrol on the site as it was going down. He complimented Mr. Morton, Mr. Halas and the entire sanctuary group on working so diligently on the permit and other aspects.

- The *Gladding* continues to do more work in the Tortugas, he reported.

- He also mentioned a couple of vessels that have been removed.

- Pete Frezza asked about if charges had been filed in the illegal gillnetting case off of Cape Sable, and Major Edwards replied not yet. He said that they are continuing to work on it, so he couldn't really comment at this time.

- Bill Sharp provided some highlights about the Commission; it is considering several rule amendments, including the final rule for red grouper in the Gulf, the aggregate for grouper in the Gulf, and other shallow water grouper species. He reviewed the discussions on closures. The Commission will also be considering a draft rule, changing some loopholes in rules regarding snook, so rules in state waters would also apply to federal waters. Also, the trap group (regarding commercial lobsters and stone crab fishing) will complete its work this week, he noted.

- Brad Simonds asked for a discussion of the rationale for reducing size limit for red groupers. Major Edwards said the rule being considered is to comply with the request of the Gulf Council, due to bycatch issues, high discards and mortality. Richard Grathwohl asked if Mr. Sharp was saying it would allow commercial fishers to retain what would otherwise be discarded, and he agreed that was correct.

### **NOAA Fisheries Office of Law Enforcement (OLE) – John O’Malley, NOAA Fisheries OLE**

- John O’Malley said they are still working the lobster case, and that all the defendants have been convicted or plead guilty. All were sentenced, except the Dreiforts, which will be sentenced next month. He reviewed the sentences received. He said they are working on cases with other individuals, and that the season was right around the corner. He thought the previous estimate of 50,000 casitas on the seafloor that he had provided was on the low end, and he provided some statistics on licensed fishermen in Florida and Monroe County.
- Mr. O’Malley said they have gotten some information about people going out as recreational fishermen for mutton, then coming in with their limit, then selling them commercially.
- He also said there was an unpermitted charter boat taking charters out to federal waters, which is a problem in the Keys.
- Several people congratulated the OLE on their enforcement efforts.
- Dr. Causey said the solid wall of steel garbage in the Gulf artificially changed the way the lobster moved, and also prevented commercial fishermen from catching them as the lobsters were being illegally caught and sold first.
- Martin Moe asked if it would be possible to work from the other end, from where they are selling them, then trace them back, and Mr. O’Malley said that they are working on that, but a lot of it is under the table, with no records.

### **Public Comment**

Rudy Krause said that he had talked to Jeanette Hobbs a bit, and she and the Keys Environmental Restoration Fund (KERF) are doing a great job. He felt that if something were to happen to the Fund and the mitigation bank, run by Ms. Hobbs of Audubon, they did not have a backup. The Everglades Restoration Fund gets a lot of input from contractors, he said. The Commission voted last week on the Florida Keys Land Trust, to keep the money inside Monroe County. There are new federal guidelines coming up, and he said they wanted assurance that the Florida Keys Restoration Land Trust would be able to stay up with the regulations. He did not want to see restoration stop if anything were to happen in the future. He would like to see the SAC vote on this at this meeting, he said. Chair Popham thanked him.

Murray Shatt said he represented the Florida Marine Contractors Association. He said he lived in the Keys and they had many members in the Keys. He said they work with the Fund. He said he agreed with everything in the draft proposal [resolution], but said there is no backup plan. Most Army Corps projects involve some sort of mitigation, and if there is no backup fund, then he said those funds would not be issued. He would like to see wording that, in the event the KERF is not available, that mitigation could be done through another means. He was concerned about the marine contractors being shut down. Chair Popham thanked him as well.

Mr. Grathwohl read a brief statement about the Everglades, noting his fight to preserve the quality of life in the area he calls home, and that greed is an epidemic worse than any disease transmitted by Florida mosquitoes.

### **SAC Ecosystem Restoration Working Group Report – Jon Fajans, SAC**

Prior to beginning the Working Group report, Jon Fajans provided an update on research and monitoring in the sanctuary. He briefly mentioned the sampling in Florida Bay and the West Florida shelf had been done by Florida International University and Joe Boyers’ group for many years, but funding had been cut back and was sporadic at best. They did receive another year of funding, but there is no guarantee of funding for the future. He was told that the Environmental Protection Agency funding for sampling within the sanctuary might be restructured. The University of South Florida (USF) Buoys on the West Florida shelf has pulled seven of twelve buoys due to funding issues, and the joint USF-SEAKEYS [which stands for Sustained Ecological Research Related to the Florida Keys Seascape] site off Cape Sable about to be turned off. SEAKEYS is celebrating its 20<sup>th</sup> year, but did not receive funding this year.

Enough funds were scraped up to keep Mr. Fajans in place through the end of the fiscal year, he said, adding that by September 30, all the SEAKEYS resources will be out of the water unless they hear that they have gotten funding. This will not change the weather stations themselves, just the underwater stuff, he clarified.

Regarding the SAC Ecosystem Restoration Working Group, Mr. Fajans said the first topic was Phase 1 of the C-111 Spreader Canal project. The SAC passed a resolution in February in support of the project proceeding. Dr. Jerry Lorenz presented some amendments to that resolution for a vote on the SAC. Dr. Lorenz said that the C-111 is kept lower than Taylor Slough, which means the canal sucks water from the slough and moves it in a different direction, to the east. The project is designed to keep more water in the slough. Some Biscayne Bay National Park folks thought the resolution might adversely affect water in Card and Barnes Sound, he reported. He said it was timely now to send this resolution--the comment period was open. Dr. Lorenz read part of the resolution, which had been provided to the SAC in advance of the meeting, and moved that the entire resolution as circulated be passed; the motion was seconded by Mr. Fajans.

Discussion ensued. After some brief comments about filling the canal and about the highway crossing it, Jason Bennis proposed two minor friendly amendments. Mr. Bennis suggested putting "second phase" instead of "future phases" in the second to last "Whereas", and to add in the first bullet point, "expeditiously to break ground" after "proceed". David Makepeace suggested adding "and any other possible phases" after "second phase". Dr. Lorenz and Mr. Fajans agreed to accept these amendments. The motion passed unanimously upon roll call vote.

The wording of the resolution follows.

**FLORIDA KEYS NATIONAL MARINE SANCTUARY ADVISORY COUNCIL  
RESOLUTION FAVORING CONTINUED EXPEDITION OF THE C-111 SPREADER  
CANAL PROJECT**

June 16, 2009

*Addendum to the February 2009 resolution in light of current open comment period regarding the  
Draft Project Implementation Report (PIR)*

**WHEREAS** Florida Bay is part of Everglades National Park, one of America's most unique and fragile natural treasures; and

**WHEREAS** the flora and fauna of Florida Bay and the Florida Keys have suffered devastating effects resulting from a system of 1,400 miles of canals and levees to divert natural water flows, built by the U.S. Army Corps of Engineers to control flooding and provide water supply for an ever-increasing population; and

**WHEREAS** the ecological health of the Florida Keys National Marine Sanctuary (FKNMS) and Florida Bay are inextricably linked, and

**WHEREAS** fish and wildlife populations are under significant stress within Florida Bay and the FKNMS because the "River of Grass" has been drained and diverted through so many canals that it no longer supports the web of life that depends upon it; and

