

Meeting Summary
Oyster Advisory Commission (OAC) Meeting
 Calvary United Methodist Church, Fellowship Hall
 301 Rowe Blvd, Annapolis, MD
 (6:00 PM – 9:30 PM)
 December 12, 2016

LIST OF ATTENDEES

Commissioners Present:

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| Kelley Cox (Co-Chair) | Phillips Wharf Environmental Center (PWEC) |
| Scott Eglseder (Co-Chair) | Eglseder Wealth Management Group, Inc. |
| J.D. Blackwell | 38° North Oysters |
| Robert T. Brown | Maryland Watermen's Association |
| Kelton Clark | Morgan State University (MSU) |
| Ron Fithian | Kent County Commissioners |
| Bill Goldsborough | Chesapeake Bay Foundation (CBF) |
| Jeff Harrison | Talbot County Watermen's Association |
| Steve Hershey | State Senator |
| Bill Kilinski | Charles County Watermen's Association |
| Doug Legum | Douglas Legum Development Inc. |
| Ken Lewis | Coastal Conservation Association (CCA) |
| Jim Mathias | State Senator |
| Jim Mullin | Maryland Watermen's Association (MOA) |
| Deborah Rey | State Delegate |
| Peyton Robertson | National Oceanic and Atmospheric Administration (NOAA) Chesapeake Bay Office |
| Eric Schott | University of Maryland Center for Environmental Science (UMCES) |
| Angie Sowers | U.S. Army Corps of Engineers (USACE), Baltimore District |
| Ann Swanson | Chesapeake Bay Commission |

Commissioners Unable to Attend:

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| Don Boesch | University of Maryland Center for Environmental Science (UMCES) |
| Johnny Mautz | State Delegate |
| Ben Parks | Maryland Watermen, Dorchester County |
| Jason Schmidt | Talbot County Seafood Heritage Association |
| Aubrey Vincent | Lindy Seafood |

Other Meeting Attendees Present:

Chesapeake Bay Foundation (CBF): Mr. Dan Johannes, Mr. John Page Williams

Chesapeake Bay Savers: Ms. Marisa Sames

Citizen: Ms. Liz Curtz, Ms. Emery Cushing, Ms. Fae Daniels, Mr. Charles Dent, Ms. Beverly DePietropaolo, Ms. Isabelle Fair, Mr. Gary Fowler, Mr. Rob Fowler, Ms. Lani Hummel, Mr. Kurt Huppert, Mr. Mac Nelson, Mr. John Rodenhavsen, Ms. Sharon Roehle, Mr. David Tana

Clean Chesapeake Coalition: Mr. Tony Bradshaw

Congressman Andy Harris' Office: Ms. Denise Lovelady

Coastal Conservation Association (CCA): Mr. Larry Jennings

Delegate Mautz: Mr. Michael Kiko

Delmarva Fisheries Association Inc.: Capt. Robert Newberry

Dorchester County: Mr. Scott Todd

Maryland Department of Natural Resources (DNR): Ms. Jodi Baxter, Secretary Mark Belton, Mr. Dave Blazer, Mr. George O'Donnell, Mr. Chris Judy, Mr. Stephen Schatz, Mr. Joanne Throwe

Maryland Environmental Service (MES): Ms. Maggie Cavey

Maryland Grow Oysters (MGO): Mr. Bob Whitcomb

Midshore Riverkeeper Conservancy: Mr. Dan Watson

National Wildlife Federation: Ms. Jen Mihills

Phillips Wharf Environmental Center (PWEC): Ms. Carol McCollough

Senator Steve Hershey's Office: Ms. Erika Howard

South River: Mr. Jesse Iliff, Mr. Walter Pezet

St. Mary's River Watershed Association: Mr. Joe Anderson, Mr. Bob Lewis

Queen Anne's Watermen Association: Mr. Troy Wilkins

Handouts:

