FLORIDA KEYS NATIONAL MARINE SANCTUARY
SANCTUARY ADVISORY COUNCIL
CHARTER

ESTABLISHMENT AND AUTHORITY

Section 315 of the National Marine Sanctuaries Act (NMSA or Act; 16 U.S.C. § *et seq.*) authorizes the Secretary of Commerce to establish sanctuary advisory councils to provide advice to the Secretary of Commerce regarding the designation and management of national marine sanctuaries. This authority has been delegated to the Director (director) of the Office of National Marine Sanctuaries (ONMS). The director hereby reestablishes the Florida Keys National Marine Sanctuary Advisory Council (council). Legislative authority for establishment of the council is found in Section 9 of the Florida Keys National Marine Sanctuary and Protection Act (FKNMSPA) which addresses council establishment, membership and administration.

This charter provides a background on the ONMS and the Florida Keys National Marine Sanctuary, and describes the objectives and roles of the council's activities, procedural requirements regarding the appointment of council members, alternates and officers, requirements for the conduct of council members and alternates and meetings, and other requirements. All council activities must be conducted pursuant to this charter.

SANCTUARY ADVISORY COUNCIL POLICY STATEMENT

The ONMS regards the involvement of communities and the development of a stewardship ethic as vitally important to successfully protect sanctuary resources. One key way to achieve this involvement is the formulation of sanctuary advisory councils.

Sanctuary advisory councils bring 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, or to assist the ONMS in guiding a proposed site through the designation process.

The ONMS is committed to the full support, utilization and enhancement of councils at all Sanctuaries. In order for councils to achieve their full potential, the ONMS, within the limits of available resources, will:

- Provide sufficient support to allow councils to operate efficiently and effectively at each site;
- Provide support and guidance from the national office to help councils operate efficiently and at a basic level of consistency across the system;
- Promote coordination and communication among councils and among sanctuary staff members that work closely with councils; and

- Develop training programs appropriate to council officers, members and alternates, and sanctuary superintendents and staff members.

- Conduct an annual meeting for council chairs, council coordinators and other appropriate ONMS staff to promote information exchange, networking and cross-pollination between councils; and

- Conduct an annual meeting for council coordinators for training and internal discussions.

OFFICE OF NATIONAL MARINE SANCTUARIES

A national marine sanctuary is an area of the marine or Great Lakes environment of special national, and sometimes international, significance warranting protection and management under the NMSA. As steward of coastal and ocean resources, the National Oceanic and Atmospheric Administration (NOAA) protects and manages sanctuaries through the ONMS.

Vision of the ONMS:
The ONMS is a world-class system of sanctuaries that protects the nation's natural and cultural marine resources for this and future generations and provides both national and international leadership for marine conservation.

Mission of the ONMS:
Identify, protect, conserve, and enhance the natural and cultural resources, values, and qualities of the National Marine Sanctuary System for this and future generations throughout the nation.

Goals of the ONMS:

- Identify, designate, and manage sanctuaries to maintain the natural biological communities in sanctuaries and to protect and, where appropriate, restore and enhance natural habitats, populations, and ecological processes, through innovative, coordinated, and community-based measures and techniques.

- Build and strengthen the nation-wide system of marine sanctuaries, maintain and enhance the role of the system in larger marine protected area networks, and help provide both national and international leadership for marine protected area management and marine resource stewardship.

- Enhance nation-wide public awareness, understanding, and appreciation of marine and Great Lakes ecosystems and maritime heritage resources through outreach, education, and interpretation efforts.

- Investigate and enhance the understanding of ecosystem processes through continued scientific research, monitoring, and characterization to support ecosystem-based management in sanctuaries and throughout U.S. waters.

- Facilitate human use in sanctuaries to the extent such uses are compatible with the primary mandate of resource protection, through innovative public participation and interagency cooperative arrangements.

- Work with the international community to strengthen global protection of marine resources, investigate and employ appropriate new management approaches, and disseminate ONMS experience and techniques.

- Build, maintain, and enhance an operational capability and infrastructure that efficiently and effectively support the attainment of the ONMS mission and goals.