**WHEREAS** Florida Bay is exhibiting serious signs of decline, such as reoccurring algal blooms, reductions in fish-eating bird, crocodile, and predatory fish populations; and

**WHEREAS** the total economic value of fishing in Florida is valued at approximately \$9 billion, much of it driven by the fisheries in Florida Bay and the FKNMS; and

**WHEREAS** the Comprehensive Everglades Restoration Plan of 2000 (CERP) always intended to provide significant environmental benefits to the Florida Keys and Florida Bay; and

**WHEREAS** the completion of the C-111 CERP and non-CERP projects are absolutely crucial in order for Florida Bay to receive benefits from the restoration projects planned throughout the Everglades ecosystem; and

**WHEREAS** implementation Phase I of the C-111 Spreader Canal project is the only planned project that will reduce seepage from Taylor Slough into the C-111 canal in the immediate future; and

**WHEREAS** Ecological benefits generated from operation of the first phase of the C-111 Spreader Canal project will provide incentive to proceed with the second phase and any other possible phases of the project and other restoration projects to benefit the southern estuaries

**WHEREAS** \$70 million is currently being held by the South Florida Water Management District to proceed with expedition of Phase I of the C-111 Spreader Canal project

**NOW THEREFORE, THE FLORIDA KEYS NATIONAL MARINE SANCTUARY ADVISORY COUNCIL, THROUGH THE SUPERINTENDENT, RESOLVES AND RECOMMENDS TO AMMEND THE FEBRUARY 2009 RESOLUTION REGARDING THIS PROJECT TO INCLUDE THE FOLLOWING STATEMENTS:**

- The South Florida Water Management District and the U.S. Army Corps of Engineers proceed expeditiously to break ground on Phase I (the western component) of the C-111 Spreader Canal Project by September 2009
- Phase I of the C-111 Spreader Canal project is only considered a first step towards restoration of the southern estuaries; other projects, such as Phase II (the eastern component) of the C-111 Spreader Canal project and the Biscayne Bay Coastal Wetlands projects are also needed to provide restoration benefits to the headwaters of the Florida Keys National Marine Sanctuary
- Phase II planning should begin as soon as possible; while the net benefits of Phase I of this projects are positive, the Draft Project Implementation Report instructs that any negative effects that may occur as a result of Phase I be addressed in Phase II and any other possible phases.

Passed unanimously on this date: June 16, 2009.

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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.



*ACTION ITEM:* Acting Superintendent Sean Morton to consider/follow up on the recommendation of the SAC favoring continued expedition of the C-111 Spreader Canal Project.

Mr. Fajans said the group also discussed, Florida Power and Light's (FP&L's) desire to expand its mitigation bank to the Florida Keys, which the group felt could potential favor the uppermost portion of Monroe County and other counties and remove potential mitigation projects from the middle and upper Keys. He noted that member of the audience had suggested amending the draft resolution circulated to the SAC; Chair Popham then asked him to amend the resolution prior to reading it to the SAC. Chair Popham mentioned that Dr. Lorenz and Pete Frezza both had a conflict of interest as Ms. Hobbs is Dr. Lorenz's employee, but that they could answer questions on the topic. Ms. Hobbs provided some background; she has been employed by the KERF since 2002. Since 1998, there has been a formal agreement with the Corps to do mitigation. All inland fee programs and mitigation banks have to come into compliance with a mitigation rule. KERF is working on coming into compliance, but has until 2010 to do so. She said that the FP&L proposal would mitigate in the Everglades on the mainland, not mitigate projects in the Keys. At the least, it would slow down Keys projects, and type for type mitigation would be compromised. She said they are also are not offering submerged resource and seagrass credits. She stated that KERF had no intention of going away, and in the Corps agreement, if it were to go away, they would have to give the Corps notice, so the Corps may put something else in place. She added that the money was accounted for separately; KERF was independent agency prior to 2004, at which time it became part of Audubon.

- Jim Trice asked how much money was in the fund, and Ms. Hobbs replied that there was just over \$2 million in mitigation fees, with about \$1,400,000 slated to be spent by the end of the year.
- Walt Drabinski asked a clarifying question about the mitigation money going outside the Keys and not being in-kind. Ms. Hobbs said that if the FP&L proposal were approved, the Corps would have to offer an option for mitigation to go outside the Keys to the Everglades.
- Mr. Edwards commented that "type for type" was about replacing natural function and said NOAA and DEP had commented. Ms. Hobbs added that currently, there is just a Corps notice, but there is a DEP component for the process that had not started yet.
- Mr. Bergh asked, if it were approved, if it would be up to the applicant to choose where the mitigation money would go. Ms. Hobbs replied that was what the Corps answer was, but that she had questions about it; she said the Corps was supposed to specify where the money went if there were more than one option.
- Mr. Morton let folks know that the day before the SAC meeting, the NOAA National Marine Fisheries Service weighed in on this and recommended that the Corps not authorize it; he said there were still a lot of questions about ecosystem impacts.
- There was further discussion relating to the possibility of KERF ceasing to exist, with Ms. Hobbs reiterating that the fund would stay in working order if that happened, until another program was ready to take the funds. Several people felt that the KERF concern raised was unfounded. Mr. Bergh commented that there was another backup, that people could do their own mitigation, though it was not an ideal option.

Chair Popham asked Mr. Fajans to read just the proposed addition to the draft resolution, as the SAC had been provided the rest of the resolution in advance of the meeting. Mr. Fajans read the "Now therefore" language, and included the proposed addition, to add a bullet under the existing bullet, to read, "That the U.S. Army Corps of Engineers follow the 1998 agreement with KERF to find a suitable alternative for mitigation permits should the Keys Environmental Restoration Fund cease to exist." He moved that the resolution be adopted with this addition; it was seconded by Mr. Nedimyer.

With the motion on the floor, discussion continued about the need for the added language, and a few people said they would prefer to deal with the matter later if, in future, KERF were to go away. Chair Popham reminded the group that it was not making policy. There was also discussion about the wording and placement of the language. It was determined to have Mr. Fajans insert the relevant wording where he saw fit within the draft resolution, to which both Mr. Fajans and Mr. Nedimyer agreed.

The motion passed, with Dr. Lorenz abstaining, upon roll call vote.

The wording of the resolution follows.

**A RESOLUTION OF THE FLORIDA KEYS NATIONAL MARINE SANCTUARY ADVISORY COUNCIL TO DENY FLORIDA POWER AND LIGHT'S REQUEST TO EXPAND THE SERVICE TERRITORY FOR THE EVERGLADES MITIGATION BANK TO INCLUDE THE FLORIDA KEYS**

June 16, 2009

**Whereas**, the Sanctuary Advisory Council (SAC), its members and staff of the Florida Keys National Marine Sanctuary have fully participated in efforts to provide for the restoration of the Everglades ecosystem for the tenure of its history beginning with the first SAC Chair, the late George M. Barley, and

**Whereas**, the Florida Keys National Marine Sanctuary (FKNMS) was established in 1990 to provide for the protection of the unique marine waters of the Florida Keys; and

**Whereas**, the wildlife habitats found in the Keys --e.g. coral reefs, sea grass, wetlands, hardwood hammock, and pineland habitats--support a strong tourism industry and provide employment to Monroe County residents, though many of the habitats are under significant stress; and

**Whereas**, mitigation for habitat loss in the Keys by the Everglades Mitigation Bank would involve mitigation activity on Florida's mainland and would not directly involve any compensatory mitigation in the Keys; and