- Meeting Agenda
- November 14, 2016 Draft Meeting Summary
- Table – Requested information regarding the Proposals from the County Oyster Committees
- Presentation – Proposals from the County Oyster Committees: Proposed Changes to the Current Oyster Management Areas – Additional Proposals Received After 11/14/2016
- Presentation – Shell Dredging Permit Summary: Man-O-War Shoals
- Letter – Letter of December 9, 2016 addressed to DNR from USACE specifying questions related to the Man-O-War Shoal Shell Dredging Permit
- Senate Bill 937 – Sustainable Oyster Population and Fishery Act of 2016
- Progress Report and Cover Letter – First Progress Report Regarding Senate Bill 937: Sustainable Oyster Population and Fishery Act of 2016
- Presentation – Sustainable Oyster Population and Fishery Act of 2016: Senate Bill 937 Statute § 4-215
- Presentation – Public-Private Partnership (P3): Oyster Pilot Project
- Presentation – Oyster Restoration in Tred Avon River and Harris Creek: OAC Update
- Map – Tred Avon River Habitat Restoration Construction Plans
- Handout – 2016 Maryland Fall Oyster Survey: Preliminary Results

Note: Meeting agendas, handouts and approved meeting summaries will be available on the OAC webpage:

<http://dnrweb.dnr.state.md.us/fisheries/management/?com=oac&page=meetings>

Action Items:

- DNR will consult with the Baltimore County Oyster Committee regarding future plans for seed plantings on Man-O-War Shoals.
- DNR will provide the commissioners with the size (acres) of Man-O-War shoals and size of Baltimore County Oyster Committee seed plantings.
- DNR will provide Senator Hershey with a list of agency staff who attended the November 22nd meeting with USACE.
- DNR will provide Senator Hershey with the definition of shell dredging in order to explain why the regulatory agencies consider it to be a dredging activity.
- DNR will provide the Commissioners with the data that was used to establish that 5 million bushels of shell should be proposed for removal in the Man-O-War Shoals shell dredging application.
- The Stock Assessment Team will provide a thorough presentation on the oyster stock assessment project at a future OAC meeting.
- DNR will identify alternative funding sources for other future P3 projects.
- DNR will provide the Commissioners and the members of the public with a copy of the peer review comments and suggested edits for the 5 Year Report.

MEETING SUMMARY:

Welcome and Introductions

(Kelley Cox, Co-chair)

The Commissioners introduced themselves. Ms. Cox and the Commissioners congratulated Mr. Goldsborough on his approaching retirement.

Meeting Summary Approval

(Kelley Cox, Co-chair)

Ms. Cox asked if the October 17th and November 14th meeting summaries could be approved without further edits. Mr. Lewis made a motion to approve both meeting summaries. Mr. Harrison seconded the motion.

Man-O-War Shell Dredging Permit Update

(Mr. Chris Judy, DNR)

Presentation – Shell Dredging Permit Summary: Man-O-War Shoals

Letter – Addressed to DNR from USACE regarding Man-O-War Shoals Shell Dredging Permit

As background, the original response from DNR to the USACE addressed 41 issues. After this response, the USACE and other agencies had additional questions. To address these questions a meeting was convened by the USACE on November 22, 2016. In attendance were: DNR, USACE, the National Marine Fisheries Service (NMFS), the Environmental Protection Agency (EPA), the Maryland Department of the Environment, and representatives from the Board of Public Works. The information needed centered around completion of two Federally mandated assessments: the Essential Fish Habitat assessment (EFH) and the Endangered Species Act assessment (ESA), also known as a “consultation”. These assessments need to be completed

before the USACE can finish their review of the permit application and reach a decision. It was agreed at the meeting that a letter would be sent to DNR from the USACE summarizing the discussion and the requested information. The letter arrived December 9, 2016 and was provided to the OAC in their folders. Also, the letter was discussed with the OAC at tonight's meeting. DNR was given until April 1, 2017 to respond to the letter; however DNR anticipates responding to the agencies by the end of January 2017.