FLORIDA KEYS NATIONAL MARINE SANCTUARY

Congress, recognizing the importance of the Florida Keys ecosystem and the degradation of the ecosystem due to direct and indirect physical impacts, passed the FKNMSPA in 1990 (P.L. 101-605) designating the Florida Keys National Marine Sanctuary. President George H.W. Bush signed the Act into law November 16, 1990. The purpose of the Act is to protect the marine resources of the Florida Keys, to educate and interpret for the public the Florida Keys marine environment, and to manage human uses of the Sanctuary consistent with the policy of the United States to protect and preserve living and other resources of the Florida Keys marine environment.

COUNCIL ROLES

1. The council, in accordance with the NMSA, shall provide advice to the sanctuary superintendent regarding the protection and management of the Florida Keys National Marine Sanctuary.

2. The council shall draw on the expertise of its members and other sources in order to provide advice.

3. Council members and alternates shall serve as liaisons between their constituents and/or communities and the sanctuary, keeping the sanctuary staff informed of issues and concerns, as well as providing information to their respective communities on the sanctuary's behalf.

4. The council may serve as a forum for consultation and deliberation among its members and as a source of consensus advice to the sanctuary superintendent. Such advice shall fairly represent the collective and individual views of the council members. In formulating such consensus advice, the council members shall recall that the primary objective of the sanctuary and the NMSA is resource protection.

5. The council is established to provide advice to the sanctuary superintendent regarding the management of the Florida Keys National Marine Sanctuary. Nothing in this charter constitutes authority to perform operational or management functions, or to make decisions on behalf of the sanctuary, NOAA or the Department of Commerce.

6. The council shall develop an annual work plan, in consultation with and approved by the sanctuary superintendent, to establish an agenda for specific issues and projects the council intends to address.

MEMBERS, ALTERNATES, AND OFFICERS

1. The council shall consist of no more than 20 voting members, who shall be appointed by the director from among persons employed by federal, state, or local agencies with expertise in management of natural resources, representatives of local user groups, conservation and other public interest organizations, scientific and educational organizations, and members of the public interested in the protection and multiple use management of sanctuary resources. The membership is designed to be balanced in terms of points of view represented, geographic diversity, and advisory functions the council will perform.

2. The sanctuary superintendent may work with the council in a nonvoting capacity and shall work with the chair in scheduling each meeting and approving the agenda to ensure that topics of discussion are relevant to the sanctuary. Council meetings may not be conducted in the absence of the sanctuary superintendent or his/her designee.

3. The following procedures shall govern the application, nomination, and appointment of council voting members:

(a)(i) A representative and alternate of each of the following activities, which are integrally affected by the management goals of the sanctuary, shall be selected:

Boating Industry

Citizen at Large – Upper Keys

Citizen at Large – Middle Keys

Citizen at Large – Lower Keys

Conservation and Environment (2 seats)

Diving – Upper Keys

Diving – Lower Keys

Education and Outreach

Elected County Official

Fishing - Charter Fishing Flats Guide

Fishing - Charter Sports Fishing

Fishing - Commercial - Marine/Tropical

Fishing - Commercial - Shell/Scale

Fishing - Recreational

Research and Monitoring

South Florida Ecosystem Restoration

Submerged Cultural Resources

Tourism - Upper Keys

Tourism - Lower Keys

Members and alternates are normally appointed for a term of three years, and may compete for reappointment. If necessary, terms of appointment may be changed to provide for staggered expiration dates or member resignation mid-term. The newly appointed member or alternate shall serve the term beginning on the date of his/her swearing-in by the sanctuary superintendent. Subject to the provisions of the ONMS policy on the limit on consecutive terms for non-governmental council members, non-governmental council members and alternates will not be selected to serve more than three consecutive terms representing the same seat unless a waiver (as provided for in the policy) is granted by the director. The governmental Elected County Official seat is not subject to the limit of three consecutive terms.

