



# Florida Fish and Wildlife Conservation Commission

MyFWC.com

Commission Meeting  
December 3-4, 2008  
Key West

## Minutes

A regular meeting of the Florida Fish and Wildlife Conservation Commission (Commission) was held December 3-4, 2008, at the Doubletree Grand Key Resort, located at 3990 South Roosevelt Boulevard, Key West, Florida. Chairman Barreto called the meeting to order at 8:30 am with the following members in attendance:

Ms. Kathy Barco, Jacksonville	Mr. Dwight Stephenson, Delray Beach
Mr. Ronald Bergeron, Ft. Lauderdale	Mr. Kenneth Wright, Winter Park
Mr. Richard Corbett, Tampa	Mr. Brian Yablonski, Tallahassee

## Staff:

Kenneth D. Haddad	Executive Director
Nick Wiley	Assistant Executive Director
James V. Antista	General Counsel
Gil McRae	Director, Fish and Wildlife Research Institute
Diane Eggeman	Director, Division of Hunting and Game Management
Jackie Fauls	Director, Legislative Affairs Office
Dennis David	Director, Northeast Region
Chuck Collins	Director, South Region

Seventy-five individuals registered as guests/speakers during the two-day meeting.

Chairman Barreto welcomed Commissioners, staff, and the public to Key West.

Chuck Collins gave the invocation. Vice Chairman Yablonski led the assembly in the Pledge of Allegiance to the Flag.

### Special Presentations and Recognition

Chairman Barreto asked Major Paul Ouellette, Leader of the Boating and Waterways Section in the Division of Law Enforcement to introduce Officer Robert B. Johnston and his wife, Becky. Major Ouellette described Officer Johnston's career and his dedication to protecting Florida's wildlife. Major Ouellette introduced Rob Powell and Jim Harrison of Shikar-Safari Club International. Mr. Powell described the history of the Club and the purposes of the award and presented the 2008 Shikar-Safari Club International Officer of the Year Award to Officer Johnston; recognized for his commitment to the enforcement of Florida's wildlife rules. Officer Johnston thanked the Commission for the award and Chairman Barreto thanked him for his dedication to protecting Florida's wildlife. Officer Johnston, and wife, Becky; Mr. Powell and Mr. Harrison had their photo taken with Commissioners.

Chairman Barreto asked Major Ouellette to introduce Officer Gordon Sharp, his wife, Karen; and Officer Sharp's supervisor, Major Mike Edwards with FWC's South Region BRAVO team. Officer Sharp was recognized for his commitment to FWC's Division of Law Enforcement and was presented a retirement plaque for his 27 years of service to the agency. Officer Sharp thanked the agency for the award and he and his wife, Karen had their photo taken with Commissioners.

Ken Haddad introduced the following employees to the Commission and the public:

- Division of Habitat and Species Conservation: Kurt Blomberg
- Division of Marine Fisheries Management: Martha Bademan
- Division of Law Enforcement: Lieutenant Christian Rodriguez and Lt. Mitt Mravic
- Fish and Wildlife Research Institute: Lauren Ewing and Jim Kidney

Chairman Barreto asked Chuck Collins to introduce John David Hawver, world-renowned wildlife artist. Mr. Collins announced Mr. Hawver was unable to attend due to illness. Marsha Critan attended and accepted the plaque in his absence. Mr. Collins described Mr. Hawver's artistic talents and his passion for Florida's environment and wildlife and encouraged attendees to view his work on display outside of the meeting room. Mr. Collins presented a plaque to Ms. Critan for Mr. Hawver recognizing his artistry. Ms. Critan thanked the Commission for the recognition and appreciated the Commission for their dedication in the protection of Florida's natural resources.

### Special Presentation

Ken Haddad introduced representatives with Ducks Unlimited, Ross Melinchuk, Director of Public Policy, Southern Regional Office in Mississippi; and Bob Grant, Manager of Operations from the Province of Manitoba, Canada. They presented a description of Ducks Unlimited Canada, Wetlands Conservation Partnership with the Commission.

### Adoption of Minutes

Chairman Barreto asked for approval of the September 17-19, 2008, Commission meeting minutes. Upon motion of Commissioner Corbett, seconded and carried, the Commission approved the minutes.

### Adoption of Consent Agenda

Chairman Barreto asked Nick Wiley to describe the Consent Agenda items. Mr. Wiley summarized the four items listed on the Consent Agenda. Vice Chairman Yablonski recued himself from the vote to add St. Joe property to the Commission's Florida Forever Additions and Inholdings Acquisition list. Upon motion of Commissioner Barco, seconded and carried, the Commission approved the Consent Agenda.

### Adoption of Agenda

Chairman Barreto asked for approval of the meeting agenda. Mr. Wiley asked Commissioners to defer agenda items 4, A and B, listed under the heading of Action Items following lunch to coordinate with the public's request to be present and speak on this issue. With this change, staff recommended moving directly to item C, Final Rules following the Executive Director's Report. Upon motion of Commissioner Corbett, seconded and carried, the Commission approved the meeting agenda.

### Executive Director's Report

Chairman Barreto asked Mr. Haddad to present the Executive Director's Report. Mr. Haddad discussed the following issues:

Division of Hunting and Game Management - On Saturday, October 4, more than 700 participants attended the Youth Hunting Field Day in cooperation with the Florida Fish and Wildlife Conservation Commission, The Big Bend Outdoor Youth Foundation, and the Tall Timbers Research Station and Land Conservancy. This event attracts youth from all over North Florida and South Georgia to learn about Hunting and the Shooting Sports and get more information about outdoor opportunities in their area. More than 80 volunteers offered their time assisting kids with many skills, such as muzzleloading demonstrations and waterfowl ID. A Hunter Safety course was incorporated into the event, putting 150 more safe hunters in the woods.

The Florida Fish and Wildlife Conservation Commission's Ocala Conservation Center hosted a Family and Youth Field Day in September with over 300 participants attending. The field day exposed the parents and youth of Marion and surrounding counties to various outdoor recreation opportunities by instilling positive community involvement. The Commission, U.S. Forest Service, Marion County Parks and Recreation and many other conservation organizations worked together to provide a diversity of available outreach programs presented in a safe, fun environment. The Heart of Florida Buckmasters Club provided a free lunch for everyone; gave away door prizes for every child in attendance; two youth guns; and paid for three summer camp scholarships.

Division of Marine Fisheries Management - The contractor for the *Hoyt Vandenberg* artificial reef project for the Key West Reefmakers underestimated the cost of cleaning and preparing the vessel. Their estimate fell \$1.6 million short of initial projected costs even with an additional \$1 million authorized by the Florida Legislature. Consequently, preparation work on the vessel ceased in April 2008. Initial efforts to raise additional funds during the last seven months on the nearly completed ship were unsuccessful. Colonna's shipyard in Norfolk, Virginia, where the nearly completed *Vandenberg* has been docked, indicated that it could not afford to maintain the vessel. The shipyard proposed to a federal court to offer the vessel for sale and found a prospective buyer. A federal court in Norfolk ruled on October 27, 2008, that the shipyard could sell the *Vandenberg* to recover some of the money they and other creditors are owed on delinquent bills. The shipyard has 30 days from November 3, 2008, to advertise for the sale. However, a request for an additional \$1.6 million grant to cover the shortfall was approved by the Governor's Office on November 10, 2008. Since the funds requested from the Governor's Office were approved, all parties have now entered into negotiations resulting in

the cancellation of legal actions. If these negotiations are successful, all past bills would be paid and the ship can continue on to Key West for sinking as soon as preparation work is completed, utilizing the \$1 million allocated to the project by the Legislature to be administered by the FWC for future deployment expenses.

Division of Habitat and Species Conservation - The imperiled red-cockaded woodpecker received additional help from FWC and its conservation partners the week of October 20. Staff broke a record at the Apalachicola National Forest when 18 of the small birds were captured in one night. An important part of the conservation actions in FWC's management plan for the species calls for "translocating" the species. Translocation involves taking a few birds (male/female pairs) from areas that have many and moving them to suitable habitat, which once had the birds but no longer does. Five of the Apalachicola RCW pairs were taken to Dupuis WMA to help re-establish a population there and four pairs were released at Corbett WMA. Biologists on the management areas give the birds a head start in becoming established by building nests (creating cavities) in the trees. With these and other efforts, FWC is well on its way to meeting its conservation goals for increasing the population of red-cockaded woodpeckers. Earlier this month staff translocated red-cockaded woodpeckers to Bull Creek WMA, and next week Webb WMA will receive birds.

Division of Law Enforcement - The States Organization for Boating Access (SOBA) awarded FWC the Boating Access Program Excellence Award for 2008 at their Annual Conference in Norfolk, Virginia. The U.S. Fish and Wildlife Service recommended FWC for SOBA's boating access program award due to its leadership in addressing the challenges of providing and maintaining boating access in a highly urbanized and ecologically sensitive environment. Florida's boating access program continues to be a national model. Currently, the FWC manages over 250 boat ramps around the state that provide boat access to freshwater and marine environments. The program also provides funding through competitive and non-competitive grants for tie-up facilities for transient recreational boats 26 feet or longer, assists with the expansion of public marinas, and proactively works with local government entities with their boat access needs.