- Delegate Rey asked if the Man-O-War shoal area has ever produced a harvest.
 - Mr. Judy explained that harvest has occurred at the shoal, but not regularly or in great amounts because of the poor spat sets in the upper bay area and due to die-offs from heavy rainfall. As one example, in 2011 salinity dropped to fatal levels due to excessive rains that killed off a majority of the oysters in the area; and there has not been any harvest in the area in recent years. Harvest depends on a combination of seed plantings and good survival. Recently, Baltimore County has planted seed on just the western part of the shoal.
- Delegate Rey asked if the Baltimore County Oyster Committee would have enough acreage to continue planting the area, given plans to dredge part of the shoal.
 - Mr. Judy stated that the acreage they have is more than enough given that seed plantings rotate and the committee can easily cycle through the acreage that is available now. He also stated that he would consult with the Baltimore County Oyster Committee.
- Mr. Fithian asked if dredging projects have ever been stopped or delayed due to environmental or other concerns in the past. He asked if the Baltimore channel dredging permits that the Maryland Port Administration (MPA) applies for are as difficult to obtain as the shell dredging permits that DNR is seeking.
 - Mr. Judy and Secretary Belton explained that MPA often does have problems meeting the requirements for getting permits for dredging. DNR plans to ask MPA for advice and data to assist them with the shell dredging permit process.
- Mr. Blackwell asked how large an area of the Man-O-War Shoals had been planted with oyster spat in the past in relation to the entire surface area of the Man-O-War Shoals.
 - Mr. Judy stated that the he would find out and provide the commission this information.
- Mr. Legum asked if the Man-O-War shoal could be planted in the future and made productive for oyster harvest.
 - Mr. Judy stated that any area could be made productive with enough funding and seed plantings, but the issue with Man-O-War Shoal is the salinity. Seed need to survive to market size to sustain a harvest, but the Man-O-War Shoal area has marginal salinity for survival. Therefore seed are susceptible to die-offs due to high fresh water flows, which frequently occur. Given suitable salinities such as in a dry spell, the area could be commercially productive.

- Senator Hershey asked which DNR staff attended the meeting on November 22nd. He asked why Virginia finds it easier to get shell dredging permits than Maryland and whether the Virginia permit is reviewed by the same federal resource agencies. He asked why shell dredging is technically considered dredging. Senator Hershey asked how long it would take for the permit to be approved or denied once DNR responds to the federal agencies.
 - Mr. Judy stated that he, Ms. Baxter, and Mr. Blazer had represented DNR at the meeting. He noted that Virginia's shell dredging permits are processed through the USACE Norfolk office and that Maryland's permits are processed through the USACE Baltimore office and that both offices require the same level of federal agency review, namely the EFH and ESA processes, plus others. But the two offices view shell dredging differently and this results in a difference in permit approval timing and ease.
 - Mr. Judy stated that shell dredging is considered dredging because the equipment and processes that are used are similar to the equipment and processes that are used for channel dredging: a dredge is used in both cases and material is removed from the bottom in both cases. He stated that the difference is that shell dredging produces a valuable material that helps the bay and the oyster population (shells) but channel dredging does not. DNR cites this beneficial aspect of the shell dredging program in its application.
 - Mr. Judy stated that once DNR responds to the additional federal questions, the USACE said it will take a few months for the permit to be either approved or denied.
- Senator Hershey requested a list of all agency staff who attended the meeting on the 22nd. He asked DNR to cite the definition of shell dredging as dredging.
 - Mr. Judy stated that he will provide the commission this information.
- Mr. Fithian asked how many of the agency staff who attended the November 22nd meeting had worked on shell dredging projects in the past.
 - Mr. Judy explained that of those in attendance only one or two of the approximately ten people had worked on shell dredging permits in the past.
- Mr. Brown asked for the number of dredging cuts proposed to be made in the Man-O-War Shoal and if one large cut might be better than many.
 - Mr. Judy stated that nine cuts were proposed and it was estimated that these nine cuts would be enough allow them to remove 5 million bushels of shell. He explained that one large cut would work and leave the majority of the rest of the shoal untouched, but multiple cuts became the plan in order to leave as much variable topography as possible to enhance fish habitat (structure). Also, the permit conditions from prior shell dredging programs mandated no cut could be wider than 500'. If this condition remains in place, which is expected, it will prohibit making one large cut.