(ii) Members and alternates serve at the discretion of the director. The sanctuary superintendent may recommend to the director the removal of a member or alternate of the council on any of the following grounds if that member or alternate:

- Is convicted of any felony offense;
- Is found to have violated any of the following laws or regulations promulgated thereunder: the National Marine Sanctuaries Act, Marine Mammal Protection Act, Migratory Bird Treaty Act, Endangered Species Act, Magnuson-Stevens Fishery Conservation and Management Act, or another environmental law for which NOAA or another federal agency has jurisdictional responsibility;
- Is found to have violated state environmental laws or regulations promulgated thereunder in the state in which a sanctuary is located;
- Is found to have violated national or state laws or regulations (in the state in which the sanctuary is located) protecting cultural resources;
- Is determined to have abused his or her position as a member or alternate of the council (including, but not limited to, use of council information for personal gain; use of council position to advance a personal agenda or harm another member or alternate of the council or the community; misrepresentation of, or spreading misinformation about the council or the sanctuary, and refusal to recuse himself or herself if so requested by the sanctuary superintendent and/or chair in a matter in which the person has a conflict of interest);
- Has a change to the professional affiliation(s) and/or personal circumstances that comprise a significant portion of that person's qualifications for being a member or alternate of the council;
- Misses a consecutive number of meetings without reasonable justification;
- Disrupts, on more than one occasion, council meetings in a manner that interferes with the council conducting its business; or
- Violates any term of this charter.

If the Elected County Official member or alternate has been found to have violated one or more of the terms of this charter, the sanctuary superintendent may recommend to the director the appropriate agency be notified and requested to replace the designee.

The sanctuary superintendent may consult with the council prior to taking such an action.

4. As each non-governmental seat becomes vacant and the process for selection of a new member (described under Appointments) is conducted, the sanctuary superintendent shall recommend to the director the member and an alternate from among the top three candidates resulting from the review process. An alternate may not name another alternate.

5. As the Elected County Official seat becomes vacant, the governmental body selects a name for the member and a name for the alternate (depending on the positions vacant), and submits them to the sanctuary superintendent for appointment by the director. An alternate may not name another alternate.

6. The alternate shall have all the rights of the member at such times the alternate is officially substituting for the member. The chair and the sanctuary superintendent shall be notified by the member before an alternate officially attends a meeting.

7. (a) Council Officer Elections and Terms
The council shall elect one member to serve as chair and one member to serve as vice-chair. The vice-chair shall act as chair in the absence of the chair. Terms of the chair and vice-chair are two years. The chair and vice chair may serve a maximum of two consecutive terms (four years) if reelected.

A chair or vice-chair may leave his/her term to run for another council officer position, if desired. If the chair or vice-chair is elected to a new position, the council shall nominate and elect a new representative for the vacated position. Council members, including non-voting members, may nominate individuals for the council officer positions. Any member of the council, including for the governmental seat and non-voting seats, may be nominated and elected as a council officer. Election for officer positions is by majority vote of all council members, including the non-voting members (except ONMS employees working with the council in a nonvoting capacity), and votes shall be made by written ballot. Alternates may nominate and vote during an election only when the alternate is filling the seat in the absence of the member. Members who will not be present at the time of the election may submit their votes in writing to the sanctuary superintendent prior to the meeting.

If a council officer resigns, the council should hold an election at the next regularly scheduled council meeting. If the newly elected individual feels comfortable, he/she may begin serving in the position immediately upon being elected, otherwise he/she may begin serving at the next meeting. If the chair resigns, the vice-chair acts as chair until the new chair assumes the position. If the vice-chair resigns, the position may remain vacant until the new vice-chair assumes the position.

In extraordinary circumstances, if all council officers resign at the same time, the council can agree to allow another council member to serve as interim chair until the new officers are elected; the new officers should be elected at the next scheduled council meeting.

(b) Roles of Council Officers
(i) Chair: The chair schedules and sets agendas for all council meetings with the approval of the sanctuary superintendent; presides over all meetings of the full council and ensures that meetings are run according to accepted meeting practices, signs all correspondence and documents authorized by the council, and generally represents the council's interests and concerns to the public. The chair also continues to fulfill the general roles that all council members fill, including representing the interests of his/her constituents.

(ii) Vice-Chair: The vice-chair serves as chair in the absence of the chair and assists as necessary in performing executive duties of the council. The vice-chair also continues to fulfill the general roles that all council members fill, including representing the interests of his/her constituents.