The Personal Watercraft Industry Association awarded its 2008 Boating Safety Leadership Award to Captain Richard Moore, boating law administrator for the Division of Law Enforcement. The award recognizes a single individual in the boating law community who has displayed significant effort in promoting boater safety.

Fish and Wildlife Research Institute (FWRI) - The Southeastern Association of Fish and Wildlife Agencies (SEAFWA) named FWC scientist John Hunt as Fisheries Biologist of the Year. Mr. Hunt received the award at SEAFWA's annual meeting for his work as a program administrator and biologist at FWRI's, South Florida Regional Laboratory. For nearly three decades, Mr. Hunt has dedicated himself to numerous conservation and scientific efforts. Mr. Hunt was among the technical leaders ultimately responsible for the establishment of the Florida Keys National Marine Sanctuary, the Tortugas Ecological Reserve, and the recently established Dry Tortugas National Park, Research Natural Area. A world-renowned lobster biologist, Hunt helped create the scientific foundation for management of the multi-million dollar spiny lobster fishery in Florida.

### Public Comment

Alan Rigerman discussed several of his concerns regarding various Florida issues.

## Final Rules – Martin and Okeechobee County Boating Restricted Areas Rules

Chairman Barreto asked Major Paul Ouellette, Leader of the Boating and Waterways Section to provide a description of the proposed final rules 68D-24.143 and 68D-24.011, Martin and Okeechobee County Boating Restricted Areas. The proposed rule changes would:

- Correct and update locations of boating safety speed zones along the Florida Atlantic Intracoastal Waterway and the Okeechobee Waterway within Martin County, based upon findings of the Martin County Vessel Traffic Study;
- Improve clarity and consistency of language and definitions;
- Remove obsolete locations of zones; and
- Respond to requests for revisions received from stakeholders and governmental entities.

Staff recommended the Commission approve rule amendment language to 68D-24.143 and 68D-24.011 Florida Administrative Code as advertised.

### Public Comment

Gerald Ward (Marine Industries, Martin County) discussed his participation in the process, the Martin County regulatory zones, and provided a handout with the Jupiter Island zones to Commissioners. He stated the agency would continue to reevaluate the area for one year.

Ken Stead (Southwest Florida Marine Industries Association) discussed his concerns regarding the fuel dock at the Blowing Rock Marina and stated marinas should design their facilities accordingly related to fueling vessels.

### Commission Discussion

Chairman Barreto asked Major Ouellette about the St. Lucie River and the Okeechobee Waterway, is there a stop and start area. Maj. Ouellette described the direction of the waterways. Captain Alan Richard elaborated on the direction of the two waterways.

Commissioner Corbett asked Maj. Ouellette if Mr. Snead was correct with his assessment related to fueling facilities. Maj. Ouellette stated the least restrictive measure will deal with this issue and Mr. Stead is accurate.

Upon motion of Corbett, seconded and carried, the Commission approved the rule amendment to 68D-24.143 and 68D-24.011 Florida Administrative Code as advertised.

### Draft Rules - Major Proposed Rules Changes on FWC Managed Areas

Chairman Barreto introduced and asked Diane Eggeman to present a review of the major wildlife and fisheries rule changes proposed for Commission consideration. Ms. Eggeman stated February 2009 is the scheduled final approval of proposed changes for the current off-year rule development process, which is now under way. She described the off-year criteria and timeline for rule development. Following is a list of the proposed draft rules:

- Motorcycles and Mopeds: Clarification that licensed and registered motorcycles and mopeds may be operated on roads open for registered vehicular traffic
  - 68A-13.007, Hunting Regulations on Public Small-Game Hunting Areas
  - 68A-15.004, General Regulations relating to WMA's
  - 68A-17.004, General Regulations Relating to WEA's
- 68A-15.015, Quota Permits; Antlerless Deer Permits; Special Opportunity Permits
- 68A-25.031, Rule Governing Egg and Hatchling Collections

- 68A-25.042, Rule Governing Statewide Alligator Harvests
- North Central Region WMA's: 68A-9.004
  - 68A-9.004, Permits for Hunting or Other Recreational Use on WMA's
- Northwest Region WMA's: 68A-15.03
  - Blackwater, Tate's Hell, and Yellow River WMA's
- South Region WMA's: 68A-15.064
  - Allapattah Flats and Picayune Strand WMA's
- Northeast Region WMA's: 68A-15.065
  - Lake Monroe and Richloam – Baird Unit WMA's
- 68A-5.001, Issuance of Statutory Licenses, Stamps and Permits; Issuance of Duplicates

Staff requested the Commission approve the major proposed rules and direct staff to advertise these rules for final adoption at the February 2009 Commission meeting in Destin.

#### Public Comment

Todd Hallman (Florida Sportsman's Conservation Association) supported staff's recommendation and added that he was proud to be involved in the Youth Hunting Safety program.

Alan Rigerman discussed the harvesting of freshwater turtles and urged the Commission to "tighten" harvesting regulations.

#### Commission Discussion

Commissioner Corbett asked Ms. Eggeman if we had large number of young deer in a specific WMA and how rapidly could the agency be in responding to this issue. Mr. Wiley stated this would allow the agency to move more quickly, schedule this issue for a Commission meeting for public discussion and ask the Commission to consider this in the context of an Executive Order to make that change. It would require a two-month reaction time.

Upon motion of Commissioner Barco, seconded and carried, the Commission approved the draft major wildlife and fisheries rule changes and directed staff to advertise these draft rules for final adoption at the February 2009 Commission meeting in Destin.

#### Quota Hunt System

Ms. Eggeman continued with a description of the history of the quota hunt process with an update on the quota hunt system, including public input and the Working Group's recommendations.

Staff recommended the following:

- Major Elements
  - Fairness: Nontransferable with exceptions as noted below
  - Flexibility: Guest permits

Note: Mobility Impaired hunts and Blackwater WMA dog hunts require further work with key stakeholder groups before moving forward with changes.

Ms. Eggeman continued with the following staff recommendation:

- Guest Permits:

- Issued through Total Licensing System (TLS) from vendors and tax collectors.
- Only one guest per hunt period.
- Guest and host must enter and exit area together and share vehicle.
- Guest and host must share bag limit.
- Host is responsible for violations of exceeding shared bag limit.

Ms. Eggeman continued with a description of the term “quota” with background information. Staff proposed the following recommendations:

- Recommendation includes substantial uncertainty.
  - No-show rates and number of guests
  - Gains and losses of participants
  - Economic impact
- Recommendation incorporates initial safeguards against risks of resource impacts and hunter crowding.
  - Adjust quotas downward on 8 acres.
  - Reduce bag limit for turkeys on one area.
  - Require permit holder and guest to share a single bag limit.
- Monitor and adapt in future years.

Staff recommended a level playing field for the future of hunting on Florida’s wildlife management areas and requested the Commission approve staff’s recommendation and direct staff to advertise the rules for final public hearing at the February 2009 Commission meeting.

#### Public Comment

Todd Hallman discussed his participation in the Work Group and the abuse that has occurred over the years. He supported staff’s recommendations.

David Jones (Florida Disabled Outdoors Association) discussed his participation in the Work Group and supported staff’s recommendations. He discussed the mobility impaired hunters program and urged the Commission not to delay in revising the mobility-impaired hunts. Specifically, he requested that the mobility-impaired permits become nontransferable and that guest permits be issued for all mobility-impaired hunts and that these changes are implemented on the same timeframe as changes to the rest of the quota hunt system.

Byron Maharrey (Everglades Coordinating Council) thanked Ms. Eggeman and Dr. Coyner for the work they contributed to the proposed recommendations. He discussed the first proposal related to providing the Executive Director the authority to adjust the quota hunt and asked Mr. Haddad about an area-by-area basis to talk to those hunters first. He discussed the recent meeting of the Governing Board of South Florida Water Management District voting to approve opening up an additional over 5,000 acres on the Kissimmee Lakes Chain of Lakes for presentation to the Commission at the February 2009 meeting for an April 2009 approval to mimic their approval for an effective date of September 2010. He supported staff’s recommendations. Commissioner Corbett asked Mr. Maharrey about the mechanics specific to the guest and host sharing the bag limit. Mr. Maharrey replied that some management areas have one quota per permit; staff is working on a system to resolve this issue as fair and equitable to the public.

#### Commission Discussion

Commissioner Barco asked about the suggestion to change Phase I, to a non-transferrable quota permit.

Commissioner Corbett read a letter into the record from Newton Cook with United Waterfowlers regarding the quota hunt permitting system.

Chairman Barreto asked Ms. Eggeman if the mobility impaired hunters issue is ready to present for a final public hearing at the February 2009 Commission meeting. Ms. Eggeman replied staff would be ready to present the issue in February. Mr. Haddad suggested an adding language regarding the mobility impaired hunts into the quota hunt permit rules package recommended by staff.