- Mr. Clark asked if DNR anticipates that other federal agencies will ask DNR to provide information in addition to what has already been requested.
 - It was explained that the USACE, as the lead federal agency, collects all federal agencies questions or concerns regarding the review of the permit application. USACE has included all of the appropriate federal agencies in the permit review process and there shouldn't be any unexpected additional requests for information.

- Mr. Schott asked how DNR is explaining why some of the shell dredging cuts that are being proposed are located within an oyster sanctuary area.
 - Mr. Judy stated that the sanctuaries down bay need shell and the source could be the sanctuary area in Man-O-War Shoals, where longterm populations are unlikely because no significant spat set occurs due to salinity patterns. It is a case of one sanctuary area helping many other sanctuary areas. However, Mr. Judy noted that he thought the dredge cuts had been redrawn and removed from the sanctuary portion. He agreed to look into it. *[UPDATE: the map on record with the USACE has cuts in both the sanctuary portion and the non-sanctuary portion of Man-O-War Shoals. This map is the map on file for the project.]*

- Mr. Fithian stated that he views shell dredging within the Man-O-War Shoal as the least harmful site for this project.
 - Mr. Judy stated that of all the other areas where shell dredging might occur, Man-O-War Shoal is expected to have the least impacts compared to the other sites.

- Mr. Blackwell and Mr. Brown asked how DNR had determined how the 5 million bushels of shell from Man-O-War would be distributed (how much would go to oyster aquaculture, oyster sanctuary restoration, and the public fishery).
 - Mr. Judy explained that DNR has not determined how the shells will be distributed. He stated that the quantity of shell that has been proposed (5 million bushels to be removed over 5 years) was determined through a review of what could be taken from the Man-O-War shoal. This was summarized in the 41 responses to the USCE and was addressed in "Attachment 1" that was submitted with the permit application. He noted that the response acknowledged that 5 million bushels of shell would only meet a portion of the shell that will be needed for the next 5 years. DNR will supply the Commissioners with the estimated need for shell compared to the 5 million bushel request.

- Mr. Brown asked about the status of DNR's other applications for shell dredging permits. He stated that DNR should not delay applying for other permits for dredging shell in other locations while the approval of the Man-O-War Shoal permit is under review because the Man-O-War dredging permit maybe denied.
 - It was explained that other shell dredging permits have been drafted. DNR's first priority is to address all of the USACE concerns regarding the Man-O-War Shoal shell dredging permit. The other permits are drafted and are ready if needed.

Sustainable Oyster Population and Fishery Act of 2016 (Mr. Dave Blazer, DNR)

Senate Bill 937 – Sustainable Oyster Population and Fishery Act of 2016

Progress Report and Cover Letter – First Progress Report for Senate Bill 937

Presentation – Sustainable Oyster Population and Fishery Act of 2016: Senate Bill 937 Statute § 4-215

Mr. Blazer stated that as part of Senate Bill 937: Sustainable Oyster Population and Fishery Act of 2016, the DNR must submit three progress reports (in 12/2016, 12/2017, and 12/2018). DNR has completed and submitted the 12/2016 progress report and a copy has been included in the Commissioner's meeting handouts. Mr. Blazer provided a brief presentation on Senate Bill 937. He stated that the Stock Assessment Team would provide a more thorough presentation at a future OAC meeting.