**Whereas**, the proposed expansion would take mitigation dollars currently spent to restore habitats in the Florida Keys through hiring primarily Monroe County residents and companies and instead give the money to restoration located on the mainland; and

**Whereas**, the effect of allowing compensatory mitigation projects located outside the Keys would cause a relative decrease in natural habitats in the Keys but for the expansion of service area; and

**Whereas**, benefits to the Florida Keys by the EMB would be geographically limited to Card Sound and would be merely a result of the fact that Card Sound is downstream from the EMB; and

**Whereas**, the Army Corps of Engineers grants a preference for "in-kind" or "type-for-type" mitigation as required by C.F.R. § 332.3(c) and C.F.R. § 332.3(e) states that compensation for "difficult to replace" resources should be provided though in-kind mitigation; and

**Whereas**, the EMB would not provide ecological benefits or type-for-type mitigation for habitats located in the Middle and Lower Keys, which make up most of the proposed expansion area; and

**Whereas**, the Florida Keys are home to several "difficult to replace" natural resources not found in the EMB, including the Key Largo woodrat, Key Largo cotton mouse, Lower Keys marsh rabbit, Florida Key

deer, Stock Island tree snail, Lower Keys mud turtle, Loggerhead and green sea turtles, in addition to numerous submerged seagrass and marine community fauna; and

**Whereas**, approval of the proposed expansion would be contrary to the spirit of the Final Rule for Compensatory Mitigation for Losses of Aquatic Resources, C.F.R. § 332; and

**Whereas**, the U.S. Army Corps of Engineers oversees impacts to waters of the U.S. and for 28 years has been directing mitigation fees to the Keys Environmental Restoration Fund (KERF), which has provided compensatory mitigation to the Keys since 1981; and

**Whereas**, the 1998 agreement between the Army Corps and KERF requires a suitable alternative for mitigation funding and project permits be in place before KERF can cease to exist; and

**Whereas**, KERF's restoration efforts involve strict, type-for-type mitigation projects; and

**Whereas**, KERF has enhanced over 1110 acres of Keys habitat, including hardwood hammock; seagrass; freshwater, buttonwood, saltwater and mangrove wetlands; and hardbottom, tidal lagoons and creeks, and salt ponds; and

**Whereas**, KERF is planning several other type-for-type restoration projects in the Keys.

**NOW THEREFORE, THE FLORIDA KEYS NATIONAL MARINE SANCTUARY ADVISORY COUNCIL, THROUGH THE SUPERINTENDENT, RECOMMENDS:**

- The U.S. Army Corps of Engineers deny the application for the expansion of the Everglades Mitigation Bank service area to the Florida Keys

Passed, with one abstention, on this date: June 16, 2009.

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**ACTION ITEM:** Acting Superintendent Sean Morton to consider/follow up on the recommendation of the SAC regarding the expansion of the Everglades Mitigation Bank service area to the Florida Keys.

Chair Popham, remarked, as Mr. Fajans moved onto the next item regarding the Everglades National Park General Management Plan, that he was proud of the group of people that had worked on this issue, and the consensus they fashioned [for the SAC's consideration]. He thanked them for their hard work and noted that they had agreed and were willing to take out items if there was major heartburn over anything proposed. Dr. Lorenz reiterated that, mentioned the people who had worked on it, and when they met. He thanked Mr. Trice for the excellent preparation for the meetings; and he noted that while the SAC did not weigh in on the original comment round, it could have some impact now. Dr. Lorenz then provided a background summary of the issues. He noted that Park staff allowed picking and choosing among the proposed marine alternatives, and proceeded to go through the Park's proposed alternatives along with maps showing boating routes. He also provided the group's recommendation, which was primarily

alternative three, but with some changes. Regarding Coast Guard markers, Dr. Lorenz said that there was an assumption that people would assume it was a Coast Guard maintained channel.

- Dr. Causey said that part of the recommendation was where he felt the Coast Guard and the state would need to weigh in. Dr. Lorenz agreed that the Coast Guard had to make a determination about markers, but he said he knew that privately owned markers could be put out that did not have to appear on the navigational charts. Also, Dr. Causey asked that gated markers be considered at the entrance, rather than markers in a minimum of three feet of water. Dr. Lorenz agreed these were good points.

- Mr. Bergh asked if, regarding the Park's current entrance fees, the fees were kept within the Park, and Mr. Trice said a portion of them were. Mr. Bergh said it was implicit in the recommendation that the fees collected on the water be kept within the Park.

- Mr. Trice read the summary of the resolution which had been provided to the SAC in advance of the meeting and in the meeting packets. He moved that the SAC pass this resolution, seconded by Mr. Grathwohl. There was further discussion. Chair Popham suggested that the group go through the proposal item by item, and set aside any topics for discussion to the end, then take them off the table if agreement could not be reached.

- Upon review of the draft resolution, there were no suggestions for changes to the first, second, third, fourth, sixth, eighth, twelfth, thirteenth, fourteenth and sixteenth bullets. With the others, some were discussed in sequence, and others (fifth and eleventh bullets), the group came back to for discussion.

- Regarding the seventh bullet, Mr. Trice included the word "gated" before "marker".

- In the tenth bullet, Ms. Harrison suggested changing "strongly encouraged" to "required". Mr. Trice responded by referring to the broad areas of Florida Bay and Chair Popham said making it a requirement would be a deal breaker for many people.

- For the fifteenth bullet, regarding entrance fees, Chair Popham inquired if boxes would be put up. Dr. Lorenz said the group who put this together discussed that, but their idea had not been included in the resolution. Their idea would be to have a user buy a sticker for a week or year entry.

- Going back to the fourteenth bullet, Ms. Garlo asked who the mandatory education system applied to, and the answer was anyone who used Florida Bay. She commented that it would be nice to say that. Dr. Lorenz said the group felt it was tied to the entrance fee sticker idea, in that anyone who got a sticker would be required to take the course first.

- After all the bullets were reviewed, Ms. Harrison proposed adding another bullet, that the ENP consider establishing a bay team based upon the "Team OCEAN" volunteer program in the Florida Keys National Marine Sanctuary. It was agreed that was an excellent suggestion to include.

- Ms. Harrison said that she had a question for the fifth bullet, going back to the establishment of the Tortugas Ecological Reserve, and trying to determine what activities could occur within protected areas. She said that one of the things that law enforcement said at that time was that, in relation to closed areas, trying to determine where someone started and ended an activity can be an enforcement nightmare. She asked what the implications would be for law enforcement and other boaters if a pole and troll zone were established over a large area, but the boater was given the ability to decide whether or not the water is deep enough to transit at a higher speed. She wanted to hear some discussion about how the decision to include this bullet was arrived at, and how to ensure people would not go up on plane willy nilly, saying the water looked three feet deep to them.

