



# Town of Emmitsburg

Mayor Donald N. Briggs

**Board of Commissioners**  
Timothy O'Donnell, *President*  
Clifford Sweeney, *Vice President*  
Glenn Blanchard, *Treasurer*  
Joseph Ritz III  
Elizabeth Buckman

**Town Manager**  
Cathy Willets

**Town Clerk**  
Madeline Shaw

## **TOWN MEETING AGENDA** **September 4, 2018 – 7:30 p.m.**

### **1. CALL TO ORDER**

### **2. PLEDGE OF ALLEGIANCE**

### **3. FUTURE MEETINGS**

*Write-In Election Deadline: Tuesday September 18, 2018 at noon.*

*Town Elections: Tuesday September 25, 2018, 7:00 a.m. – 8:00 p.m. (22 East Main Street)*

*Town Council Meeting: Monday October 1, 2018 at 7:30 p.m.*

### **4. MEETING ITEMS**

**A. APPROVE MINUTES: AUGUST 6, 2018**

**B. POLICE REPORT**

**C. TOWN MANAGER'S REPORT**

**D. TOWN PLANNER'S REPORT**

**E. COMMISSIONER COMMENTS**

**F. MAYOR'S COMMENTS**

**G. PUBLIC COMMENTS**

**H. ADMINISTRATIVE BUSINESS: NONE**

**I. CONSENT AGENDA: 3 APPOINTMENTS**

**J. TREASURER REPORT**

**K. PLANNING COMMISSION REPORT**

**L. AGENDA ITEMS (DETAILS ATTACHED):**

I. Approval of the 2018 Elections Judges.

II. Consideration of the Recommendation of the Town's Planning Commission to rezone Lots 10, 11, 15 and the Western Half of Lot 12, as Shown on the Revised Plan of Emmit Gardens, from Low Density Residential (R1) to Neighborhood Commercial (B1).

III. Welcome Letter for New Residents for Discussion and Possible Consideration.

IV. For Consideration Sewer Relining Project on East Main Street.

V. Authorization to Proceed with Solicitation of Federal Funding for New Pumping Station for Discussion and Consideration.

**M. SET AGENDA FOR NEXT MEETING: OCTOBER 1, 2018**

### **5. SIGN APPROVED TEXT AMENDMENTS AND/OR RESOLUTIONS**

### **6. ADJOURN**

**A. APPROVE MINUTES: AUGUST 6, 2018**

**MINUTES  
TOWN MEETING  
AUGUST 6, 2018  
Emmitsburg Town Office**

**Present:** *Elected Officials* - Mayor Donald Briggs; Commissioners: Glenn Blanchard, Elizabeth Buckman, Joseph Ritz III, Clifford Sweeney, and Tim O'Donnell, President. *Staff Present* - Cathy Willets, Town Manager; Madeline Shaw, Town Clerk; Amy Naill, Code Enforcement Officer. *Others Present* - Roger Wilson, Frederick City Alderman.

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**I. Call to Order**

Commissioner Tim O'Donnell, President of the Board of Commissioners, called the August 6, 2018 town meeting to order at 7:30 p.m. Pledge of Allegiance was recited. Upcoming meetings were announced. Mr. Wilson was invited forward. He introduced himself, wished students well in the new school year and encouraged residents to check in on their neighbor. He asked if the Board had any questions for the County Executive. The Board had none.

**Approval of Minutes**

The Minutes of the July 9, 2018 Town Meeting were approved as presented. Motion by Commissioner Buckman, second by Commissioner Blanchard. Vote: Motion carried 5-0 in favor.

**Police Report:**

None. Both deputies explained they would be unable to attend this town meeting at the July 9, 2018 town meeting.

**Town Managers Report:**

Cathy Willets, Town Manager, presented the Town Manager's Report from June 2018 (exhibit attached). Ms. Willets mentioned there is currently a 9.08-inch surplus of precipitation over the past six months and 75.3% of the wastewater treated was wild water due to the high levels of inflow and infiltration (I&I). There were three days in June where the pumping station pumped 10.456 million gallons per day. The second phase of the Rainbow Lake Rip Rap was completed at the end of July 2018 and in 2019 the town plans to complete the final phase. On July 13, 2018 town staff had a final walk through with SHA regarding the sidewalk project. There were two sanitary sewer overflows in July 2018 due to heavy rain, which may have impacted Flat Run Creek and Thomas Creek. Both overflows were reported to MDE and Frederick County Health Department. McDonalds will be closed for three weeks starting August 13, 2018 for renovations. Lastly, the Mayor and town staff have decided to eliminate the hunting at the Scott Road Farm due to safety concerns and trespassing issues. Town staff will reevaluate in one year. Commissioner Ritz III inquired about methods to prevent sanitary sewer overflows. Town staff recommends relining the sewer lines and replacing the Creamery Road Pumping Station, which will come before the Board in September 2018.

**Town Planners Report:**

Cathy Willets, Town Manager, highlighted portions of the Town Planner's Report from June 2018 on behalf of Susan Cipperly, Town Planner (exhibit attached). Ms. Willets mentioned the town planner has been mapping storm drains for the MS-4 permit, processing community legacy grant agreements for 239 West Main and 119 North Seton and hosting the Frederick County Quarterly Planners Meeting. She submitted the final report for the MHAA town square brickwork. There are a few upcoming rezoning requests.

**Commissioner Comments:**

- Commissioner Ritz III: He mentioned there is an upcoming concert in the works for an Irish band.
- Commissioner Buckman: She congratulated the Getting Ahead graduates.
- Commissioner Blanchard: He thanked town staff for their work on the pool. He also attended a free concert at the Seton Shrine, which he enjoyed and encouraged residents to attend in the future. He attended National Night out and thanked town staff and the deputies for their work with the event.