Commissioner Barco commended staff for preparing such an improved presentation to Commissioners and the public explaining the quota hunt permitting system. She mentioned there would be a significant number of stakeholders opposed to staff's recommendations from the Panama City area, which is where the Commission meeting is scheduled in February 2009. She discussed her concerns regarding guest programs and asked if other states offer a guest program. Dr. Coyner replied South Carolina offers this opportunity.

Commissioner Corbett suggested the Commission approve staff's recommendations and revisit the issue later if needed. Chairman Barreto clarified what staff is recommending to the Commission. Commissioner Barco asked staff if the proposed rule could include an audit process in two years.

Commissioner Bergeron commented that he is aware of the abuse in the system and noticed a number of young people who want to go hunting and it would make things fair for everyone.

Commissioner Barco asked about extending the 11-day application period in the rule. Ms. Eggeman stated this is included in the details of the proposed package.

Vice Chairman Yablonski discussed the Commissioner's involvement "Area's of Emphasis" and what is good for hunting as one of the things he considers when voting on a hunting issue. He suggested staff include language into the rule regarding last minute cancellations and for individuals to turn in the unused permit, encouraging their chance to obtain a permit the next year.

Commissioner Wright supported including the mobility impaired hunts into the rule package. He mentioned the agency's law enforcement training and described the day trip he took with an FWC officer to a quota hunt area and commended the officer he was with on this day trip.

Mr. Haddad asked for clarification regarding comments about revisiting or reviewing the program if these changes are implemented. He suggested annual status reports and a full review of the system after three years.

Upon motion of Vice Chairman Yablonski, seconded and carried, the Commission approved the staff recommendation with the addition of mobility impaired hunts and clarifications regarding status reports as suggested by Mr. Haddad.

#### Items Requiring Action – Final Order

Chairman Barreto asked Jim Antista, General Counsel to present the Final Order on the City of Naples Waterway Markers. Mr. Antista described the revised Final Order to deny the City of Naples' application for a permit to post waterway markers in the Naples Bay area. The Commission's Final Order dated March 21,

2007, which granted the permit, was overturned by the Second District Court of Appeal and a revised Final Order must be executed in conformance with the Court's decision.

Staff recommended the Commission consider for approval the following options:

- Approve the Revised Final Order, which will deny the City of Naples' application for a permit to place regulatory markers for local government ordinances.
- Seek legislative clarification of FWC's appropriate role in permits to place regulatory markers for local government ordinances
  - Oversee, for uniformity and safety, only the construction, placement, and maintenance of waterway markers
  - Oversee for uniformity, safety, and necessity the imposition of speed, wake, and other restrictions on vessel operation

#### Public Comment

Kent Safriet (Hoping, Green & Sams – Representing the Marine Industries Association of Collier County) discussed his clients' concerns regarding improper delegation of authority, legal interpretation, and urged the Commission reimburse the Marine Industries Association for the cost of legal fees incurred during this appeal.

Gerald Ward urged the Commission to consider the revised Final Order further. Chairman Barreto reiterated staff proposed the approval of the revised Final Order.

Colleen Greene (Collier County, Assistant Attorney) urged the Commission to enter a Final Order.

#### Commission Discussion

Mr. Antista stated that the court had denied the Marine Industries Association's request for attorney's fees.

Upon motion of Commissioner Wright, seconded and carried, the Commission approved the Revised Final Order, which will deny the City of Naples' application for a permit to place regulatory markers for local government ordinances. The Commission declined to grant any attorneys fees to the prevailing parties in the case.

Chairman Barreto introduced and thanked Senator Mike Bennett in attendance.

#### Proposals for the 2009 Session of the Florida Legislature

Chairman Barreto asked Maj. Ouellette to present the next agenda item. Maj. Ouellette described the proposed legislation to modify and/or clean up boating status related to vessel management, anchoring, mooring, and vessel registration.

Staff recommended the Commission approve the draft language and include the draft language in the proposed 2009 Legislative Session package.

#### Public Comment

Sam Chavers (Marina Jack, Sarasota) discussed the current situation with mooring vessels in the City of Sarasota and supported staff's recommendation.

Bob Soran (Marina Jack) complimented staff for their assistance and dedication regarding this issue. He provided a handout to Commissioners including a letter to Chairman Barreto with an attached map requesting

the City of Sarasota develop a pilot program with FWC to create an additional expanded buffer zone outside of the 500 feet buffer.

Gerald Ward (Marine Industries of the Treasure Coast) and did not support staff's recommendation and explained his concerns.

Robert Worthington (City of Gulfport, Council Member) supported staff's recommendation.

John Sprague (Marine Industries of Florida) provided a handout from Boat US and discussed the information contained in the letter. He added his comments from the Marine Industries of Florida suggesting affordable docking in mooring fields, and separating derelict vessels from other vessels. Chairman Barreto discussed his concerns regarding Mr. Sprague's interpretation of the draft rule language.

Ted Forsgren (Coastal Conservation Association) discussed pole and troll zones in Lee County directed as mitigation for maintenance dredging. Additionally, he supported staff's recommendation.

Kent Safriet requested the Commission retain its current authority regarding designating slow speed zones. He discussed the posting and marking of signs and urged the Commission to direct staff to keep the language of information.

Lara Fox (Danger Charters) asked the Commission to consider the anchoring situation and the rights of boaters related to the environment and ecology.

Kenneth Wright (Waterway Advisory Board, Palm Beach) thanked the Commission and Maj. Ouellette for their commitment in addressing this issue. He supported staff's recommendation, suggested consistent rules statewide, and requested no unfunded mandates.

Ken Stead thanked Maj. Ouellette and staff for their hard work on this issue. He discussed the pole, troll zones in Lee County, and urged the Commission to codify the Florida Department of Environmental Protection's ability to put protection areas into permit conditions.

Todd Hallman asked how the agency is able to enforce the regulations with a minimal amount of law enforcement officers.

Budd Vielhauer (Florida Department of Environmental Protection's Board of Trustees Deputy General Counsel) stated the Governor and Cabinet are trying to encourage more managed mooring fields.

Senator Mike Bennett discussed his support of the pilot program and requested the Commission approve the program.

### Commission Discussion

Commissioner Barco stated her concerns referencing Section 7 and 10, 500 feet and the designated length of time. She discussed the boat traffic in Jacksonville compared to Sarasota and South Florida. However, there are vessels that anchor around the Jacksonville waterways and she understands the homeowner who would like to have a clear view in their backyard. If the 500 feet buffer is approved, the vessels will be closer to their backyard. The 500 feet buffer may work in some other areas and may need to be more in others. She stated she has a problem with this becoming a statewide rule. Also, deciding on whether to prohibit a vessel from anchoring after 30 or 120 nights within a jurisdiction of a local government.

Chairman Barreto stated he supported the pilot program and suggested the Commission should take a parallel course - approve the Sarasota pilot program and have a baseline framework legislation that goes through to add on that doesn't have every detail as we gain information from the pilot program. This may help resolve the political problem with respect to the Governor and Cabinet who are looking to the Commission for answers to

this issue. Every jurisdiction and local government is dealing with this issue to help with some type of guideline.

Commissioner Wright agreed with Chairman Barreto regarding the pilot program and discussed his concerns regarding the state allowing the use of an inexpensive mitigation fix to simply impose pole and troll zones on what would be otherwise excellent fishing areas.

Commissioner Bergeron supported the pilot program and discussed how the issue affects the State of Florida's economy. He asked if the Commission has authority over state waters to approve whatever is brought in by cities. Chairman Barreto replied the Commission does not have the exclusive authority and deferred to the Mr. Siefert to elaborate on Commissioner Bergeron's question. Mr. Siefert replied that he had a significant amount of authority when it comes to regulating authority that occurs on state-owned land. There is an argument that can be made that the Board of Trustees had the power to enact this time limit on its own and to enact the buffer on its own. The Board is trying to encourage more and more of these mooring fields. To do that is to give the local governments the authority to take on the regulations themselves.

Chairman Barreto asked Jackie Fauls if the agency does the pilot including details. Ms. Fauls suggested including in the proposed legislative that there would be a pilot program in Sarasota with some legislative intent; provide a timeframe, and conclude with a statute of what might work. Chairman Barreto suggested four pilots for the north, south, east and west areas of Florida. Ms. Fauls replied that whatever the Commission suggests it would ultimately be the legislature's decision. Chairman Barreto stated this is more of a safety issue regarding waste, i.e. oil and garbage. Ms. Fauls replied a pilot program has been done before and is not uncommon to have a program to work through these issues.

Commissioner Wright commented that you could not get a marina permit; it might not be inappropriate to recognize the elephant in the room, because there are boats everywhere and nowhere to put them. Senator Bennett replied that he is the Chairman of a committee working on this item.

Chairman Barreto asked Senator Bennett to discuss broad areas and details to include in the pilot. Senator Bennett stated that this can work and the public needs to understand that marina owners will not be put out of business. He said he liked the idea of multiple pilot programs.