- Mr. Moe said his comment on the eleventh bullet was similar. He said it was about allowing local knowledge to go beyond the marked channels – his problem is a person may know what he is doing, but someone watching him use the motor may not know that person has local knowledge, may want to take the same shortcut and may go ahead and do that. He drew a parallel to people improperly fishing for ballyhoo, when they saw others [who they did not know held permits] doing so. He suggested permits could be given to boats [whose operators] have local knowledge in ENP. Mr. Bergh suggested that the Park staff figure out where the deeper water is, and redraw the map to show where there is a channel. Dr. Lorenz pointed out that some of the ENP graphics showed areas considered for pole/trolling, where the chart shows the same areas as being three feet or deeper. Mr. Trice felt reasonable egress and ingress

should be provided. Mr. Grathwohl added that some fishing guides would not be able to get to some fishing areas in a day [and to return] via polling and trolling. A suggestion was made to have an advanced education course, for people wanting to go outside of the specified areas. Krueger Nicholson commented that there are land-based precedents in the back country, in which people go in by a road, then have to meet Park requirements to get into other areas, with a ranger to check that people have the right requirements. Dr. Causey noted this came up early with FKNMS, where people suggested prohibiting all motor boating in areas shallower than four feet; this was the genesis of the Wildlife Management Areas, which have proven effective for some uses, if marked. Sanctuary staff worked with the SAC on this early in the management plan process.

- Mr. Bennis asked in any of the law enforcement folks had comments, and Major Edwards said this would be difficult to enforce, and that people do not always know where they are when they are on plane. It [could] create problems when one group was restricted by speed, and another group was allowed to be on plane. He agreed that there are places in the federal system where backcountry areas have specific rules, but that generally everyone with the right qualifications is allowed in. Chair Popham wondered if education would deal with this, and Major Edwards noted that the public is coming there from all over to this area; there will be no fence around it; some of these people will not have taken the Eco-Mariner course; and a boater would not necessarily be able to notice the stickers of others who passed a test. There was a bit more discussion among the group about the difficult aspects of this issue and some more questions and suggestions for addressing them, and Mr. Trice said there is a need to figure out a way to get better access to some of these areas. He also mentioned the bullet in the draft resolution that provides strong guidelines of 12 inches draft for boats in selected channels.

- Mr. Bennis suggested a friendly amendment to try to address the law enforcement concerns to add language about “if conditions warrant in the future”, to provide some flexibility. After some discussion of wording, the amendment was accepted, to include “as conditions warrant” after access in the bullet point.

- Jeff Cramer commented that in order to drive on the road you have to take a test and get a license, and the idea of making someone take an education course to operate in the Park is something he had envisioned for the sanctuary too. He mentioned there being problems around Lignumvitae Key, with visitors running aground. Don Kincaid commented he felt a block to this was the boating industry.

- Ms. Harrison started to raise the idea of limiting the entry of guides, and Mr. Grathwohl asked about restricting recreational fishermen. Mr. Trice said they did think about that, and noted that the Guides Association had recommended to the NPS that the numbers of guides allowed be limited and capped.

- Regarding amending the eleventh bullet, Mr. Moe suggested adding wording to help define responsible boaters, along the lines of being knowledgeable about the area, tides, and wind. It was agreed that this would be useful, and after some discussion about how to word it, Mr. Trice suggested “highly and experienced” be put in place of “responsible”, it was agreed this language be included.

The motion passed unanimously upon roll call vote.

The wording of the resolution follows.

**FLORIDA KEYS NATIONAL MARINE SANCTUARY ADVISORY COUNCIL  
A RESOLUTION FROM THE FLORIDA KEYS NATIONAL MARINE SANCTUARY  
ADVISORY COUNCIL (SAC) REQUESTING THAT  
THE SANCTUARY SUPERINTENDENT SUBMIT RECOMMENDATIONS  
TO THE NATIONAL PARK SERVICE  
REGARDING OUR COLLECTIVE THINKING FOR  
INCLUSION IN THE FINAL DRAFT OF THE GENERAL MANAGEMENT PLAN FOR  
EVERGLADES NATIONAL PARK**

June 16, 2009

**WHEREAS**, Everglades National Park is a public park for the benefit and enjoyment of the people and was set apart as a permanent wilderness, preserving essential primitive conditions including natural abundance, diversity, behavior and ecological integrity of the unique flora and fauna; and

**WHEREAS**, a six step process to develop a new 15-20 year General Management Plan (GMP) for Everglades National Park (ENP) was started in January 2003; and

**WHEREAS**, the main function of the GMP is to clearly define the Park's purpose and management direction and provide a foundation to guide and coordinate all subsequent planning and management; and

**WHEREAS**, the ecological health of the Florida Keys National Marine Sanctuary (FKNMS) is inextricably linked to that of Florida Bay and Everglades National Park, and

**WHEREAS**, a healthy Florida Bay ecosystem is essential to the economy and quality of life in the Florida Keys; and

**WHEREAS**, the Florida Keys National Marine Sanctuary Advisory Council brings members of a diverse community together to provide advice to the sanctuary superintendent (authority delegated from the Secretary of Commerce and the Under Secretary for Oceans and Atmosphere) on the management and protection of the sanctuary which is adjacent to the ENP;

NOW THEREFORE, THE FLORIDA KEYS NATIONAL MARINE SANCTUARY ADVISORY COUNCIL RESOLVES AND RECOMMENDS:

**REVISED PRELIMINARY ALTERNATIVE FOR MARINE WATERS "3" BE SELECTED WITH THE FOLLOWING EXCEPTIONS AND THOUGHTS:**

- Joe and Little Madeira Bay and their adjacent waters (a.k.a. the "Crocodile Sanctuary") be zoned as Research Natural Areas as incorporated in Alternative 4.
- Phase in Pole/Troll Zones, starting with areas that the *Patterns of Propeller Scarring of Seagrass in Florida Bay* resource evaluation report indicates as the most abused and areas that the *Aerial Survey of Boater Use in ENP Marine Waters* study indicates as most likely to protect user experiences, and then by use of Adaptive Management, phase in the remaining Pole/Troll Zones as indicated in Alternative 3.
- Prior to the finalization of the GMP, pilot the Pole/Troll Zone concept as soon as possible within Garfield Bight and from the Bowlegs cut to the northernmost Peterson Key.
- The establishment of an ENP advisory council (ENPAC) with a mission similar to the FKNMS Advisory Council should be given a high priority and initiated prior to the finalization of the GMP

- The ENP consider establishing a bay team based on the “Team O.C.E.A.N.” volunteer program in the FKNMS.
- Provide for more reasonable access, as conditions warrant, within the large new Pole/Troll Zones than currently indicated in the Alternative 3 map by locating all deeper waters inside the zones and zoning some or all of those deeper waters as Idle Speed-No Wake Zones or Boat Access Zones to better balance resource protection and access considerations.
- When marking new preferred routes and channels, use the smallest visual markers possible while still being compliant with United States Coast Guard (USCG) aids to navigation. Ideally these routes would not be displayed as traditional USCG markers on National Oceanic and Atmospheric Administration (NOAA) charts such as 33 or 33E or GPS displays, but would be appropriately obvious on a new “Florida Bay Transit Map and Guide” that would be widely distributed after the ENP GMP is finalized.
- If possible, place gated markers at the entrances of ENP marked channels in water at least 3 feet deep at mean low water.
- Expand the Idle Speed/No Wake Zone from 300 feet to 600 feet along the mainland shorelines indicated in Alternative 3 from Flamingo to the Middle Cape.
- Ensure that the recommended use of selected channels by draft (12 inches) be used as a guideline, not a regulation.
- Vessels with two or more motors be strongly encouraged to operate only in USCG marked and maintained channels while transiting within the ENP portion of Florida Bay, thus using the Intercoastal Waterway to Cape Sable then using the USCG marked and maintained channels to Flamingo.
- While highly recommending channels and routes, that the GMP not preclude highly knowledgeable and experienced users of motorboats from using other routes in Boat Access Zones to transit within the park.
- If certain keys serve as major bird roosting areas, require that transit by those keys be at idle speed and that they be closed during nesting season as is currently the case at Frank and the Buchanan Keys.
- Close Carl Ross Key to day use throughout the entire year due to its proximity to the Sandy Key bird rookery and expedite building a new campsite near Johnson Key as well as those planned within the Gulf Region.
- Fully embrace a mandatory education system such as the Florida Bay Eco-Mariner course, and trust it can and will work over time.
- Initiate an entrance fee into the ENP for those that access the Park by water as is currently the case for land access.
- Pilot marking a channel or two now using USCG standards for navigational aids, again ideally not requiring them to be shown as USCG markers as traditionally done on NOAA charts as disproportionately large squares, triangles and diamonds, while starting a detailed study regarding markers to accelerate smooth implementation in 2011 and beyond.