- Mr. Clark asked if currently there is a structure in place for the review of the new oyster stock assessment and progress reports.
 - Mr. Blazer stated that the OAC is reviewing the report for the oyster industry.
- Mr. Goldsborough noted that the legislation does not mandate that waterman be involved in the stock assessment process. He stated that the watermen should take part in the assessment since they know where the oysters are located.
 - Mr. Blazer stated that DNR will be working to increase stakeholder involvement after the legislative session.
- Mr. Mullin asked if the stock assessment would assess the oyster populations in the entire Bay.
 - Mr. Blazer stated that the evaluation would account for oysters in both the sanctuaries and on the public bottom.
- Mr. Fithian asked that DNR show (in a future presentation) which rivers (where there currently is no commercial harvest) would be included in the stock assessment.
- Mr. Harrison asked if the data that was included in the 5 Year Oyster Report would be taken into consideration in the stock assessment or would new data be collected for a new analysis. He expressed concern that an assessment of the entire oyster population would take over a year to complete since it would require the collection of additional data.
 - Mr. Blazer explained that the stock assessment would consider data from the 5 Year Oyster Report as well as from other sources. Once gaps have been identified, the Stock Assessment Team will identify what additional data is still needed. He estimated that 1 year would be enough time to get started. Once they start the analysis, DNR will bring all the information back to the OAC.
- Mr. Lewis noted that, according to Mr. Wesson, Virginia is able to perform annual stock assessments; and he questioned why DNR has not been doing this.
 - Mr. Blazer stated that both Virginia and New Jersey perform annual stock assessments by regions. He noted that DNR is currently looking for states to model their new stock assessment process on.

- Senator Hershey asked for the estimated cost of this assessment project.
 - Mr. Blazer stated that the assessment would cost \$375,000 over 2 years.
- Ms. Swanson asked that the selection of the reference points (used for the stock assessment) be provided in a future presentation. She indicated that she would like to understand what goes into selecting a reference point and how the reference points fit into the stock assessment model.
 - Mr. Robertson noted that there is good information on oyster stock assessment available through the Chesapeake Bay stock assessment program. He stated that NOAA has funded the initial work on a bay wide oyster stock assessment for Chesapeake Bay through a project with Roger Mann at VIMS. Mr. Robertson would be happy to provide this information to the OAC.

Public-Private Partnership (P3) Pilot Oyster Project (Ms. Jodi Baxter, DNR)
Presentation – Public-Private Partnership (P3): Oyster Pilot Project

Ms. Baxter provided a brief overview of the Public-Private Partnership (P3): Oyster Pilot Project.

- Mr. Harrison noted that Anne Arundel County currently has 27 watermen where Talbot County has 300 watermen. He asked how a pilot project in this County could be used to establish a method that would be applicable to a county with ten times the watermen.
 - Ms. Baxter explained that the Anne Arundel County pilot project will only define the basic outline of how the project will be structured.
- Delegate Rey asked if the principle behind the P3 Pilot Project is similar to that of leasing bottom. She asked if the state government would always be involved to support these types of projects.
 - Ms. Baxter stated that the P3 Pilot Project concept is similar to bottom leasing. Bottom is planted, a harvest occurs, and an income is generated. Mr. Judy added that the government contribution is short term because the concept of the P3 is to reinvest a portion of the income back into itself so it becomes self-sustaining.
- Mr. Clark stated that cooperatives (co-op) such as the one suggested as part of the P3 Pilot Project require experts. He asked if funding is available to support such experts.
 - Ms. Baxter stated that a grant available through the National Fish and Wildlife Foundation (NFWF) for \$200,000 was procured for the project for experts and seed planting.
- Ms. Swanson mentioned the example of the Potomac River in Virginia and Maryland. She stated that the bushel tax is used to manage the reseeding and only those watermen paying in to the fund are able to harvest there.
 - Mr. Judy stated that Ms. Swanson's example is the goal of the P3 project: to reinvest and become self-sustaining.

