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VMRC approves Milford Haven oyster cage proposal

by Peter J. Teagle - Posted on Sep 26, 2018 - 02:30 PM



As residents began to make their case in opposition of the Island Seafood oyster aquaculture project, two members of the Save The Haven group hauled in this aquaculture cage. The cage was found floating derelict by Captain Howard Hudgins and was used by the islanders as proof that the cages and floats can break away from farms and become obstructions to navigation. Kevin Wade and his team clarified that while this cage was “very similar” to what Island Seafood would be employing, it was by no means an exact replica. Photo by Peter J. Teagle



At the conclusion of their allotted speaking time, all the residents of the Island who came out to Tuesday's VMRC meeting to protest the aquaculture project stood in an effort to show how many people they felt would be affected by the decision. Resident James Brooks summarized their case, calling this proposal "the theft of public property for private interest." Photo by Peter J. Teagle

Following a contentious meeting that lasted nearly five hours Tuesday, the Virginia Marine Resources Commission voted by a 4-2-2 margin to authorize placing up to 700 floating oyster cages on a 5.5-acre tract of leased waterway in Milford Haven.

Kevin Wade of Island Seafood applied for authorization for the aquaculture project on the Gwynn's Island site, with his application protested by a number of nearby property owners.

The proposal has been controversial locally since its inception, with a movement led by Gwynn's Island residents titled "Save The Haven, LLC," formed to combat the project. Around 50 members of the group were in attendance at the meeting.

VMRC staff member Ben Stagg spoke first, laying out the physical details of the plans, including size, location, geography, and the fact that there were at least 125 formal complaints in the form of letters on file from private property owners.

During this time, two members of the commission, Chad Ballard III and Heather Lusk, disclosed that they both had private interests in the field of aquaculture, as both work for businesses that do similar work to that of Island Seafood.

Lusk's business, H.M. Terry Co., Inc., of which she is vice president, conducts transaction with Island Seafood. Neither moved to recuse themselves, citing that they believed they could be objective and act in the public interest. Neither was required by law to recuse themselves in this case.

At this point Wade was afforded 10 minutes to speak. He laid out his case for the proposal, focusing on the economic benefit, his track record as a business owner, and health concerns as the main reasons for seeking approval.

Following Wade's introduction, his business partner, J.D. Blackwell, answered specific questions for the commission.

Blackwell first explained that 6-10 inches of the floats atop these cages would be visible above the surface, as many sought clarification on exactly how much of the floats would be visible.

Commissioner Ed Tankard asked about the "defouling" process for maintaining the cages, which Blackwell explained in detail.

As the cages are agitated by wave action and the oysters inside are bagged, Blackwell described, the cages themselves will not require attention outside of occasionally fixing "wear and tear." The bags of oysters themselves will need to be defouled, which will occur on the dock already in place or in the area recently rezoned from residential to commercial where the bags will also be stored indoors.

At this point, those not affiliated with the applicant were able to speak if they were in favor of the project.

J. Bryan Plumlee, a former VMRC commissioner and former member of the Virginia Beach Wetlands Board, voiced his support citing his belief in the need to keep Virginia competitive with other states and countries in the field of aquaculture, which now is the source of around half of all seafood consumed nationally.

Several watermen from Mathews were also present to support the project. All four described a world where it is becoming harder and more expensive to make a living on the water and each felt projects like that of Island Seafood allow for watermen to ensure more consistent and predictable incomes.

John Vigliotta, owner of Ward Oyster Company in Ware Neck, said that he felt these types of market demands would be met by other states if not done in Virginia. "If not here, then where?" he posed to those in attendance. "Maybe North Carolina? Maybe Maryland?"

Following a brief recess, those in opposition took to the podium.

The residents began by carrying an oyster cage similar to that that will be used by Island Seafood into the meeting room. The particular cage was found derelict and pulled out of the water by Captain Howard Hudgins of Mathews. The legal counsel for the residents presented this as an example that these cages are capable of breaking away from their moorings and becoming obstructions.

Wade and his council clarified that, while the type of cage brought before the council was "very similar" to what Island Seafood would be using, it was not identical.

Members of the Save The Haven movement built their case around the public trust doctrine of the Code of Virginia, which mandates the VMRC work "to protect and safeguard the public right to the use and enjoyment of the subaqueous lands of the Commonwealth," among other factors.

Within their interpretation of this regulation, the residents laid out the many components of their “use and enjoyment” that they said would be undermined. Among these were: use of the waterway by paddle craft, sailboats, and jet-skis that often operate outside of the channel, effect on property value as a result of a negatively-altered view, loss of potential historical resources in the form of underwater artifacts from the Battle of Cricket Hill, and the driving away of bay-dwelling dolphins who inhabit and travel through Milford Haven.

Dozens of property owners from Gwynn’s Island and the surrounding areas spoke to varying shades of these issues.

Tristan Judson, who shares ownership of an adjacent property with father David Judson, is a professional yacht captain and stated “in my professional opinion these [the cages and floats] are a hazard to navigation.”

Captain Hudgins, who fished out the example cage, added that he was concerned that night travel and foul-weather travel would be made more dangerous by the presence of the project, especially under reduced visibility.

Woody Hogge, who owns a nearby condo, went on to say that he has seen “an increase of paddleboards and kayaks” in the last eight years and worries those individuals will suffer reduced availability of Milford Haven. He said, “and none of the three people on this application are residents of Mathews County.”

In terms of the issue of historical artifacts, Tom Robinson of Mathews Maritime Foundation said he felt the site should be protected from further cage projects because of the presence of cannonballs, anchors, and other items from the Battle of Cricket Hill. Robinson even supplied a cannonball that was found near the project area as evidence of such artifacts.

Following resident comments, which totaled approximately two hours, the commission began deliberations. Several members characterized this as “a tough decision” and no one seemed willing to make a motion until John Zydron broke the silence with a motion to deny the project. His motion failed due to lack of a second.

Christy Everett subsequently moved to approve the project, with Dr. Ken Neill seconding the motion. After a calling of the roll, it passed 4-2 with two abstentions.

Island resident Joe Atherton said of the decision, “I regret the fact that we were limited to discussing our future to only three minutes.” Atherton described feeling “gagged” by the comment period, adding that he “did not expect” the outcome that occurred.

“I think there was a precedent set here,” he said. “We are going to get together and have a cup of coffee and talk about it.”

Wade and his counsel did not wish to speak following the decision, calling it “too early” to make a comment.