Passed unanimously on this date: June 16, 2009.

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***ACTION ITEM:*** Acting Superintendent Sean Morton to consider/follow up on the recommendation of the SAC regarding an alternative for marine waters in the Everglades National Park General Management Plan.

### ***Management Plan Review and Update on Planning and Regulatory Timelines – Mr. Morton, FKNMS***

Mr. Morton said that Chair Popham had asked him to give an update on FKNMS *Management Plan* implementation; he reviewed that FKNMS had adopted the programmatic aspect of the *Management Plan*, with the related regulatory component to be worked on following adoption of the Plan. The FKNMS has been doing some work with the ONMS on some technical corrections, which addressed some of the things in the Regulatory Action Plan, and the final rule for those was expected in July. These include adding species of corals to the list of what is protected; adding that touching coral is injury; and clarifying that vessels must be 100 yards from dive flags or people mooring.

Mr. Morton said a second set of regulations that had been put forward, mirroring state regulations on discharges of marine sanitation devices and the rules to Federal waters; also, specifying marine sanitation devices would be locked to prevent discharges. The draft rule was with the policy shop of NOAA now, he said, and he said that he would forward this to the SAC when it comes out, and that FKNMS would be complying with the National Environmental Policy Act and other requirements. ***ACTION ITEM:*** Once available, Acting Superintendent Sean Morton to send the draft proposed no discharge rule to the SAC. Someone in the audience asked about the timing of the release of the draft rule for no discharge and when it might go through. Mr. Morton said he had not seen any go through any quicker than six months; Mary Tagliareni added that FKNMS was talking about having public meetings on the proposed rule in different parts of the Keys.

Also, Mr. Morton reviewed the FKNMS Regulatory Action Plan and regulatory actions that would be considered for addressing, including allowed activities in existing zones. He also reviewed the activities in the FKNMS Marine Zoning Plan, and said that FKNMS was looking at an evaluation and update of marine zones in the sanctuary. Some items, such as zoning, FKNMS wanted to roll up as a whole for consideration. FKNMS may also want to look at other issues at the same time, like fishing issues, he said. Some of them may not be addressed, but FKNMS would want to look at them at once. He said that a key phrase related to implementation is “when resources permit”.

- Mr. Frezza asked about the slide with activities in the Marine Zoning Plan and that activity three only mentioned Sanctuary Preservation Areas, and Mr. Morton reaffirmed there would be a look at all the zones and the Sanctuary as a whole, including the Sanctuary’s boundaries.
- Dr. Causey added that some resources were discovered after the sanctuary boundaries were drawn, tradeoffs were made, and research has been done showing more about the resources and gaps.
- Mr. Nedimyer asked about how rigorously FKNMS would have to defend existing SPAs, saying he could see someone challenging them. Mr. Morton replied that, with the SPAs, it is a user management issue, and there is showing information about their use; the FKNMS staff is going to need to gather the research and other information and get it ready for the public to chew on. FKNMS will need to have the 10-year zone monitoring report, which Scott Donahue is working on and hopes to have out by this fall, and the FKNMS *Condition Report*, which Mr. Donahue also hopes to have out by fall. Mr. Nedimyer



mentioned he was aware there were some gaps in the information and that there were limited resources for monitoring, which was frustrating for all.

- Dr. Causey made some remarks about agreed-to catch and release/trolling only areas and their use, and about how some areas have strange shapes due to tradeoffs made during their establishment; now, data is being gathered, helping FKNMS to understand if the areas are ecologically or biologically good.

- Chair Popham mentioned that some specific areas had been suggested for looking at for new SPAs, like Snapper Ledge.

Mr. Morton summarized the zoning process ahead, timing from fall 2009 to spring 2012, basic things that needed to happen, NOAA resources needed, etc. He provided details about what he foresaw the process and timing would be, beyond the release of the FKNMS reports he had mentioned. Those will be publicly released, then a working group would need to be formed, partners would be engaged, there would be data gathering, scoping, public workshops, etc. He added that if there were anything involving fishing, FKNMS would have to involve the Fishery Management Councils, to give them the opportunity to review, and said that would be at least a year. By spring 2012, a [marine zoning] rule might be in effect, in the best case scenario. The process also depends on the staff, policy, outreach, research, Geographic Information Systems, the materials needed for printing, mapping outreach and facilitation, travel, and spatial analysis – these are all resource issues, for which he would need to go to [ONMS] headquarters. Mr. Morton reviewed efforts he had recently made on budget and resources, and noted that the budget sort of sets priorities. Marine spatial planning is now a top priority of the new NOAA Administrator, Mr. Morton noted. He said the FKNMS staff would love to get started now, but a process like this cannot be done half-heartedly, and he needed to obtain the resources.

- Chair Popham asked about getting the resources for this, in light of the newly announced priorities of the Administration.

- Mr. Morton mentioned that he had seen the FY 10 budget, and it was not at the forefront.

- Dr. Causey said Dr. Jane Lubchenco inherited the 2010 budget, but she has called back the 2011 budget to try to get it to include some of her interests, and that marine spatial planning will be at the forefront of her thinking. She is an expert in it.

- Mr. Morton said he did not want anyone to think this was going to be easy – it would take time, and it would require a lot of involvement from the SAC. One way to address this would be to convince top NOAA management of the need to proceed. He noted it is not our first time around on these issues.

- Chair Popham asked if it would be of value for the SAC to put something together on this, and Mr. Morton agreed it would.

- Mr. Bergh said he had been proceeding with the understanding that this [marine zoning] process was going forward, to start after the monitoring reports and Sanctuary report cards came out. He mentioned it would be great to get the relevant, experienced people from the other NOAA programs together and engaged now, if resources did not permit hiring new people now.

- Mr. Grathwohl remarked that it looked like it would be a long time in waiting for the Wildlife Management Areas. He also said we needed to address the monitoring and get it back on board.

- Dr. Causey said there was quite a bit of monitoring going on, and he mentioned some of the specific continuing efforts. Dan Basta is really pushing sanctuaries as sentinel sites, and as areas other parts of NOAA could demonstrate their technologies, he said. He agreed that more monitoring was needed. Also, he said he and Mr. Morton had been talking about the process and how it would go – the agency would be the chair of the working group, with members of the SAC in the group. There were eight SAC members involved in the Tortugas 2000 process, with 17 other participants. It worked parallel, but separate, to the SAC, and at that time, the chairs of the South Atlantic and Gulf Fishery Management Councils came to every meeting. Integrating this up front will help reduce the timeframes required.