- Mr. Kilinski noted that a co-op project in the Potomac River has been operating for four years now. There are currently 48 Potomac River lease holders. The initial investment for the watermen was \$600 for membership plus a tax per bushel. He noted that although it is a self-sustaining model, it does require initial startup funding.

Mr. Kilinski asked if it would be possible to establish two pilot projects in Maryland as other counties may be interested in starting a project right away. He noted that the \$200,000 from NFWF may be enough funding to jump start two pilot projects.

- Mr. Blackwell asked about other available funding for P3 projects.
 - Ms. Baxter stated that there may be some additional grants available and that she would find out what other funding is available.

Tred Avon River Restoration

(Ms. Angie Sowers, USACE)

Presentation – Oyster Restoration in Tred Avon River and Harris Creek: OAC Update

Map – Tred Avon River Construction Plans

Ms. Sowers provided the Commissioners with a brief presentation on the progress of the ongoing oyster restoration projects in the Tred Avon River and Harris Creek. Ms. Sowers noted that the proposed use of rock by the USACE in future oyster sanctuary habitat restoration efforts will continue to be brought to the OAC for discussion before being decided on.

- Secretary Belton asked Ms. Sowers if the USACE has ever received a waiver for the environmental window in an effort to use all shell rather than some rock and some shell.
 - Ms. Sowers stated that a waiver for the environmental window has been granted before but a waiver is not always guaranteed.
- Mr. Goldsborough noted that the other oyster habitat restoration sites that the USACE has constructed in the past using rock have been successful. He stated that as long as safety issues like those encountered in Harris Creek can be avoided, and if rock is proving to serve as a good bottom for oyster habitat restoration, then rock should be considered an appropriate alternative to the use of shell.
- Delegate Rey asked if it would be more beneficial to place shell where it could be recovered in the future (i.e. public bottom). She asked if it would be a better option to use rock in sanctuary areas where it will act as an appropriate substitute for shell and will allow the USACE and DNR to save shell for harvest areas that will be worked and where the shell can be recovered later.
 - Ms. Sowers agreed and noted that Virginia reserves their shell for their harvest areas.
- Mr. Blackwell asked where the shell that is being used in the restoration efforts originated from.

- Ms. Sowers stated that it is “mixed shell” (clam shells of different species and conch shell) that is coming from locations in New Jersey.
- Senator Hershey asked Ms. Sowers to verify that the restoration of Harris Creek is a \$43 million project. He asked her to explain the benefit of spending \$43 million on restoration and what the state of the sanctuaries were prior to the restoration efforts (whether they were in productive or barren prior to the initial restoration work). He stated that that tax payers would like a better understanding of how the \$43 million is being spent on restoration efforts in the sanctuaries.
 - Ms. Sowers stated that the \$43 million was being used for the restoration of all three tributaries (not just Harris Creek). She explained that in the past the sanctuaries had received minimal restoration work and that prior to the restoration efforts there had been less than 1 oyster per meter squared (m²) living in the areas to be restored. She explained that it can be hard to evaluate the cost-benefit of environmental restoration and difficult to place a price on restoration work being conducted in oyster sanctuaries.
- Mr. Goldsborough agreed that the cost of the restoration is important, but he noted that it is also important to remember that it took 100 years to degrade oyster populations to their current state and it is going to take time and money to restore oyster populations in the Bay. He pointed out that the 2009 Environmental Impact Statement (EIS) provided an in depth assessment and analysis of the work that had been done in the past to restore native Bay oysters and that the EIS analysis came to the conclusion that the current investment in native oyster restoration needed to be doubled in order to have a chance at being successful. He explained that Maryland used the EIS as a basis and spring board for the current restoration efforts.
- Mr. Brown asked if the issues in Harris Creek had been rectified. He expressed concern that there had been a lack of inspectors during the placement of rock and the safety problems that followed.
 - Mr. Judy stated that DNR would be handling the issue with its in-house barge crew and it was tentatively scheduled for January, depending on weather. Ms. Sowers stated that there was always an inspector onsite during placement of shell and stone.
- Mr. Brown stated that the placement of stone negatively impacts crabbers and he stated that shell should be planted instead.
 - Ms. Sowers explained that that the watermen have stated in a previous meeting that the development of three dimensional reefs has similar impacts to substrate alone.
- Mr. Harrison stated that the rock being placed appears to be bigger than the size of the rock that was discussed to be placed in the sanctuaries. He also asked why salaries are not included in the implementation budget.
 - Ms. Sowers stated that the rock is sent through a mesh sheet to control for size and it is possible for a larger rock to go through sideways but it is not a frequent