Chairman Barreto directed Ms. Fauls and Senator Bennett to meet and discuss pilot programs. Ms. Fauls asked if the Commission could decide what they want in the program at the Commission meeting. Staff would work with Senator Bennett regarding the details. Senator Bennett replied that he agreed with Ms. Fauls to begin drafting the legislation regarding this issue and provide during Legislative Committee meetings next week.

Councilman Worthington stated obtaining permits is critical. He volunteered the City of Gulfport to assist with this project. Chairman Barreto replied the Commission would consider his offer and staff would contact him.

Mr. Haddad stated a way to look at this issue is a long list of issues was addressed by staff. The Commission can approve incorporating a pilot into those recommended rules that are tied into local jurisdictions and specific anchoring and mooring components included in a pilot program. Staff can sit down and work with Senator Bennett to produce a product that will reflect the consensus of the public and the Commission.

Commissioner Barco wanted to be sure that there are not any unintended consequences or adverse affects on local government that are in lake areas regarding their own markings. Maj. Ouellette stated there might be some requests from local government to change signage.

Chairman Barreto stated the Board of Trustees have jurisdiction over all state lands, whether submerged or not, they make those decisions as a Board. The Commission is charged legislatively to enforce actions whether on land or in water. What the Commission has done is contacted DEP and discussed the issue to work together to resolve this problem. Commissioner Yablonski asked if we need clarification on markings. Mr. Haddad simplified that the old DEP and the current FWC for many years have interpreted this issue in a different way than the courts have ruled. The Commission feels it is important that neither the courts nor the Commission

usurp what the intent of the Legislature was and he stated it is important the Commission present it back to the Legislature when it is 180-degree reversal in what the agency has been practicing for many years. Commissioner Wright stated the courts only interpret the Commission's authority as being capable of making this review based on what they see as legislative authority. What Mr. Haddad explained is the Commission has worked this way for years. The Legislature can change the Commission's authority. Mr. Antista added that it behooves the Commission to go to the Legislature and make sure that we are consistent with what the Legislature wants the Commission to do with respect to these zones.

Upon motion of Commissioner Wright, seconded and carried, the Commission approved a legislative proposal to create a pilot project for mooring fields.

Ms. Fauls continued with a presentation of potential funding sources and how they could be adjusted to alleviate any funding shortfall that FWC may experience in the future. Ms. Fauls and Sandra Wilson, the agency's Chief Financial Officer worked closely with Commissioner Wright researched various sources – both traditional and non-traditional funding sources for the Commission. Staff asked the Commission for approval to continue working with Commissioner Wright on agency funding issues and see if there might be some offered to the Legislature, if they are inclined to receive any issues like these. When the House and Senate meet in December staff will look for approval from the Chairman and Executive Director to work with staff on issues between Commission meetings. Chairman Barreto thanked Commissioner Wright for his time and work on the agency's funding issues with staff. Commissioner Wright stated everyone worked very hard on the agency's budget.

Vice Chairman Yablonski mentioned the State of Florida is cognoscente of budgetary issues. He cautioned that if the Commission proposes a new source of revenue involving stakeholders, they might decline the proposal to use funding sources for educational or health care.

#### Public Comment

Gerald Ward provided a handout to Commissioners and urged the Commissioners to pay attention to the Water Management District; boat ramps and piers assessing the economic value; and suggested the Commission condense their Commission meetings to one-day.

John Sprague thanked the Commission for the time they spend listening to the public. He discussed marine fuel tax; the canoe and kayak issue; and water discharges.

#### Commission Discussion

Upon motion of Vice Chairman Yablonski, seconded and carried, the Commission approved the proposed 2009 Legislative Session issues as presented.

#### Update on Everglades Water and Wildlife Issues

Chairman Barreto asked Mr. Collins to provide an update on the Everglades Water and Wildlife Issues. Mr. Collins described the high water crisis affecting the Everglades and South Florida's landscape, which contributed to this problem.

Additionally, Commissioner Bergeron's leadership role for the Commission on Everglades issues included providing a tour of the Everglades to Congressman Ron Klein; Commissioner Bergeron met with staff and other agencies to bring solutions to the water level problems to the table and numerous ideas were discussed that could be implemented. Mr. Collins described the list of ideas from this meeting and the status of the water levels in the Everglades.

### Public Comment

Rory Feeney (Miccosukee Tribe of Indians) appreciated communications with staff and the Commissioners. He discussed the tribe's activity on the Everglades and urged the Commission to support the modified water deliveries project to restore the water quality, timing, amount, and distribution for the River of Grass. Additionally, he discussed the closures of the Wildlife Management Areas (WMA's) due to high water level and asked the Commission when considering closing the WMA's to also restrict alligator hunters' access to the closed areas. He suggested increasing law enforcement activity in the Tamiami Trail area. Chairman Barreto asked him to meet with Mr. Collins to discuss the tribe's "frogging" without an access permit concerns.

Byron Maharrey discussed his concerns with South Florida Water Management's method of water pulse releases.

## Commission Discussion

Chairman Barreto thanked Mr. Collins and Commissioner Bergeron for their continued commitment to the Everglades water issue. He added that Commissioner Bergeron has always tried to bring everyone together to discuss issues related to the Everglades area.

Commissioner Bergeron thanked his staff and Mr. Collins for their assistance regarding the Everglades water and wildlife issues.

## Big Cypress Preserve and Addition

Chairman Barreto asked Mr. Wiley to present an update on the Big Cypress Preserve and Addition General Management Plan. Mr. Wiley described the Big Cypress Preserve and Addition. The Addition lands are not currently part of the Big Cypress Wildlife Management Area. The Commission adopted a resolution reaffirming the Commission's position outlined in the June 15, 2007, comment letter regarding management and access alternatives for the Addition. A letter was mailed with the resolution from the Commission to the U.S. Department of Interior urging the Department of Interior to honor the intent of the Congressional Acts establishing the Preserve and the Addition and to support Commission recommendations regarding management of the Addition. The Big Cypress National Preserve staff and Commission staff have communicated frequently. Commissioner Bergeron has been closely involved in these communications and in providing guidance and support to staff. The State of Florida owns about 30,000 acres within the Addition. Transfer of these lands to the National Preserve Service is an unresolved issue. The Florida Department of Environmental Protection (DEP) is coordinating the transfer process under an existing agreement between the State and National Park Service. DEP is working closely with the Commission on the transfer, particularly as it relates to completion of the GMP for the Addition.

Mr. Wiley described the status of the GMP. The process for review and comment regarding the Environmental Impact Statement required for the GMP for the Big Cypress Addition is moving forward. Commission staff met with National Park Service staff in November to review the draft Environmental Impact Statement, GMP and provide comments. Mr. Wiley described the GMP timeline for completion. The timeline will determine when public hunting and other recreational access is available.

Mr. Wiley continued with a description of off-road vehicle (ORV) use on designated trails in the Bear Island unit of Big Cypress. The National Park Service is facing a lawsuit over that access. It is believed the trails are being used for ORV use and hunting that the Park Service has implemented expanded resulting in the take of Florida panthers. FWC is in support of the National Park Service as this could set a precedent. Staff recommended the agency file an Amicus Brief or Friend of the Court Brief stating the agency supports this action and the agency will assist the Park Service with the facts and information needed. Staff believes there is not impact on panther population or use of these areas.

## Public Comment

Byron Maharrey thanked Commissioner Bergeron and Mr. Collins for their support of Everglade issues and discussed the history of the Big Cypress Preserve and Addition General Management Plan.

Alan Rigerman discussed his concerns regarding the Big Cypress lawsuit.

## Florida's Wildlife: On the Frontline of Climate Change

Chairman Barreto asked Mr. Haddad to present a report on the climate change summit, "Florida's Wildlife: On the Frontline of Climate Change." Mr. Haddad presented a brief summary of the summit held August 20-22, 2008, in Orlando, status of the Commission's involvement in the summit, and the next steps.

### Public Comment

Jay Liles (Florida Wildlife Federation-FWF) stated his gratitude to Vice Chairman Yablonski for his assistance with the campaign to pass Amendment 4, and Commissioner Corbett for galvanizing the campaign's initiative. He discussed conservation lands, the Climate Change conference and FWF's sponsorship of the event. The public was impressed with the amount of input and participation by the Commission staff and Commissioners. The Interstate 4 corridor may be one of the last road blocks to invasive for future years and what does this means to the State of Florida, coastal refugees, and will they take over the conservation lands. Now everyone is focusing on becoming advocates of environmental conservation. He discussed issues presented by FWF during the 2009 Legislative Session.

Paul Johnson (Reef Relief) congratulated the Commission and staff on a successful conference and discussed his participation in the format, planning and interaction with staff. He mentioned he was appointed by Governor Charlie Crist and Secretary of DEP, Michael Sole, to the Adaptive Technical Advisory Group for Climate Change; and produced a report, which was provided to the Governor's Task Force to move forward. He urged the Commission to work with climate change in the Wildlife Legacy Plan and in the Teaming of Wildlife Plan. During his time in the field, he has observed red mangrove in the St. Marks National Wildlife Refuge and they are not supposed to be there.