- Mr. Morton agreed that getting the Fishery Management Councils as part of the process from the start had to be the first step. He suggested this be included on the August agenda.

Mr. Bergh said he had drafted some motion language, which he read and moved. It regarded having NOAA temporarily assign staff members from those programs Mr. Morton had shown in his presentation, and provide sufficient resources, to work on FKNMS marine zoning as part of the regulatory review process. The motion was seconded by Mr. Ken Nedimyer.

- Chair Popham asked Mr. Morton if that would cover where we needed to go. Mr. Morton said it covered staff and resources, and he could forward it on as a letter or a resolution. With a letter from the SAC, he could forward that quickly up the chain to Dr. Lubchenco, he said. He commented that he also would need to call people in the listed programs to let them know about it.

- Ms. Harrison said that in every other process, trained, facilitated mediation was required. Dr. Causey and Mr. Morton said that the Coastal Services Center had several of the resources, including facilitation and training.

- Dr. Causey said he would like there to be latitude for decision, with consideration given “as the agency sees necessary.”

- Mr. Curlett mentioned consistency in fishing regulations, and a lunch he had about a year ago with CDR David Score on consistency in signage, while going through Everglades National Park. Mr. Morton agreed there had been recent discussions on that and that it had to be addressed; that would be good government. Getting that kind of simplicity is at issue; maybe a color scheme by zone could be used, with each jurisdiction retaining its own names for areas, he suggested.

Mr. Bergh read an amended version of the motion, which was not seconded. Further discussion ensued. Mr. Makepeace felt the wording did not sound conciliatory enough to the agencies. Mr. Morton suggested to Mr. Bergh some more sentences to be added to the draft motion, and various people talked on the sidelines. Chair Popham asked if Mr. Morton might write a cover letter for the motion, then tabled further discussion by the SAC until after the public comment period, as Mr. Bergh was working on word smithing.

[The SAC returned to this topic part way through the public comment period, prior to the Sea Level Rise agenda item – see following text]. Mr. Bergh announced, as timing was not that essential, and getting a smoothly worded letter together for a request for resources from NOAA would be better, he withdrew his motion. Mr. Morton mentioned being uncomfortable with wording drafted on the fly for the SAC, and that they might want to think about it. Also, he would like to float some trial balloons before contacting other parts of NOAA and the Administrator. He did not wish to make a request too early and hurt the process, he said, and promised to start making calls and checking on this.

***ACTION ITEM:*** Acting Superintendent Sean Morton to follow up on the suggestions for other parts of NOAA (that might have roles to play) to work on the FKNMS regulatory revision process. Mr. Morton to also draft request language as required, when appropriate.

### **Public Comment**

The first public comment speaker was Ms. Harrison, who said she was speaking not as a SAC member but as a World Wildlife Fund representative. She mentioned the issue of trying to submit resolutions in advance. She said she would like to put forward some resolution language and let the SAC decide if it was willing to take it up. She mentioned that there was an opportunity with the U.S. Congress to finally start addressing climate change, and that there were bills moving forward that were changing every day. Ms. Harrison said some folks had contacted her to see if the SAC would take a position regarding greenhouse gas emissions, and she talked about the environmental impacts connected to climate change. She said the House of Representatives would be its action on climate change legislation before the July 4 recess and the Senate would be completing its work before the August recess. She handed around a draft resolution for the SAC and read it, and said she would be happy to answer any questions.

Mr. Bennis moved to adopt the resolution. Mr. Bergh suggested adding “and support adaptation measures” after “greenhouse gas emissions.” The motion was then seconded by Mr. Frezza.

Mr. Trice asked if this was talking about carbon caps and trades, and reducing carbon emissions. Ms. Harrison said carbon dioxide was one of six greenhouse gases, and some of the other gases were worse than carbon dioxide. Another person added that this [wording] was generic. Mr. Trice said he was for it, but asked why this was being done now, and if it would help. She said it would help, according to members of the Florida delegation.

Mr. Curlett remarked that he had no problem with the resolution, but said he had a problem last minute resolutions drawn on outside sources. Dr. Causey said he assumed the responsibility for this one. Mr. Harrison had sent it to him the previous week, and he had thought she was referring to something on ocean acidification, and that he wanted to Mr. Basta and Mr. Morton, so they could talk about what SACs were doing across the nation. He did not have a chance to talk to them, but now asked for their forgiveness and noted the issue of Congress’ timeline. Ms. Harrison added that, while waiting to hear back from Dr. Causey, she said she sent an email to Ms. Ferguson, saying she was hoping to bring this up. There was no further discussion.

The motion passed unanimously upon roll call vote.

The wording of the resolution follows.

**RESOLUTION OF THE  
FLORIDA KEYS NATIONAL MARINE SANCTUARY ADVISORY COUNCIL**  
June 16, 2009

Recognizing the perils posed locally and globally to coral reef ecosystems from climate change [as identified in the 4<sup>th</sup> Assessment report of the International Panel on Climate Change] this council strongly urges expeditious action by the U.S. Congress to reduce greenhouse gas emissions and support adaptation measures necessary to protect the resources of the Florida Keys National Marine Sanctuary.

Passed unanimously on this date: June 16, 2009.

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***ACTION ITEM:*** Acting Superintendent Sean Morton to consider/follow up on the recommendation of the SAC regarding the U.S. Congress taking expeditious action on reducing greenhouse gas emissions, to protect the resources of FKNMS.

An extended discussion followed. Dr. Causey thanked everyone, particularly Chair Popham and Mr. Morton. Chair Popham said he had denied Ms. Harrison’s request to put this on the agenda for the single purpose that it was appropriate to provide public notice for SAC meetings on what the SAC does, and he reiterated that public notice was important. He said it was also important to grant respect to all of the SAC, and that they should be provided the opportunity to look at motions before them for consideration. He reviewed that the draft agenda has to go out two weeks ahead, and he said a request had to get to him

and Mr. Morton prior to that. There may be emergencies, he said, and if that were the case, then they needed to come to him and Mr. Morton, first and foremost. They make the decisions, and have a tremendous amount of competing demands, and have to plan each meeting, he stated. He thought that it was only fair that the processes be followed for everyone concerned. Ms. Harrison felt that these procedures to submit items in advance eliminated the SAC's ability to be effective and responsive with the SAC meeting every two months. Chair Popham responded that the procedures to meet the two week notice were not new, and that his efforts to adhere to the noticing also involved the current and past Superintendents. County Mayor Neugent noted that everyone present had a great deal of respect for public notifications. His problem with the last minute add-ons was the exclusion of appropriate notification for people who may be interested in commenting. He also said it was important to retain public trust with this body. Ms. Harrison asked that requests for add-ons be put before the SAC to vote on if they wished to add them, and Chair Popham noted that the opportunity was provided in the morning when the SAC voted on this agenda. Ms. Harrison said she had been advised to bring it up under "New Business" but she did not see that on the agenda. Mr. Trice added that he felt he had a responsibility to come to meetings prepared for the items that were going to be talked about, rather than having a fifteen minute discussion at a meeting, if it could be avoided. Several people remarked it was not the content of the issue with which they had a problem. Chair Popham concluded this item with an observation that he had not seen what it [the draft resolution] was until today.

