



City of Annapolis City Council  
Committee & Commission Referral Action Report

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Date: October 5, 2018

To: Jacqueline Lee  
City of Annapolis Office of Law,  
Legislative and Policy Analyst

The Maritime Advisory Board (MAB) has informally reviewed Resolution 47-18 and has taken the following action:

☐ Favorable

☐ Favorable with amendments

☐ Unfavorable

☒ No Action

☐ Other

☒ Comments:

This Resolution is currently on the Council agenda for October 8, 2018. The next regularly-scheduled meeting of the MAB is October 16, 2018, so no formal action has been taken by the MAB on this Resolution. However, the MAB provides the following summary of past actions and comments regarding proposed No-Discharge Zones affecting the City of Annapolis.

The Maritime Advisory Board (MAB) has consistently supported substantive efforts to enhance the quality of Chesapeake Bay and its tributaries, including the waters of the City of Annapolis and the surrounding County. However, the MAB has continued to express concern about the effectiveness of a No-Discharge Zone which applies to less than the entire waters of the Chesapeake Bay, as well as singling out the maritime industry in its application.

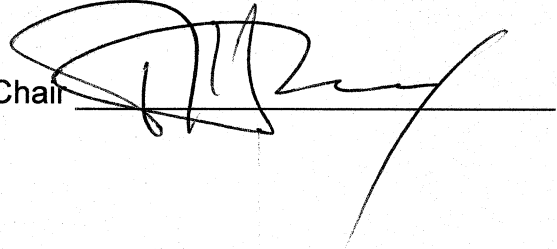
The MAB formally heard proposals for a No-Discharge Zone limited to the City of Annapolis starting in 2013. Attachment 1 to this Referral Action Report is a copy of the MAB's comments submitted to then-Mayor Cohen expressing the concerns about the potential impact on the maritime industry and the limited effectiveness that a No-Discharge Zone would have on water quality. Those comments remain applicable to the application that is the subject of Resolution 47-18.

In 2017, the focus shifted to a County-wide No-Discharge Zone, which led to the application that is the subject of this Resolution. Prior to the submission of this Resolution, the MAB heard presentations from the Back Creek Conservancy and the Severn River Commission at its November, 2017 and April, 2018 regular meetings. MAB members had a number of comments and questions, primarily focused on the lack of empirical data supporting the application and the fact that current Federal law regulates discharge into the navigable waters of the United States. Federal regulations dictate the discharge systems that boat manufacturers integrate into their vessels, which in turn are purchased and used by local and visiting boaters. Local No-Discharge Zones will limit or prohibit the use of these Federally-approved systems in those zones.

The final June 28, 2018, Application referenced in the Resolution was not attached to the Resolution or the Staff Report. However, Attachment 2 to this Referral Action Report provided the Back Creek Conservancy with preliminary comments on the initial draft Application. The MAB welcomes the opportunity to formally review the June 28, 2018, Application at a regularly-scheduled public meeting.

Meeting Date: Not applicable

Signature of Chair

A handwritten signature in black ink, appearing to be "D. J. [unclear]", written over a horizontal line.

#### Attachments

cc: Alderwoman Ellen Tierney  
Alderman Rob Savidge  
Alderman Ross Arnett  
Mayor Gavin Buckley  
Members, Maritime Advisory Board  
Back Creek Conservancy

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tarrantlomax@comcast.net

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**Re: Letter to Dr. Reigel and Mr. Weber, et al**

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**From :** Tarrant H. Lomax, Esq. <tarrantlomax@comcast.net>  
**Subject :** Re: Letter to Dr. Reigel and Mr. Weber, et al  
**To :** Joshua Cohen <JJC@annapolis.gov>

Thu, Jan 24, 2013 10:56 PM

Josh - As Frank Biba may have already reported, the no-discharge zone proposal sparked a more spirited discussion than I expected. Here is a report of that discussion.

While the members were sympathetic to the environmental concerns, and the image of Annapolis, they had a number of very cogent and serious concerns about that designation.

First of all they pointed out that the Eastern shore area of "no discharge" was used largely by boats without live-aboard facilities, and were not destinations for multi-day visitors. Herring Bay does not have the type and volume of public moorings and open anchorage that Annapolis enjoys; most of the visiting yachtsmen in Herring Bay must go to a private marina in the first place.

Recreational boaters have a myriad of choices of where to visit by water. While Annapolis is an attractive destination, it is not the only nearby destination for multi-day visits or stops for repairs and provisioning.