APPOINTMENTS

Public notice shall be provided as to the vacancy of constituent group seat(s) and at-large representatives. Applications for ensuing terms for vacant seats shall be submitted to the sanctuary superintendent directly. Copies of all applications and nominations for each seat will be submitted by the sanctuary superintendent to a preliminary review panel, comprised of the sanctuary superintendent, the environmental administrator, the chair, the vice chair, the past chair and the coordinator, to obtain recommendations on selections. Any panel member that has a conflict of interest (financial, personal, self-nomination, etc.) shall recuse him/herself from making a selection for the vacant seat. Selection from among those recommended by the panel, or from among other applicants or nominees, shall be made by the sanctuary superintendent with the approval of the director. The sanctuary superintendent may choose to re-advertise the vacant seat(s) if adequate candidates are not available after the first recruitment process. When a seat becomes vacant before the term end due to resignation or removal, the sanctuary superintendent may choose to advertise the vacancy or, in the case of a member vacancy, may request, without going through a competitive process, the ONMS Director to appoint the alternate to complete the member's term. In all cases, submissions of written statements of particular interest, qualifications and experience shall be required. Guidelines for applying shall be supplied at the appropriate time.

ADMINISTRATION

1. Members and alternates of the advisory council shall not be paid compensation for the service as members and alternates and shall not be reimbursed for actual and necessary traveling and subsistence expenses incurred by them in the performance of their council duties. No members of working groups (defined below) may receive travel expenses for working group activities or meetings. Travel expenses for governmental members or alternates of the council may be provided by their own agencies.

2. The ONMS may make available such staff members, information, administrative services, or assistance as the sanctuary superintendent determines are reasonably required to enable the council and its subcommittees/working groups to carry out their functions.

OPERATION

1. Meetings

(a) Meetings are held at the call of the chair and sanctuary superintendent.

(b) Decisions (e.g., recommendations) made by the council shall be made by majority vote of those present, provided there is a quorum (more than half of the voting members). A recorded vote may be requested by the chair or the sanctuary superintendent.

(c) Each meeting shall be open to the public.

(d) Interested persons shall be permitted to present oral or written statements on items on the agenda, or other pertinent topics.

(e) Emergency meetings may be held at the call of the chair or presiding officer and the sanctuary superintendent.

(f) Timely notice of each council meeting, including the time, place, and agenda of each meeting, shall be provided to the local media and additional notice may be given by such other means as will result in appropriate publicity to interested groups. This requirement shall not apply to workshops scheduled by the council to address strategic planning, administration, or specialized technical issues. The council may not vote at any meeting for which the above public notice has not been issued. The council may note vote on any agenda item for which notice was not provided..

(g) The council shall meet as frequently as necessary, not to exceed once per month (the meetings should be in different months, but do not have to be precisely 30 days apart) for voting meetings, but at least once every six months. The council meeting place may be rotated among various locations adjacent to the Sanctuary and meeting sites shall be chosen to accommodate anticipated public attendance and be reasonably accessible to those interested in attending.

(h) Minutes of each meeting shall be kept by a person specified by the sanctuary superintendent and contain a summary of attendees and matters discussed; such minutes shall be available to the public.

2. Procedures for Providing Advice: The following procedures shall be used to provide advice:

(a) The council may provide advice on a relevant issue or topic to the sanctuary superintendent. Requests for information, assistance, or advice from the ONMS, other NOAA offices, or other agencies shall be made in writing and coordinated through the sanctuary superintendent.

(b) Any matter that a council member or alternate wishes to raise to the attention of the sanctuary shall be brought to the attention of either the sanctuary superintendent or the council chair so that it might be placed on the agenda as a discussion topic. The sanctuary superintendent and the council chair shall discuss topics for the agenda. The sanctuary superintendent approves a topic to be placed on the agenda.

(c) The council shall provide advice directly to the sanctuary superintendent via a written recommendation or a motion passed by the council and reflected in the minutes. Draft recommendations and verbal discussions shall be considered by the sanctuary superintendent as additional background information and shall be included in the minutes.

(d) Any advice, correspondence, or information the council wishes to offer or express beyond the sanctuary superintendent shall be voted on and approved by the council. Because the council was established specifically to provide advice to the Secretary of Commerce, and operates through the sanctuary superintendent, the sanctuary superintendent must also approve any advice, correspondence, or information that goes outside the sanctuary prior to sending.

(e) The council shall base its advice on a vote of the council with negative votes and abstentions noted or on consensus reached during discussion, and minority opinions noted. A quorum shall be present when the vote is taken or a discussion to reach consensus is conducted.