The next public comment speaker was DeeVon Quirolo, with Reef Relief. She said they supported the establishment of no discharge zones in FKNMS, and she was pleased to hear about the proposed extension of the regulations and the public comment periods coming up in July and August. She urged all to submit positive public comments, and she mentioned impacts on the reefs from water quality problems. She added that she hoped that NOAA, in cooperation with its partners, would find the resources to implement this. Mrs. Quirolo then invited all to Reef Relief's 22<sup>nd</sup> Annual Meeting. She also announced she and her husband, Craig Quirolo would be moving on from Reef Relief, and she hoped people could come to the celebration.

On another topic, Ms. Quirolo asked if each person could contact Senator Nelson and his/her Congressman on a second amendment to the energy bill, which she felt had to go. She asked if it would be appropriate for the SAC to renew support for no drilling offshore of Florida in the Gulf of Mexico; if renewing an old resolution were not possible, she hoped each person could go online to write a letter about this. Ms. Harrison and Mrs. Quirolo mentioned Senator Nelson had been working on this recently to energize Florida constituents, and Mrs. Quirolo said they moved quickly. Chair Popham thanked her. Ms. Debra said she would be more than happy to write a resolution, and Mrs. Quirolo quickly verbalized one. There was an attempt to move and second this, but Chair Popham said that Mrs. Quirolo was not a member of the SAC. Mrs. Quirolo asked if a SAC member could make a resolution on her behalf. Dr. Causey commented they had spent the last week on this issue, telling representatives about the problems that we face, but noted we cannot forward resolutions, but said Mrs. Quirolo had his support. Dr. Causey said this was the 20<sup>th</sup> anniversary of "Black Friday", when they were doing hearings, with one in Key West, and there was a protest on drilling. It was after the Exxon Valdez, and there was also concern at the same time on coral bleaching, etc. He reviewed some of the other specifics and history of that time, including the ships that hit the reefs, which got the momentum going.

County Mayor Neugent then made a motion related to this, which was seconded by Mr. Kincaid. He was asked to write it down, and read a slightly amended version, also seconded by Mr. Kincaid. There was some discussion, and it was agreed to change the word "barrier" to "coral."

The motion passed, with Mr. Trice abstaining, upon roll call vote.

Below is the text of the motion.

To reaffirm the position stated by the Sanctuary Advisory Council which was to oppose oil drilling in the Eastern Gulf of Mexico due to the threat to the only coral reef in the continental U.S.

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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.

**ACTION ITEM:** Acting Superintendent Sean Morton to consider/follow up on the SAC's motion reaffirming the SAC's position to oppose oil drilling in the Eastern Gulf of Mexico.

Ms. Harrison had another public comment and was recognized by the Chair. She said it had been a great pleasure to be a part of the SAC since 1995. She also noted that she had been blessed to work with Dr. Causey and the staff since 1988, and mentioned many of the issues that came up during that time. She said had a tremendous sense of love and commitment for what we do. World Wildlife Fund had made a decision that Florida was no longer one of its priority locations, she announced, and she said that the program would be closing effective June 30. She observed she was not sure what she was going to be doing or where she was going, but said, in preparation for transition, it was time for her to resign from the Council. She was thrilled that Mr. Bennis had come on board to the SAC. As a private citizen, she said she would continue trying to keep people abreast of information on various issues. She expressed appreciation for these years on the SAC. Everyone applauded her. Chair Popham asked if Dr. Causey, who has known her better than anyone, wanted to say a few words. Dr. Causey said he was shocked, though did know that the World Wildlife Fund was downsizing, and said other conservation organizations were doing the same. He mentioned some of her work, including sitting down with others discussing the boundaries of the Tortugas Ecological Reserve, and a proposal she struck with a few others and brought to Dr. Causey, with which he was thrilled. He added Ms. Harrison was the first to help people find the middle on an issue that everyone could work with, and said that we owed her a lot.

Chair Popham skipped the agenda item on the summary of the 2009 SAC Summit, and called on Mr. Bergh to present his scheduled item.

### **Sea Level Rise Projections for the Florida Keys – Mr. Bergh, SAC**

Mr. Bergh introduced himself; he is the Director of the local office of The Nature Conservancy. His presentation was on sea level rise projections in the Keys. He briefly reviewed that atmospheric and ocean warming was occurring and why, and talked about the fluctuations of global carbon dioxide in the atmosphere and the current state of affairs. He noted the rate of rise sea level rise at Key West was at about nine inches per century, over the last century. He said that natural areas, rare native species and the built environment were at risk, but that people were probably not at risk. He added that the presentation was meant to inform people and get them to take action, and said there is time to minimize the consequences of sea level rise. There is a need to mitigate the root causes and to adapt to sea level rise, and now is the time to start, he said.

Mr. Bergh said The Nature Conservancy was now releasing a sea level rise report focused on Big Pine Key, and mentioned The Nature Conservancy's long term commitments in the area, working with various partners. He explained the methodology, data used, and images showing the potential new shorelines and habitat ranges. All of the scenarios were scientifically vetted, he said; any of them could be right, but chances are they will all be wrong; no one knows exactly what will happen. The projections for higher rises in sea level would negatively impact the Key Deer, the Marsh rabbit, etc., and lead to much more

marine environment than there is now in the Keys. He showed best and worst case scenarios, but cautioned that people should not make property decisions for a hundred years based on this, as there were lots of other things affecting property values. He added that the state did its own mapping for its own purposes and created its own scenarios and projected losses. One of his slides suggested a number of actions that might be taken to minimize the consequences of sea level rise; these included such things as identifying conservation areas with high resilience, effectively managing conservation areas, seed banking, and removing pollutants that would harm marine life in the future.

Mr. Bergh said The Nature Conservancy was concerned about the future of the Keys, and thought the decisionmakers should begin to tackle this problem now. He believed a long term plan was necessary to attract funding and other resources from state and federal sources. Legislation being worked on now could provide funding to deal with this issue over the coming years. He affirmed that The Nature Conservancy was willing to help. He concluded by saying the report he had summarized was available online, at [Frrp.org](http://Frrp.org).

- Ms. Harrison asked if it were correct that rising sea level in the Keys would also impact interior lands and freshwater resources due to the coral substrate. Mr. Bergh said she was correct; the substrate here is very porous. The measure some have suggested to address rising sea level, of building seawalls, is not a long term solution, he said.

- Mr. Nicholson asked what would happen if all greenhouse gas emissions were stopped. Mr. Bergh felt that the situation would then be at the least extreme range of the scenarios he presented, but that was not a reason not to act.

- Ms. Harrison commented that more than a two degree rise in temperature would cause catastrophic problems.

- Other comments included reasons for past historical fluctuations in sea level, potential impacts to sewers in cities, human reliance on the environment, being adaptive, and the need to work on solutions.

Mr. Bergh announced that there would be a Monroe County presentation on June 18, to be held at the Marathon Government Center, at the Emergency Operations Center, which would include more discussions on sea level rise. He said he would be presenting there as well on this topic.

He concluded by noting that he was making informed decisions about continuing work on plans for living and environmental conservation in the area, that a lot of use could be gotten out of things like a new wastewater facility, and that now was the time to really think about this.