### Land Acquisition

Chairman Barreto asked Darrell Scovell to discuss the proposed land exchange. Mr. Scovell described the proposed land exchange between the FWC and the Saddle Creek Corporation (SCC). Staff believes the proposal provides net positive fish and wildlife benefits to the state and recommends completing the steps necessary to execute this land exchange with SCC.

### Commission Discussion

Upon motion of Commissioner Barco, seconded and carried, the Commission approved the land exchange between the FWC and the Saddle Creek Corporation (SCC).

Mr. Wiley asked the Commission to consider approving the Divisions of Freshwater Fisheries Management, Hunting and Game Management, and Habitat and Species Conservation Work Plans for 2009-10, as presented.

Upon motion of Commissioner Wright, seconded and carried, the Commission approved the Divisions of Freshwater Fisheries, Hunting and Game Management, and Habitat and Species Conservation Work Plans for 2009-10.

### Public Comment on Items Not on the Agenda

Gerald Ward discussed the item listed on the September 2008 Commission meeting agenda, "Repeal of the Shoreline Exemption for Florida Residents."

### Commission Discussion

Chairman Barreto thanked Commissioners Yablonski and Corbett for their tireless effort on Amendment 4. He thanked Commission staff involved in the Vote for the State Bird campaign. The children of the State of Florida voted during the Presidential Election, November 4 for the Osprey as the bird proposed to the Legislature.

He discussed FWC Officer Joe Martyn's sad passing while on his way home from work one evening. He, along with Commissioners Stephenson and Bergeron, attended Officer Martyn's funeral, and he thanked the Commissioners for taking time to attend his funeral.

Additionally, he thanked Commissioner Wright for working on the Commission's budget. Commissioner Wright thanked Mr. Wiley, Ms. Fauls, and Ms. Wilson for their assistance on the budget. He mentioned the success of the climate summit.

Commissioner Yablonski mentioned his work with Commissioner Corbett on the Amendment 4 campaign and thanked him for his assistance. Additionally, he thanked Mr. Liles for attending the meeting and FWF's involvement with Amendment 4.

Commissioner Stephenson stated his appreciation to the Commissioners and staff for their commitment and leadership to the benefit of Florida's wildlife.

Commissioner Corbett stated it was a successful meeting and briefing discussed his involvement with Amendment 4.

### Recess

Chairman Barreto recessed the meeting at 5:46 pm to reconvene at 8:30 am, Thursday, December 4.

Chairman Barreto reconvened the meeting at 8:30 a.m., Thursday, December 4 and welcomed the Commissioners and public to Key West.

Vice Chairman Yablonski introduced and several promotional videos from the “Vote for 4” (Amendment 4), campaign.

Chairman Barreto introduced former Commissioner Don Wright to the meeting. Commissioner Wright thanked his brother, Don Wright for attending. The Commissioners presented an official FWC law enforcement hat and a law enforcement shield incased in acrylic as a memento of his service to the Commission. Mr. (Don) Wright had his photo taken with Commissioners. Mr. (Don) Wright thanked the Commission for the recognition and commented how pleased he is with what the Commission has done to preserve Florida’s wildlife.

### Special Recognition

Chairman Barreto asked Major Mike Edwards, FWC’s South Region BRAVO team, to introduce FWC Law Enforcement Officer Robert B. Johnston, and wife, Becky. Officer Johnston was awarded the 2008 Officer of the Year from the Coast Conservation Association (CCA). Ted Forsgren and Tripp Ogman with CCA presented the award to Officer Johnston and described the program and award.

### Election of Chairman and Vice Chairman for 2009

Vice Chairman Yablonski discussed his term ending January 2009 and his involvement over the years as a Commissioner. Additionally, he discussed Chairman Barreto’s outstanding demonstration as the Commission’s Chairman and nominated Rodney Barreto as Chairman, seconded by Commissioner Bergeron. Commissioner Wright closed the nominations and moved to elect Chairman Barreto to a one-year term. The Commission accepted the nomination by acclamation. Chairman Barreto thanked the Commission.

Commissioner Corbett nominated Commissioner Barco as Vice Chairman of the Commission. Commissioner Wright closed the nominations and moved to elect Commissioner Barco to a one-year term as Vice Chairman. The Commission accepted the nomination by acclamation. Commissioner Barco thanked the Commission.

### Public Comment

Gerald Ward discussed Commissioner Bergeron’s involvement in the Everglades issues and thanked him for his commitment to the issues. He discussed the Commission’s participation in the State of Florida’s issues he suggested the Commission review bylaws regarding tenure to elect a new Chairman in the future for a more diverse group.

### South Atlantic Fishery Management Council

Chairman Barreto asked Bill Teehan, Leader of the Division of Marine Fisheries Management to present a report on South Atlantic Fishery Management Council (SAFMC) issues. Mr. Teehan reviewed and summarized the major issues scheduled for discussion and approval by the South Atlantic Fishery Management Council (Council) at their November 30 through December 2, 2008 meeting.

### Public Comment

Captain Richard Graithwohl (Marathon Guides Association) discussed his concerns regarding the Council’s action to move forward with “old flawed” fishery data and urged the Commission to not allow the Council to

force federally permitted charter boats from fishing for grouper in state's waters. He stated his members fall under the recreational limit.

### Commission Discussion

Chairman Barreto asked Gil McRae to clarify, as stated to him by Senator Bill Nelson, the \$1 million from the federal government to the State of Florida to improve stock assessments and asked if the funds are to be directed to the Fish and Wildlife Research Institute. Mr. McRae replied that the funds are devoted to expanded reef fish monitoring program in the Gulf of Mexico, directly targeting the data shortfalls for managing snapper and grouper and some of the deficiencies not identified. FWRI is currently collecting and analyzing fisheries independent data – data not from the fishery to help better understand the stock assessment.

Commissioner Corbett asked Mr. McRae to explain where the agency has improved stock assessments. Mr. McRae explained that the economy has affected the fishery and the methodology of the data.

Upon motion of Commissioner Corbett, seconded and carried, the Commission approved the SAFMC report.

### Gulf of Mexico Fishery Management Council

Mr. Teehan mentioned he received a message from Mark Robson, Director of the Division of Marine Fisheries Management that the interim rule for black, red and gag grouper did not move out of the Secretary of Commerce's Office yet, so it is unlikely that this would go into place on January 1, 2009. He continued with a report summarizing the Gulf of Mexico Fishery Management Council (GMFMC) issues scheduled for approval at their October 27-30, 2008 meeting. Mr. Teehan mentioned the Council voted to send a letter to FWC requesting red snapper be placed on the December 2008 Commission meeting agenda and follow up with a letter asking the FWC to consider consistencies for 2009. A similar letter came from the National Marine Fisheries Service requesting the consideration of consistency.

Staff recommended developing rule language that would make Florida red snapper recreational harvesting season regulations in the Gulf consistent with the federal regulations and proceed to a final public hearing in February 2009.

### Public Comment

Richard Graithwohl (Florida Guides Association, Marathon) read a statement regarding Amendment 16 and did not support the S.O.S. (Save Our Selves) proposal.

Captain Mike Eller (Destin Charter Boat Association) supported staff's recommendation and discussed his concerns regarding stock assessment data. Mr. Teehan responded about the interim rule for the Gulf was filed in the Federal Registry effective January 1, 2009.

Ted Forsgren (Coastal Conservation Association-CCA) provided a handout to Commissioners and urged the Commission recommend the Council take emergency rule action to prohibit bottom longline gear in the Gulf of Mexico out to 50 fathoms, but maybe completely from the area. Additionally, he mentioned the letter from 2003 from the Commission to the Council urging them to prohibit bottom longlines out to 50 fathoms. Additionally, he discussed the issue of loggerhead turtles. He referred to a letter to the Commission stating CCA's support of the Federal Consistency Rule.

Paul Johnson invited Commissioners to visit the Environmental Center in Key West to learn about the coral reef ecosystem. Chairman Barreto asked Mr. Johnson to discuss his thoughts on longlines. Mr. Johnson stated his organization has not developed a firm position on the issue of longline gear.

Bob Gill (Member of the Gulf Council) discussed the issue of harvesting freshwater turtles and the Federal Consistency Rule urging the Commission to approve the Rule.

Billy Archer discussed red snapper issues, the change in the fishing season, and the economic impact to charter boat fishermen.

T. J. Marshall (Ocean Conservancy) discussed the individuals affected by the rule are those located in the Panhandle area and supported staff's recommendation. Chairman Barreto asked Mr. Marshall to comment on the sea turtle issue and longline fishing. Mr. Marshall replied that the message should be consistent fishing regulations.

Bill Tucker (Fishermen's Advocacy Association) supported compatible regulations.

Jay Liles (Florida Wildlife Federation) provided a letter from the Florida Wildlife Federation dated January 2008 in support of Federal Consistency to Commissioners.