(f) Any information or advice resulting from discussions in subcommittees or working groups that is requested by the council shall be presented to and considered by the full council and as appropriate incorporated into the council's recommendation to the sanctuary superintendent. If the council does not incorporate information or advice of a subcommittee or working group, it shall inform the sanctuary superintendent and explain in its advice or information the reasons for not incorporating the subcommittee's or working group's advice or information.

3. Conduct of Individual Members and Alternates
Council members and alternates are expected to be familiar with the processes and regulations governing the sanctuary and to keep themselves informed of sanctuary-related events and issues. Expectations include regular meeting attendance and familiarity with the council charter and the ONMS Council Implementation Handbook.

(a) Council members and alternates may not use or allow the use of, for other than official council purposes, information obtained through or in connection with their council affiliation that has not been made available to the general public.

(b) When speaking to the public or writing about any matter regarding the sanctuary in a document for distribution beyond council membership, the sanctuary superintendent, or the sanctuary staff, a member or alternate shall clearly distinguish those recommendations, opinions or positions officially adopted by the council as a body from those he or she may have as an individual. In no case shall a member or alternate represent individual opinions as those of the council, the sanctuary superintendent, the Sanctuary staff, or NOAA.

(c) Any council member that has an interest (financial, personal or business interest) in any matter before the council, a subcommittee or a working group shall identify such interest prior to discussion and voting on such matter. No member shall cast a vote on any matter that would provide a direct financial benefit to the member or otherwise give the appearance of a conflict of interest under federal law. An affected member who may not vote on a matter may participate in council deliberations relating to the decision after notifying the council of the voting recusal and identifying the interest that would be affected. The same guidelines apply to alternates, when officially substituting for the member, and members of working groups who are not members of the council.

(d) All council members and alternates are expected to conduct themselves in a civil fashion, showing courtesy and respect to other council members and alternates, sanctuary staff and any other individuals present at the meeting.

4. Conduct of the Council as a Body

(a) Any correspondence or other written documents that are intended to speak for the council as a body shall be coordinated with, and approved by, the chair and sanctuary superintendent prior to sending.

(b) The following disclaimer shall be placed in all documents and communications originating from the council: "*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.*"

5. Council Letterhead

The council shall, with the assistance and approval of the sanctuary superintendent, design and use its own letterhead. All correspondence from the chair or other members or alternates of the council, or the council as a body, shall be on this letterhead. The council shall not use official NOAA or DOC letterhead for any correspondence or other purpose.

6. Subcommittees and Working Groups

(a) Subcommittees: The chair, in consultation with the council as a whole and the sanctuary superintendent, may establish such subcommittees as necessary to fulfill the council's duties. Subcommittees shall be composed solely of members of the council; at the superintendent's discretion, alternates may also serve on subcommittees. The subcommittee must be chaired by a member of the council. Subcommittees shall be recognized as official subunits of the council. Subcommittees are subject to all requirements of this charter. No members or alternates of subcommittees may receive travel expenses for subcommittee meetings or other activities.

(b) Working Groups: The chair, in consultation with the council as a whole and with the concurrence of the sanctuary superintendent, may establish working groups for specific purposes

or topics that need focused attention that cannot be accomplished by a subcommittee. Their work will be limited to functional areas and discrete issues relating to individual sanctuaries. Working groups may be composed of members of the council and persons outside the council. Working groups shall be chaired by a member of the council and shall function under the purview of the council. At the sanctuary superintendent's discretion and if the full council approves, an alternate may chair a working group; that alternate shall function under the purview of the council. Working groups established by the council to address specific issues shall disband once the final advice on the particular matter is submitted to the council. No members of working groups, including members or alternates who are also members of the council, may receive travel expenses for working group meetings or other activities.

OTHER TERMS OF THIS CHARTER

1. The council shall operate pursuant to the terms of this charter.

2. This charter shall remain in effect for a period of five years from the date of signature.

3. Six months prior to the expiration of this charter, the need for the council will be evaluated by the ONMS, with input from council members and alternates, to determine whether to renew the charter.

4. Revisions to the charter may be made as determined necessary by the ONMS with input from the council.

Daniel J. Basta
Director, Office of National Marine Sanctuaries

11/26/12
Date