### **SAC Education and Outreach Working Group Report – Mr. Moe, SAC**

- Mr. Moe briefly reviewed the discussions of the SAC Education and Outreach Working Group, which met on April 28. He reported that Dave Eaken would be doing the education and outreach organizational presentation at this meeting; that the groups was trying to get Save-A-Turtle for the August SAC meeting; there were several suggested organizations for the October SAC meeting; and that Doug Gregory had said he would try to have the Monroe County Extension Services for the December SAC meeting.

- The next Working Group meeting was scheduled for July 14, Mr. Moe announced.

- An update on SFFFK activities was provided at the Working Group meeting, Mr. Moe reported. He mentioned the SFFFK event held at the Eco-Discovery Center, was well attended and successful. He said Peggy Russell did a great job, and added that she handles the bookings at the Eco-Discovery Center.

- There was also a Blue Star update from Ms. Carnes, a recognition program for dive and snorkel operators who demonstrate care and protection of the reefs. The program is in development, with training sessions and online training, he said.

- There was a discussion on the code of ethics Mr. Moe had proposed. He had thought it would be a step in the right directions, especially if it were endorsed by the SAC. The SAC had requested that he bring the matter to the Working Group, then bring it back to the SAC. He reported that there was no clear

consensus among the Working Group, which is a microcosm of the SAC. The Working Group thought that the SAC would not be able to agree on the content and wording, and suggested that it should be worked through the SFFFK, he said. Based on the Working Group's input, Mr. Moe respectfully withdrew his request to have the SAC endorse the Code of Ethics. He had not had time to work on a new draft using the suggestions people had provided, but said that he would, would then take it to SFFFK. SFFFK would then have the Code meet its requirements and would distribute it.

- Mr. Moe said Mrs. Tagliareni reported at that Working Group meeting on the Protect Our Reefs grant funds provided to Coral Reef Classroom, that the lobster brochure had gone to the printer, that signage for the Eco-Discovery Center would go forward with PAC money, and that Ocean for Life was taking place in July with 50 people coming to the Keys. He said Dr. Vaughan reported on the Protect Our Reefs grant proposals, with 48 received for the \$410,000 Mote had to award.

- Mr. Moe also said that Working Group had discussed the topic of Mr. Basta's "Our Challenge" document.

- Finally, Mr. Moe said Mr. Gregory had reported on his work with GLEE since last July on solar energy development, and mentioned he had been teaching classes at the Community College on installation of solar panels and safety. Mrs. Tagliareni added to this by mentioning the proposed installation of a solar demonstration project on the roof of the Eco-Discovery Center, with an educational kiosk inside the Center. This would generate electricity for the Center and bring in more visitors.

Ms. Garlo encouraged people to sign up for SFFFK's electronic newsletter on the organization's web site, and welcomed SAC member contributions to and comments on the newsletter. She mentioned she had made good contacts at the National Marine Sanctuary Foundation, and they would be sending her legislative information for time to time for inclusion in the newsletter.

Mrs. Tagliareni announced that the 2009 lobster brochures were in. She also reviewed details of the upcoming Ocean for Life program, including the numbers of participants, where they were from, and what they would be doing while in the Keys. She said she would be their guide while in the Keys.

#### **Education/Outreach Presentation: FWC, Fish and Wildlife Research Institute – Mr. Eaken, FWC**

Mr. Eaken showed a brief photographic presentation on the Fish and Wildlife Research Institute's education and outreach efforts. He said they have hit all festivals in the area at least one time, if not every year. He said the staff brings interesting animals to the festivals, using them as a hook to have people and their kids come and talk to them about the marine environment.

He described Marine Quest, which they work on for a year, to have an open house in St. Petersburg, with 350 people working to get it set up, and about 4000 people coming in two days. He mentioned he gets requests year round to set up the display, but that they just do it October through April, as otherwise it is too hot for the animals. A seven pound lobster generates good discussion, he pointed out.

Mr. Eaken mentioned that he is supposed to do education and outreach half time, but he also does other functions (including FWC dive officer), so he is not able to do as much education and outreach as he would like. He said he worked with a number of other partners, including the FKNMS, and often has a booth adjacent to the Sanctuary booth at festivals.

Another small program he works on is to bring the FWC mission into the classroom. The goal is to talk about marine science, careers within marine science and FWC. He includes information about the spiny lobster program, queen conch, tagging, and the things FWC does throughout the state. They take kids out on boats (many for the first time), and get them seining.

Mr. Moe asked how his program interacted with the Sanctuary itself, and what he tells kids about the Sanctuary. Mr. Eaken said many don't realize there is a sanctuary, protection zones, the animals living in

them, species protection, and fisheries management. Many want to grow up to be charter captains or commercial fishermen. He tries to talk to them about these issues, the protection of this coastline, and to impart the message of the Sanctuary and what it means to grow up and live here. He uses the “gee whiz” factor as the hook, and is happy if one in 20 remembers what he said.

### **Other Remarks**

Chair Popham mentioned he knew Mr. Curlett had passed out some money from the Ocean Reef Rod and Gun Club earlier in the day, and mentioned he had intended that the presentation be made before the SAC. Mr. Curlett said he was going to give a donation to Dr. Lorenz at the break and that Audubon funds went to Mr. Nedimyer’s Coral Restoration Foundation. Mr. Bergh added that Mr. Nedimyer also got a Fish and Wildlife grant.

Chair Popham stated that the loss of SEAKEYS funding mentioned earlier in the meeting was unacceptable to him. Dr. Causey said it was the number one priority for the Governor’s Ocean Coastal Resources Council, and that John Ogden, Dr. Lorenz, himself, and others had brought up the topic there. Dr. Causey said he had also brought it up inside of NOAA; he said he hoped someone would have end of year funding for the program. It stemmed from a “blueprint for action” workshop in 1988, in which it was discussed that that long term monitoring systems were needed. Dr. Causey said Dr. Ogden had gotten money from the MacArthur Foundation to fund it for the first three years, and that it has been funded by a variety of groups since. The SEAKEYS data, instrumentation and *in situ* observations are important for models for predicting coral bleaching around the world, he said. Chair Popham asked about the money needed for the program, and Dr. Causey said \$125,000 keeps instruments in the water. Mr. Morton said that SEAKEYS was key to NOAA ocean observations and describing relationships to resilience and climate change. Mr. Morton said that they have kept trying to locate funding, and as a last shot, the Coral Program was able to provide funding through Fiscal Year 2009. Mr. Morton said he would also talk to the operating manager of the integrated ocean observations program within NOAA about this. **ACTION ITEM:** Acting Superintendent Sean Morton to discuss SEAKEYS funding with the operating manager of NOAA’s ocean observations program. Dr. Causey suggested Mr. Basta needed to hear from people that count on the system, and that other parts of NOAA might be able to help if he passed on the word. Dr. Causey said Mr. Basta would not have money within the program for it, or it would have been found already. Mr. Cramer asked who to contact regarding SEAKEYS, and Chair Popham reaffirmed it should be Mr. Basta.

Dr. Causey said he found a flyer at noon calling people to come out to a sandbar for a “Keys Party”, which he found disturbing, and said it was becoming a big issue. Mr. Nedimyer added that there were other areas in no motor zones that people use, and that the seagrass beds were getting trampled. Others added their concern and discussed other areas they knew of where similar impacts were occurring. Dr. Causey said he hoped the SAC could take this up in future.

Adjourned, 4:40 PM.

Submitted by Lilli Ferguson