Julie Morris (Former FWC Commissioner and currently a member of the Gulf of Mexico Fishery Management Council) discussed the recreational and commercial harvesting related to red snapper. She urged the Commission to develop the rule language. Commissioner Corbett asked how long it might take the fishery to build back up. Ms. Morris replied the official timeline for rebuilding allowed under Magnuson-Stevens, which is the year 2032 for red snapper based on the generation time. The Council is having an updated stock assessment that will take place next fall and depending on the assessment, the Council hopes for a higher catch for the following three years. Commissioner Wright stated he enjoyed speaking with Ms. Morris and appreciated her attendance at the meeting speaking on behalf of GMFMC. He asked Ms. Morris about longline gear used to catch red snapper. He asked why the Council allows longline fishing today inside 50 fathoms when everyone else is out 50 fathoms. He suggested part of the motion should include a 50-fathom limit on longline fishing. Ms. Morris described the history of the 50-fathom limit on longline fishing. Chairman Barreto stated there is a bigger issue before the Commission, which is the killing of sea turtles. Commissioner Bergeron discussed the issue of longline fishing and the survival of the fishery. Vice Chairman Yablonski thanked Ms. Morris for attending the meeting to speak to the Commission about the Council issues. Ms. Morris offered to speak with Commissioners to improve communications between the Commission and the GMFMC.

Pam Anderson (Captain Anderson Marina) thanked the Commission for allowing fishermen to fish the full season last season. She provided a handout to Commissioners including information on their two marinas, discussed the data provided by NMFS is not accurate, and urged the Commission to provide as many days as possible in the season to fish.

#### Commission Discussion

Commissioner Yablonski stated he talked to fishermen in the Panhandle area regarding this issue and moved to approve staff's recommendation regarding the Federal Consistency Rule. Upon motion of Commissioner Yablonski, seconded and carried, the Commission approved staff's recommendation.

Chairman Barreto asked about the Federal Consistency closure dates and the public's request for the dates of May 15 through September 15. Mr. Teehan replied that the federal closure dates are June 1 through November 30 as listed in the Federal Registry. The Council considered going earlier into May, but the numbers were not resulting in where they wanted to be.

Commissioner Barco reminded the Commission that staff is asking for approval to accept the GMFMC report and staff's request for guidance on the Council in the Federal Consistency Rule process. Mr. Teehan replied that staff is asking the Commission to approve the recommendation for the harvesting season for red snapper in Florida.

Mr. Haddad stated the Commission is voting to direct staff to move forward with a draft rule to present for final public hearing at the February 2009 Commission meeting in Destin.

Chairman Barreto asked the Commission for their comments regarding sea turtles. He stated his concerns regarding the report presented by staff. Commissioner Wright agreed with Chairman Barreto and suggested sea wall construction or any number of things that the State of Florida regulates for the protection of sea turtles; and if someone were to destroy loggerheads, the result would be extreme consequences.

Chairman Barreto stated with as much as is being done to protect turtles, he urged the Commission to direct Mr. Haddad to draft a letter from the Chairman to the Council on behalf of the Commission against longline fishing. Mr. Haddad stated we could reiterate our position regarding the 50-fathom line.

Commissioner Bergeron agreed the Commission should research the issue for the protection of loggerhead sea turtles.

Alan Rigerman discussed the recent tiger attack at his home. He thanked the agency, dispatch, Investigator Stiffler, and Public Information Officer Jorge Pino for their assistance during the incident.

Chairman Barreto recognized Billy Causey, Regional Director of the National Oceanic and Atmospheric Administration and oversees the National Marine Sanctuary.

#### Amberjack and Triggerfish Consistency – Final Rule

Mr. Teehan continued with a final public hearing on greater amberjack and triggerfish in the Gulf of Mexico. The National Marine Fisheries Service published new regulations for greater amberjack and gray triggerfish based upon management actions promulgated by the GMFMC. The regulations took effect in federal waters on August 4, 2008. At the September 2008 Commission meeting, staff presented a draft rule recommendation for consistent state rules for greater amberjack and gray triggerfish. The Commission directed staff to advertise the rules for a final public hearing at the December 2008 meeting. Mr. Teehan described the Council's approval of a plan for greater amberjack, which is considered overfished (low stock abundance) and undergoing overfishing (excessive harvesting pressure), and gray triggerfish, which is considered to be undergoing overfishing. The Council plan addressed federally mandated actions to prevent overfishing, rebuild overfished stocks, and achieve sustainable optimum yields for the fisheries. NMFS published the final rule July 3, 2008, and the regulations took effect August 4, 2008.

Mr. Teehan described the details of the regulations for greater amberjack and gray triggerfish. Rule 68B-14.0035 would be modified for greater amberjack and gray triggerfish in the Gulf of Mexico to increase the minimum size for recreationally harvested greater amberjack from 28 inches to 30 inches FL, and the minimum size limit for all gray triggerfish (commercial and recreational) from 12 inches to 14 inches FL.

Staff recommended the Commission adopt Rule 68B-14.0035 as advertised with an effective date of January 1, 2009. Staff has evaluated the rules under the standards of 68B-1.004, F.A.C., and found them to be in compliance.

#### Public Comment

Paul Johnson urged the Commission to be consistent on the rules.

Captain Mike Eller stated the Panhandle area has a long history of working with NFMS to make the fish stock more sustainable for everyone.

Bill Tucker (Fishermen's Advocacy Organization) encouraged the Commission to approve consistency.

## Commission Discussion

Upon motion of Commissioner Corbett, seconded and carried, the Commission approved final rules as advertised.

### Gag Grouper Consistency Final Rules

Mr. Teehan continued with a description of the gag grouper consistency proposed final rules. NMFS will publish new regulations for gag and red grouper based upon management actions promulgated by the Council in 2009. Additionally, NMFS will publish an Interim Rule to address overfishing of gag grouper on January 1, 2009. At the September 2008 Commission meeting, staff presented a draft rule recommendation to be consistent with the federal Interim Rule for gag. In addition, the Commission directed staff to increase the red grouper bag limit in anticipation of similar federal action later in 2009. The Commission directed staff to proceed to a final public hearing. Mr. Teehan described the regulations included in the Federal Interim Rule and the proposed FWC grouper regulation changes. Following is a description of the proposed rules:

- Rule 68B-14.0036, Recreational Bag Limits: Snapper, Grouper Hogfish, Black Sea Bass, Red Porgy, Amberjacks, Tilefish, Exception, and Wholesale/Retail Purchase Exemption. This rule would decrease the recreational bag limit for gag grouper from five-fish to two-fish per person, per day. This rule would increase the recreational bag limit for red grouper from one-fish to two-fish per person, per day.
- Rule 68B-14.0039, Recreational Grouper Season: This rule would establish a recreational closed harvesting season for gag grouper in Gulf state waters February 1 through March 31.

Staff recommended the Commission adopt the rule changes as advertised with an effective date of January 1, 2009. Staff has evaluated the rules under the standards of 68B-1.004, F.A.C. and found them to be in compliance.

### Public Comment

Bobby Pillar discussed his concerns regarding ending the red snapper fishing season.

Captain Bill Walsh discussed his concerns regarding the recreational closed harvesting season for the Gulf gag grouper from February 1 through March 31 and supported the bag limit.

Captain Fred Lipton discussed his concerns regarding the proposed reduction of the fishing season.

Ted Forsgren requested the Commission close two months in state waters to commercial fishing as well and make the aggregate bag limit the same in state waters for commercial fishermen and amend the rule for discussion at the February Commission meeting. Additionally, he discussed obtaining a schedule from the federal government of the analysis of the allocation of red and gag grouper.

Paul Johnson supported staff's recommendation. He encouraged the Commission to increase the red grouper bag limit from one to two-fish.

Captain Mike Eller (Destin Charter Boat Association) stated the closed season is an issue for recreational fishermen. He supported CCA's opinion to close the season for commercial fishermen as well.

Pam Anderson reiterated the Panama City Boating Association's concerns regarding the fishing season and bag limits and discussed gag grouper fishing.

Billy Archer supported staff's recommendation.

T.J. Marshall discussed the reproduction cycle of gag grouper.

Bill Tucker discussed his concerns regarding recreation and commercial fishing.

Julie Morris discussed the stock assessment on gag and red grouper. The results showed overfishing of gag grouper, red grouper was out of the fishing danger zone, and there needed to be a reduction on the harvesting of gag grouper by 40% to end overfishing for both sectors. On the commercial side, the Council reduced the quota 40%. Reviewing the recreational side, the Council began with a range of options and pulled together a strategy to allow for a two-fish bag limit for gag. The Council drafted a rationale that half of the reduction came from the 2-fish bag limit and half from the 2-month closed season.

