

MINUTES OF THE CITY COUNCIL MEETING
SEPTEMBER 8, 2016, 6:30 P.M.
WORK SESSION
Community Center, 49 Odd Road

PRESENT: The Honorable W. Eugene Hunt, Jr., Mayor
The Honorable Carey L. Freeman, Vice Mayor
The Honorable Charles "Bud" M. Southall III
The Honorable Herbert R. Green, Jr.
The Honorable Raymond E. Vernall

J. Randall Wheeler, City Manager
Judy F. Wiggins, Assistant City Manager/City Clerk
D. Wayne Moore, City Attorney

ABSENT: The Honorable Traci-Dale Crawford
The Honorable Henry W. Ayer III

The meeting was called to order by Mayor Hunt at approximately 6:30 p.m. in the Community Center.

Aquaculture Discussion with VMRC Representative:

Mayor Hunt stated that the City does not regulate oyster aquaculture and has no desire to increase regulations on the working watermen. However, he pointed out that Council is seeking information relative to the rights of waterfront property owners; the potential navigational hazards resulting from cage aquaculture; the role, if any, of local government regarding aquaculture; and the differences between Virginia Marine Resources Commission's (VMRC) processing of aquaculture ground permits as opposed to cage permits.

Mr. Ben Stagg, VMRC Chief Engineer (Western Area), stated that in Virginia leasing of shellfish grounds are governed by the State Code and that there have been minimal changes to the regulations over the years. He pointed out that the sole purpose for leasing oyster permits is for the propagation of oysters and that there are basically two methods of growing oysters, i.e. the traditional method by growing and harvesting oysters on the bottom of the waterways and the other method which uses oyster cages.

Upon VMRC receiving a lease application, Mr. Stagg stated that it must be advertised once a week for 4 consecutive weeks at the expense of the applicant; posted at the local courthouse; placed on the VMRC website; and posted in two different public locations in the specific locality. Upon completion of the advertising requirements, he stated that a surveyor is appointed to survey the area specified in the application.

When an individual has concerns regarding an application, Mr. Stagg pointed out that he/she may express opposition to the application, but valid reasons for the objection must be provided. In such cases, VMRC may negotiate between the applicant and the concerned neighbor(s) in order to reach a mutually agreeable outcome. However, whether or not the dispute is resolved, it is presented to the full Commission for consideration and a vote. Unfortunately, he explained that the entire process is lengthy due to a backlog of numerous applications. Upon formal consideration of the request, Mr. Stagg stated that the Commission makes a recommendation, i.e. approve, deny or approve with modifications, to the full Board at which time both the applicant and the opponent(s) have an opportunity to speak. However, he pointed out that the Board's decisions are appealable to the Circuit Court.

Mr. Stagg stated that cage aquaculture permits require that the cages can be no taller than 12" and no more than 12" off of the bottom of the ground and be of minimal impact to navigation. To obtain a cage aquaculture lease, he explained that the applicant must go through the joint permit application process. If the permit is approved, the oyster grounds must be properly marked with 2 placards measuring 12" by 12" facing outward on the corners of the area containing the oyster cages and located at least 4' above mean high-water. He explained that law enforcement is contacted by the VMRC when a violation is reported and that a ticket is issued if warranted.

He explained that most of the public grounds are perpetually protected and cannot be leased. He pointed out that one can sail over permitted areas; however jet skis and small sailboats will likely have a problem with oyster cages. Mr. Stagg stated that 20 or more citizens can petition to set aside grounds for the public and that such a petition from Poquoson residents has been received by the Commission. He stated that their request will be considered by the Board sometime in the near future. He further explained that public grounds can be held open for public use only or just set aside as an area not to be leased; however, the public may harvest oysters in designated public areas using traditional methods only. Mr. Stagg stated that VMRC will work with the City if it wishes to set aside an area as public grounds.

In conclusion, Mr. Stagg stated that the Commission created a group of thirteen stakeholders to study cage aquaculture issues which subsequently identified 15 action items for discussion and possible recommendations. In response to Council queries regarding liability issues related to cages, he stated that the Assistant Attorney General has stated that if cage aquaculture leaseholders follow the rules, his/her liability greatly reduces. He stated that the City may wish to sponsor new or support previous, unsuccessful legislation that would improve VMRC's leasing process and enhance safety relative to cage aquaculture.

Mayor Hunt thanked Mr. Stagg for his attendance and for his informative presentation. Following a brief discussion, Council agreed to actively support State legislation that will address their concerns relative to cage aquaculture.

ADJOURNMENT:

There being no further business, the work session was adjourned at approximately 8:10 p.m.