occurrence. Ms. Sowers also explained that the bulk of the expenses associated with the project are the cost of the substrate.

- Mr. Goldsborough reminded the Commissioners that Virginia uses rock in their sanctuaries and saves their shell for their harvest areas.
- Mr. Legum stated that the Commissioners had agreed that shell should be used whenever possible but if not available then rock could be used as a suitable substitute.
 - Ms. Sowers stated that some shell would be placed on the 8 acres but not enough shell is available so some rock will need to be proposed.
- Mr. Legum asked if it was possible to get more mixed shell from New Jersey.
 - Ms. Sowers stated that the contractor has been stockpiling shell for the project. Prior to the start of the Tred Avon work in December, the area available for stockpiling was full to capacity. As work is completed and shell is utilized, more shell can be acquired. The pace that shell becomes available and the time for completing the anticipated work limits the amount of shell available.

Ms. Swanson asked if the Commissioners felt they were in a place to make a decision regarding the use of rock in the restoration efforts in Tred Avon River. Ms. Swanson motioned to allow the use of rock in the USACE restoration efforts. Mr. Robertson seconded the motion.

Ms. Cox opened the floor to the Commissioners for discussion.

- Mr. Mullins asked Secretary Belton his thoughts on requesting a waiver for the environmental window in an effort to get more shell.
- Mr. Kilinski called attention to the photos that Ms. Sowers had shared in her presentation that showed oysters that had been placed on the rock bottom; he noted where the mud line was on the oysters. He said that he believes that the oysters shown in those photos would likely die eventually and would not be able to successfully spawn under that much mud.
- Mr. Harrison stated that neither rock nor mixed shell is the appropriate substrate and that the watermen want the USACE to use native oyster shell for oyster restoration.
- Mr. Legum stated that if available shell is not used it will be allocated to other projects. He stated that if mixed shell is available then it should be used. He reminded the Commissioners that Man-O-War Shoal dredging could still take several months to be approved or denied.
- Delegate Rey stated that it seemed like a better choice to place rock in sanctuary areas that will never be able to be harvested and reserve shell for harvest areas.

- Mr. Kilinski stated that waterman want the oyster sanctuary restoration efforts to be lasting in order to help restore the total population of oysters in the Bay. He stated that rock requires more maintenance.
 - Ms. Sowers agreed that the USACE goal for the restoration is sustainability.
- Delegate Rey confirmed that the Commissioners were voting to make a recommendation to Secretary Belton regarding the use of rock in the restoration efforts.
 - Secretary Belton agreed that the OAC is providing a recommendation to him but he noted that the goal is for the Commissioners to come to a consensus.
- Ms. Swanson withdrew her previous motion and the Commissioners continued to discuss the use of rock in restoration efforts.

The Commissioners continued discussing the use of rock.