Chairman Barreto asked if the Commission decided not to approve staff's recommendation, the Commission would be in the same position as in February 2008. He asked Mr. McRae if he could provide a "white paper" to the Commission listing what is required to improve the stock assessment data. Mr. McRae stated it is complex to figure out what to do. Staff needs more information from the fish population itself rather than the fishery. The agency needs to know exactly what levels of reproduction are happening in reef fish. Senator Bill Nelson and Congressman Adam Putnam were instrumental in obtaining funding. That funding will give the Commission the plan for how to implement the fisheries independent monitoring program for reef fish in west Florida. It will cost three or four times what the pilot cost. He mentioned the MRFSS system needed to be redesigned. That redesign is in place, called the Marine Recreational Information Program. It will be expensive to implement. The quality of information for recreational fisheries is directly tied to how well we understand that fishery. To summarize, there are two components, improving the scientific data collection and the fishery data collection, but that brings in the redesign of the MERPS and the licensing issue for saltwater angling. Barreto challenged staff to put this issue on the forefront and Florida should be the leader. Mr. McRae agreed with Chairman Barreto and reiterated that the Commission is out in front of the issue. Commissioner Corbett asked when staff would have the necessary data. Mr. McRae stated the draft redesign for MRFSS is due January 2009. It will take some time for Congress and whatever other bodies need to review and respond to it, and then the action would take place at the federal level. It would be three to four years before a new recreational fishing survey system has an impact on most fisheries. Mr. Haddad pointed out this has to do with the independent reef monitoring and is a one-time attempt to obtain the resources. Chairman Barreto asked staff to continue to work on this issue.

### Commission Discussion

Commissioner Bergeron stated he believes stakeholders do not believe the fishery is overfished.

Commissioner Wright asked about commercial fishing and if the take is based on allocation and if that allocation was decreased with the addition of the no fish area during the high spawning season and the only way to reduce the quota on the recreational side is season closures. Chairman Barreto reiterated the motion is a recommendation for a temporary closure – one to two years maximum and he asked about commercial fishing. Mr. Teehan replied when the federal government publishes the permanent rule, staff will bring this issue to Commissioners for review and approval in February or April 2009.

Upon motion of Commissioner Corbett, seconded and carried, the Commission approved the rule changes as advertised with an effective date of January 1, 2009.

### Spiny Lobster Trap Reduction – Draft Rules

Mr. Teehan presented the proposed draft rule that would end the present moratorium on the reduction of lobster trap certificates and amend the lobster trap certificate reduction schedule so that reductions would only occur upon the sales or transfer of lobster trap certificates outside the immediate family of the certificate holder. Upon transfer, the number of certificates received by the purchaser would be reduced by 10 percent.

Staff recommended the Commission approve the draft rule ending the current moratorium on the reduction of lobster trap certificates and amend the lobster trap certificate reduction schedule so reductions only occur upon the sale or transfer of lobster trap certificates outside the immediate family of the certificate holder. Upon

transfer, the number of certificates received by the purchaser would be reduced by 10 percent. Staff recommended proceeding to a final public hearing on this rule in February 2009.

### Public Comment

Tom Coppedge (Florida Keys Commercial Fishermen's Association) supported staff's recommendation.

Carl Lessard (Florida Keys Commercial Fishermen's Association) supported staff's recommendation and discussed the federal ramifications of the reauthorization of the Magnuson-Stevens Act.

Bruce Irwin (Florida Keys Commercial Fishermen's Association) supported staff's recommendation.

Bobby Pillar (Florida Keys Commercial Fishermen's Association) supported staff's recommendation and discussed IFQ's.

Scot Zimmerman (Florida Keys Commercial Fishermen's Association) supported staff's recommendation.

Meaghan Johnson (Nature Conservancy) discussed the Conservancy's involvement regarding lobster fishery issues.

Dave Score (Superintendent Florida Keys National Marine Sanctuary) supported staff's recommendation.

Peter Bacle opposed any further trap reduction. Chairman Barreto replied to Mr. Bacle regarding his negative experience with the Advisory Board.

Jeff Cramer (Organized Fishermen of Florida) supported staff's recommendation.

Paul Johnson supported staff's recommendation and recognized where the lobster fishermen are headed.

Gary Nichols (Florida Keys Commercial Fishermen's Association) stated his concerns regarding the issues with the lobster fishing industry.

Mimi Stafford discussed her disappointment with the process as a member of the Advisory Board. She discussed her concerns with casitas and her family's reduction in the total catch for 2008. Chairman Barreto added that casitas are illegal and he has directed the agency's Division of Law Enforcement to enforce the rules.

### Commission Discussion

Vice Chairman Yablonski suggested as an alternative a voluntary, non-regulatory and non-compulsory way to retire traps. One idea to do this is research other sectors of lobster fishing – commercial and recreational diving. There are currently bag and trip limits to those sectors. If the Commission could create a system to figure out a lobster equivalency to each trap, such as two or three lobsters, then recreational and commercial divers could buy trap rights from the commercial fishermen. There would be a market for commercial trappers to actually sell traps and get them out of the water for revenue thereby retiring traps through sale or lease – only voluntarily.

Commissioner Wright asked what the Commission is trying to accomplish and is Magnuson-Stevens driving this issue so aggressively. While we have had some people say they are ok because they will not get hurt, a few have said they will get hurt – this is not a good time to act on this issue.

Chairman Barreto stated the whole industry has worked on this issue over the last year and a half and this is the first time in a long time he has seen the industry almost all together. When you get commercial industry fishermen saying they are ok with staff's recommendation – it is a good thing. He stated Commissioner Yablonski's suggestion should be considered for a later time.

Mr. Teehan stated the industry discussed Commissioner Yablonski's suggestion during an earlier Advisory Board meeting. There is a lot of mistrust among the sectors and until that is resolved – it is not timely.

Upon motion of Commissioner Corbett, seconded and carried, the Commission approved the draft rule ending the current moratorium on the lobster trap certificate reduction schedule, reducing trap certificates by 10 percent when traps are transferred outside of the immediate family. Proceed to final public hearing in February 2009.

### Marine Life

Chairman Barreto asked Jessica McCawley, Fisheries Biologist in the Division of Marine Fisheries Management to present the proposed draft rule for issues relating to the marine life fishery, which is the harvest of fish invertebrates, and plans for the aquarium trade. Ms. McCawley presented a review of the fishery, its primary ecosystem, and the proposed rule changes developed by the Marine Life Workgroup and staff, and the results of public workshops.

Staff recommended the Commission approve the draft rules for the following: addition of species, size and bag limit changes, Florida Keys National Marine Sanctuary (FKNMS) concerns, sponge substrate, the recreational bag limit, rule clean up, and proceed to a final public hearing in February 2009.

### Public Comment

Dave Score (Superintendent Florida Keys National Marine Sanctuary) suggested a cautionary approach using adaptive management based on good science. He supported the changes and reiterated the concerns about Ricordea and other attached organisms found in the FKNMS.

Robert Feldman discussed his concerns about the increased size limit proposed for butterflyfish.

Forrest Young discussed his career and credibility. He asked the Commission to read a report he published regarding invasive exotic species. He expressed concerns about the maximum sizes on tangs and parrotfish because it would hurt his business. He suggests that the chopping of stingrays should be stopped. He expressed concerns about the angelfish bag limit being too extreme. Regarding the butterflyfish, he thinks the changes are not warranted.

Jeff Turner supported staff's recommendation.

Bob Kelton (DR Imports) discussed his concerns regarding the angelfish bag limit being too low. He asks for the Ricordea rule to be put in place as fast as possible.

Bill Parks discussed the recreational bag limit of no more than five in any combination, because he prefers not allowing 20 angelfish for recreational harvesters.

Daniel Haddon commended the Commission for forward thinking approach to fishery management.

Paul Johnson introduced Mel McClurry, Program Manager of the Environmental Center with Reef Relief in Key West. Mr. Johnson praised the Commission for their commitment to preserving Florida's reefs and marine life. He recommended the Commission direct staff to research a more conservative approach to obtain data on marine life. In addition, he suggested scheduling another public workshop to discuss some of the issues the industry is concerned about; partner staff with other entities in the State of Florida; and obtain more knowledge about what is happening with this fishery and the reef resources. The species originally harvested in the wild are now aquacultured. One does not need to go into the wild any longer.

Eric Pederson discussed his concerns regarding stingrays and angelfish and mentions he agrees with Forrest Young. He disagrees with moving quickly on the Ricordea rule; he prefers the July effective date.

Don DeMaria supported staff's recommendation.

Grady Sullivan expressed concerns about the proposed size limit change for Cuban hogfish and raising the size limit on butterflyfish. He believes that angelfish and tangs should be totally protected. He suggests an aggregate bag limit on scarlet hermits and maroon hermits.

Dr. Andrew Ryan discussed the contents of a letter he sent to the Commissioners earlier regarding *Mithraculus sculptus*. He expressed concern about condylactis anemones and supported staff's recommendation.

Richard Londeree (Tampa Bay Saltwater) asked the Commission to address the stingray issue, cow nosed rays need protection and Cerithium snails. He supported staff's recommendation. Chairman Barreto stated the Commission would probably approve staff's recommendation. He would like to see the Commission approve staff's recommendation and defuse debate by giving Ms. McCawley the ability to take any great recommendations from the floor and include into the language of the final rule.