Over the past number of years many boats have been built or retro-fitted with marine sanitation devices (heads) that treat otherwise non-dischargeable effluent to the point that it can be legally discharged in navigable waters. This has been done for a variety of reasons, not the least of which is to avoid the necessity for a holding tank and the attendant routine "pumpout". And, the lack of a need for a holding tank in turn frees up considerable storage space that otherwise would be taken up by the holding tank.

The members of the MAB in the yacht sales and the yacht maintenance and repair businesses also expressed serious concern for these non-holding tank vessels. Manufacturers have repeatedly have sought without success to get specific standards from the EPA so that they could design and install heads that treat effluent to be dischargeable in any navigable water of the United States. Yet now they are faced with warning customers that there are local "no-discharge" zones notwithstanding their boat's full compliance with EPA standards and regulations.

Local owners with an existing compliant head face an equally perplexing problem. The retrofit of a holding tank is costly in both money and the loss of already-limited space. And in the case of both new and used boats, the sale price to the local market could be substantively affected when potential customers discover that they cannot use their compliant head in Annapolis waters.

Another problem that was pointed out is the unavailability of pump out facilities during the winter. Although definitely fewer in number, Annapolis does attract visiting boaters during the winter months. At the same time both the City pumpout boat, and various shore pump out stations, are closed for the winter. Thus, there is little or no ability to pump out in the City during those months.

Last but not least, visiting boats easily could go outside City waters and simply discharge their treated effluent. However, doing so on the twice-daily incoming tide simply brings the effluent back into the City waters. Likewise doing so while in City waters would carry the effluent out of those waters.

Attachment 1

## RE: No Discharge Zone Application

To David Barker <david@gyatso.net>

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David:

The following are my initial personal comments. Once submitted, I expect that the Board will have formal comments on the application.

Consistent reports from the Chesapeake Bay Foundation highlight the steady increase in Bay water quality and this should be noted.

Contrary to its suggestion on Page 4, the proposed NDZ does not address all of Anne Arundel County waters except Curtis Creek. Rather, the NDZ does not include Marley Creek, Furnace Creek, Nabb's Creek, Main Creek, Carr's Creek, Parker Creek, Rockhold Creek and a variety of small tributaries, all of which have private and commercial docks, piers and/or marinas. The application should accurately reflect what it does include, and what it does not include.

The assumption on p. 5 that 2,918 boats in Anne Arundel County with holding tanks that are not pumped out is plainly inaccurate. How many of those boats leave the dock? How many of the boaters simply use the shoreside heads in their marinas?

The assumption on p. 5 that the average vessel makes 20 trips a year with 2.5 people and half use an onboard head is statistically unsupported. To be accurate, just count the number of boats each day for 20 weeks; it is far less than the highly inflated 83,450 "use days".

On Page 6, even assuming the numbers you propose, it is not "roughly one-half percent" of the TMDL; it is 0.358 percent.

On Page 43 you refer to "robust enforcement capacity". To the contrary you know that Anne Arundel County has NO enforcement capacity. Neither the DNR nor the Coast Guard enforce discharge from holding tanks, which only leaves the City of Annapolis with enforcement.

You note that the USCG does not inspect MSD's and does not expect to issue citations for marine discharges. Further, at best DNR writes citations for violations of Type 3 holding tanks, but even then does not have the capacity to inspect vessel Y valves. In light of the lack of enforcement by both the DNR and the USCG, the reference to a "robust enforcement capacity" should be removed.

On Page 44, you omit any reference to existing Federal laws or regulations regarding no discharge. You should include those statutes and regulations that currently are in place. Further, the application should note that the Type I MSD is compliant with all Federal laws and regulations.

Please remove the reference on Page 45 to the Maritime Advisory Board actively participating in the preparing the application. The MAB continues to have serious concerns about the effectiveness of any NDZ short of the entire state, as well as the assumptions made in the application, and has not "actively participated" in the preparation of the application.

The reference on Page 45 regarding the Harbormaster being the primary source of educational materials and enforcement in the County is not correct. First of all, the City harbormaster has no jurisdiction in the County except on Weems Creek. Second, there are no funds budgeted for educational materials or for enforcement outside of the City's waters and Weems Creek.

Regards,

Tarry Lomax  
Tarrant H. Lomax, Esq., P.C.  
940 Bay Ridge Avenue  
Annapolis, MD 21403  
Phone: 410.267.6151  
Fax: 410.263.6785

ATTACHMENT 2