- Mr. Fithian stated that he felt more research should be conducted on the effectiveness of rock as an alternative substrate.
- Mr. Clark reminded the Commissioners that extensive research has already been conducted on the effectiveness of rocks as a suitable substrate.
- Mr. Goldsborough reminded the Commissioners that they had not voted to never use rock for restoration in the Tred Avon River but rather requested that USACE come to the OAC to discuss the use of rock. Mr. Goldsborough referred to a video Ms. Sowers had shown during her presentation which depicted a seemingly healthy oyster population built up vertically and comprised of multiple generations built on rock. He stated that oysters are both ecologically and economically important.
- Mr. Legum stated that shell is a limited resource and there is not enough to go around for all of the restoration work so rock is a suitable substitute. He stated that the overall goal is to preserve the native oysters and create functioning oyster reefs for harvest.
- Mr. Blackwell referred to the spreadsheet provided by DNR regarding the County Oyster Committees management proposals and asked Mr. Judy what the cost per bushel is expected to be for shells from Man-O-War Shoal.
 - Mr. Judy stated that the projected cost is \$4-\$5 per bushel.
- Mr. Blackwell asked for clarification regarding the use of rock as a substrate and if spat on shell is then planted on top of the rock.
 - Ms. Sowers confirmed that rock is used as the substrate and spat on shell is planted on top of the rock. She also stated that the pictures she had shared also display wild strike (natural spat set) on stone.
- Senator Mathias stated that the Commissioners had had the opportunity to voice their concerns and questions and that he motioned to yield to Secretary Belton's decision. The Commissioners concurred.

Public Comment

Mr. Newberry stated he is concerned that DNR has not yet been able to acquire a permit for shell dredging at Plum Point. He noted that a permit was issued for Craighill and Brewerton channel maintenance dredging located 1.3 miles from Plum Point. He stated that the Fall Survey data should be utilized in the stock assessment and he asked to be provided with the peer review comments on the 5 Year Report. Mr. Newberry stated that non-native clam shell had been used in oyster restoration and planting efforts in the past and he stated that non-indigenous material should be extensively studied prior to use. He stated that in the past, permits have been changed to make allowances for the use of available substrate and he stated that he believes that this is part of the issue with the pile ups in Harris Creek.

Mr. Blazer stated that DNR would supply Mr. Newberry with a copy of the peer review comments.

Mr. Rodenhaven stated that the funding spent to date for restoration efforts is appropriate and that more funding should be allotted for restoration and sanctuaries. Several other members of the public concurred with Mr. Rodenhaven.

Next Meeting Agenda

(Mr. Dave Blazer, DNR)

The next OAC meeting will be held on January 9th, 2017 at 6pm at the Calvary United Methodist Church's Fellowship Hall.

Mr. Blazer stated that the topics to be discussed at the January meeting would include an update on the Man-O-War shell permit, a presentation and discussion regarding the environmental groups management proposals, and a discussion of the 5 Year Report.

Topics for Discussion for Future Commission Meetings:

1. Identification of where restoration efforts in oyster sanctuaries would be likely or unlikely to be successful. (DNR has provided Fall Survey data, but additional discussion may be needed)
2. The problem of boats running aground in shallow water created during oyster reef restoration. (DNR has agreed to work with watermen, USACE, and NOAA to set up a field meeting in Harris Creek to investigate and solve the high spots that are causing problems to boaters in Harris Creek)
3. Potential future sources of shell for restoration projects.
4. Recommendations that were made by the OAC in past years.
5. Land use patterns along the Chesapeake Bay shore and how land use affects oyster population and the commercial fishing industry.
6. Economic and cultural issues related to oyster harvests and sanctuaries.
7. Preference of oyster spat for various substrates.
8. The Virginia sanctuary program. (Presentation by Virginia watermen about the Virginia program)
9. Recommendations for future practices (e.g. rotational harvesting).

10. Establishment of shucking houses in Maryland
11. Discussion in regards to the use of capital funds versus other state funds for oyster restoration.
12. Comparisons of the spat sets within the sanctuaries between the years prior to 2010 and more recent years.
13. Review and discussion of proposals submitted by the county commissions.
14. Receive more information regarding the selection of the 4th and 5th tributaries based on the homework completed by the Commissioners.
15. Review the status of outstanding permits.