Ken Nedimyer (Florida Marine Life Association) asked about the angelfish rule clarifying the 50 to 100--bag limit confusion.

David White discussed the Florida Ocean and Coastal Council's (FOCC) involvement regarding Florida's marine resources and he suggested the Commission take an eco-system based approach as recommended by FOCC.

Jeff Cramer discussed editing the recreational bag limit for angelfish, which would affect the bycatch fishermen and the way they have been operating.

John Wile supported staff's recommendations.

Ryan Satow (Dynasty Marine Association Inc.) supported staff's recommendations.

Travis Moore supported staff's recommendations except the emerald crab bag limit.

Henry Feddern supported staff's recommendation and discussed his successful use of the tools suggested for corallimorphs and zoanthids.

Steven Prince discussed emerald crabs and agreed recreational fishermen should have a license to catch them, but he did not agree fishermen should have a bag limit if they have a license.

Mike Freeman discussed the marine fisheries resource.

Pete Kehoe (Pelagic Corporation) thanked FWC staff for their commitment to marine fisheries issues, supported staff's recommendation, and discussed various species of marine fish. He requested that the rule be put in place quickly to prevent the run on Ricordea harvest.

William Samples discussed harvesting and using aquaculture to renew the MLD. Chairman Barreto asked Ms. McCawley to follow up with Mr. Samples regarding his concerns.

Clifford Gibbens opposed adding the listed invertebrates to the list that requires the endorsement and discussed the sponge rule and the inconsistency related to differences in substrate according to their take and SAFMC regulations.

## Commission Discussion

Commissioner Barco asked about technical or policy issues related to the sponge issue. Ms. McCawley stated the issue was discussed at Workgroup meetings. The reason it did not go out to public Workshop had to do with the meetings with the sanctuary. The agency originally had an entire substrate proposal that listed sizes for all of the different organisms, and then staff realized the sanctuary has purview over that substrate. Staff could not specify the size that people could take within the sanctuary waters. At the final meeting, the Workshop members from the Tampa area asked to speak on substrate. She suggested gathering comments from the public online regarding the substrate proposal for the ornamental sponges.

Chairman Barreto directed Ms. McCawley to deal with some of the pertinent issues and return with a presentation at the February 2009 Commission meeting. Upon motion of Commissioner Corbett, seconded and carried, the Commission approved staff's recommendation and directed Ms. McCawley the flexibility to incorporate those issues she believes are to the best interest of the rule.

Commissioner Yablonski thanked the public speakers for their comments.

Chairman Barreto introduced Mayor Mario De Gennaro, Monroe County Board of Commissioners; and Bill Verge, Commissioner, Key West for an update on the *US Vandenberg* project.

Chairman Barreto thanked Mayor De Gennaro and Mr. Verge for hosting the Commission at a social last evening.

## Blue Crab Closed Season – Draft Rules

Mr. Teehan presented a description of the proposed draft rules that would establish six regional statewide closures for blue crab trapping of up to ten days each to facilitate the identification and retrieval of lost and abandoned blue crab traps.

Staff recommended the Commission approve the draft rules implementing the six regional blue crab trap harvest closures, creating a new closed season section in the rule, transferring current Gulf of Mexico Closure language to the new section, and proceeding to a Final Public Hearing in February 2009.

## Public Comment

Kirsten Donald (Dolphin Research Center) supported the closures.

Jeff Cramer supported staff's recommendation.

David White supported staff's recommendation.

Walter Flores (Coastal Conservation Association) supported staff's recommendation.

## Commission Discussion

Upon motion of Commissioner Wright, seconded and carried, the Commission approved staff's recommendation.

Chairman Barreto called for the motion to approve the Division of Marine Fisheries Management and Division of Law Enforcement Work Plans for 2009-10.

## Public Comment

David White provided a handout to Commissioners and discussed what was listed on the letter. Mr. White asked for an answer to his question as slated in the letter.

Don DeMaria expressed concerns about commercial spear fishermen taking permit from spawning aggregations. He asked the Commission to research the spear fishing rules. Mr. Teehan replied to Mr. DeMaria's comments stating staff has met with Mr. DeMaria regarding his concerns and this issue is included for a review and discussion at the April 2009 Commission meeting.

Ted Forsgren complimented staff on the Division of Marine Fisheries Work Plan. He suggested including a revised allocation for gulf grouper.

John O'Hearn (Florida Guides Association) urged the Commission to work proactively to establish the role of permit as a recreational sportfish.

Bill Parks urged the Commission to reconsider the areas of Broward, Palm Beach and southern Martin counties, as they are epicenters of Florida's east coast spawning areas. He suggested staff could speak with Dr. Chris Koenig and John Jolley regarding spear fishing. The numbers of gag grouper that aggregated there to spawn was unparalleled. The problem is it is a very small area of habitat. He asked the Commission to consider closing this area due to its dynamics. Chairman Barreto asked Mr. Parks to meet with Mr. Teehan regarding his concerns.

## Public Comment Not on the Agenda

Bill Legg (Bonefish and Tarpon Trust) he read the letter he sent to the Commissioners regarding the sale of permit and asked the Commission to take action to stop the commercial sale of permit. He would like to see a stock assessment of the recreational fishery. He describes how bonefish are so depleted that people have begun to fish for permit. Chairman Barreto asked Mr. Teehan to research this issue.

Pam Anderson discussed the Save Our Selves plan and Panama City Boatman's Association will not agree or disagree except for one factor, the separation of for-hire and private recreational sectors. She offered support of the artificial reef program to be enlarged in northwest Florida to increase habitat for reef fish. She asked the Commission to design a program that would allow private anglers to fish more of the season. They may agree to accountability measures. She supported having a reef fish permit in the shape of a sticker for the side of those boats and a stamp for reef fish. This will allow data collectors to know who is fishing on this reef.

Kirsten Donald (Dolphin Research Center/Alliance of Marine Mammals Parks and Aquariums) stated her concerns regarding the illegal feeding and interaction of wild dolphins. There is also a problem with the depredation of fishing lines from dolphins. They are being trapped and are digesting the fishing lines. There is a need for education for the public to cease feeding dolphins. She suggested increasing law enforcement to combat this issue.

David White discussed Biscayne National Park and their attempt to revise their management plan. He urged the Commission to get involved in the BNP GMP ecosystem. Chairman Barreto stated the Commission has waited over 20 years for a final general management plan. He asked Mr. Haddad to speak with Mark Robson to discuss his concerns.

Jon Ain reiterated that permit needs to be protected. He described seeing permit on the menu at a restaurant in Key West. He mentions that even Belize has recently banned the commercial harvest of permit.

Lee Starling asked the Commission to ban of spearing of permit on spawning aggregations. He also expresses concerns for mutton snapper and the current 10-fish bag limit.

Bill Samples asked the Commission to provide a trip ticket for marine life organisms. The trip tickets are used to count the animals collected and harvested. It does not mean the fisherman makes his amount of money to qualify for the next year. The recording of the trip tickets is not necessarily accurate because the fishermen are getting trip tickets and re-qualifying. Chairman Barreto asked Mr. Samples to speak with Ms. McCawley regarding his ideas.

Scott Robson (Destin Charter Boat Association) discussed the decrease of cobia and asked the Commission to make cobia a gamefish and look into creating a slot limit size to build the stock back up. Chairman Barreto asked Mr. Robson to discuss his ideas with Mr. Teehan and Mr. McRae.

### Commission Exchange

Commissioner Wright said he was blown away over permit not being a sportfish and he hopes that this is looked at quickly. He thanked Commissioners and congratulated Chairman Barreto and Vice Chair Barco on their election and reelection to the Commission. He thanked Chuck Collins and staff for coordinating the meeting, Commissioner Bergeron for his dedication to the Everglades.

Commissioner Bergeron thanked the public for their input, staff, congratulated Chairman Barreto and Commissioner Barco, and he mentioned Senator Bill Nelson and his family is spending time with him touring the Everglades in December.

Commissioner Barco thanked Ms. Eggeman for explaining quota hunt permitting; she looks forward to her new position, and congratulated Chairman Barreto on his re-appointment. In addition, she thanked FWC's law enforcement in attendance.

Commissioner Stephenson congratulated Chairman Barreto and Commissioner Barco on their appointment, as well as Vice Chairman Yablonski for his dedication over the last year.

Commissioner Corbett congratulated Commissioner Barco and Chairman Barreto on their election, thanked Vice Chairman Yablonski for his work on Amendment 4, and Commissioner Bergeron for his work on the Everglades. He thanked Ms. Eggeman and Mr. Wiley for their assistance on the Youth Hunting Centers.

Vice Chairman Yablonski stated he officially ends his term at this meeting and thanked Commissioners, staff, and the public.

Chairman Barreto thanked the Vice Chairman for his term in office. Additionally, he thanked Commissioner Bergeron for his time and commitment to Everglades's issues.

### Adjournment

Chairman Barreto concluded the meeting at 4:10 pm.

---

Rodney Barreto  
Chairman

---

Kenneth D. Haddad  
Executive Director

Respectfully submitted:

---

Commission Secretary