- Commissioner Sweeney: He thanked town staff for maintaining the parks. He explained high school students have been getting volunteer hours for the pool concession stand, which is going well.
- Commissioner O'Donnell: He attended the Back to School picnic hosted by Christ Community Church, and the Frederick County Pedestrian and Bikeway hearing with the Mayor.

**Mayor's Comments:**

Mayor Briggs attended numerous meetings in July 2018, which are listed in the agenda packet. Mayor Briggs attended the new Seton Center ribbon cutting, the farewell party for Father Charlie Krieg and the Emmitsburg Planning Commission meeting. He also attended a Main Street Affiliate meeting, which the Town is planning to pursue. Woodsboro Bank visited the town office. Mayor Briggs served hot dogs at National Night Out.

**Public Comments:**

*Bryant Hoffman, 17417 North Seton Avenue* - He explained he is concerned with the town square work because it is preventing customers from coming to Stavros Pizza where he works. The Board explained the project is almost complete. *Joseph Baldacchino, 12508 Killian Lane Bowie MD 20715* - He explained his father was a dentist who practiced at 600/602 East Main Street, which has changed zoning classifications over the years. He is requesting the Board considering rezoning the property as a B1 zone. The Board explained the item is a future agenda item.

**Administrative Business:**

- I. **Discussion Related to Timeline of Work at Flat Run Bridge:** Dale Hanes, Assistant District Engineer of Construction for State Highway Administration (SHA) District 7. Mr. Hanes introduced Sherry Waselchalk, Project Engineer and Ross Clingan, Area Engineer. Mr. Hanes explained the anticipated start date of the project was July 2016, but the project did not start until October 2016 with an estimated completion date of August 2018. Due to delayed signing of documents, the completion date was changed to November 2018. Mr. Hanes explained the project is contingent upon weather because concrete cannot be poured in cold or rainy weather. A redline revision was made to the project, which modified the storm drain design and pricing of the project and pushed the completion date to April 2019. As demo work started, a geotechnical consultant was hired to investigate the support of the bridge and changes were made, which pushed the completion date to August 2019. The SHA and their contractor requested the bridge waterline get relocated while work is being complete, which further pushed the date to late fall 2019. Mr. Clingan explained phase one should be complete by fall 2018 with traffic running in two lanes on the new structure while the rest of the bridge is torn down. The temporary bridge for pedestrian traffic will stay in place until the project is complete. SHA does not believe it is the best interest to hire a new contractor because it prolongs the project and requires the involvement of attorneys from all parties.

**Consent Agenda:**

None.

**Treasurer's Report:**

Commissioner Blanchard presented the Treasurer's Report for July 2018 (exhibit in agenda packet). The operating balance forward is \$5,249,079. The Daughters of Charity check is a security deposit that passed through the town regarding the Homes for America project and Seton Village. The Town was only an intermediary with the funds.

**Planning Commission Report:**

Commissioner Sweeney presented the report from July 23, 2018. He explained the Planning Commission received a request to rezone lots 10, 11, 15 and the western half of 12 at 600/602 East Main Street to a B1 zone. Upon review of the item, the Commission unanimously voted to refer the item to the Board for review at the September 4, 2018 town meeting. The town attorney will also be at the town meeting to answer any questions.

*Note:* In courtesy of Mr. Jack Deatherage, the Board requested agenda item number five occur first.

*Note:* Commissioner Sweeney left at 8:22 p.m.

## II. Agenda Items

Agenda #5- Discussion Related to Scott Road Community Market Garden: Ms. Willets explained the Scott Road Farm is currently used by two different leases: the Conservation Resource Enhancement Program (CREP) and Garry Stouter. The CREP program is a habitat restoration program via a 15-year lease where 60 acres of the farm are being returned to their natural state through the planting of warm season grasses on 40 acres and wetland restoration on 15 acres. In addition, 30 acres are being leased by Garry Souter for cattle grazing via a four year lease. The property features a farmhouse and barn, which are uninhabitable. Ms. Willets explained the Board is requesting a 25-foot by 25-foot square plot (or 100' x 100' square) for interested families that would like to learn gardening and the marketing of garden produce. To support the project, the Board is requesting: running water, electricity, composting, a place to secure tools, an indoor meeting area with refrigerator, restroom facilities, two gas powered rototillers, hand tools, one walk-behind lawnmower and a 4-foot growing light. Town staff has several concerns and questions: the proposed site is within the Stouter leased property, there is no water/sewer, there is no electricity at the site, the house is uninhabitable, there is no vehicle road access, there is no designated funding and the security and protection of the property. Staff recommends pursuing a different location. The Board discussed possible locations in Community Park. Private land is not an option because of liability. Commissioner Buckman recommended the land of the existing farmers market at 302 South Seton Avenue. The Board directed town staff to investigate the liability of the garden and to research potential garden areas. The item will come back to the Board at a later date.

**Motion:** That town staff be directed to contact Mr. Clapp on liability issues related to a community market garden.

Motion by Commissioner Buckman, second by Commissioner Ritz III.

Vote: Motion carries 4 - 0 in favor with Commissioner Sweeney absent.

**Motion:** For town staff to look into the farmer's market property as a potential location for the community market garden.

Motion by Commissioner Buckman, second by Commissioner Blanchard.

Vote: Motion carries 4-0 in favor with Commissioner Sweeney absent.

Agenda #1- Budget Transfer Related to the After School Clubhouse for Consideration: Ms. Willets explained the Boys and Girls club did not fund a new club in Emmitsburg. The Town had allocated \$10,000 to help support the program. In lieu of this, the Town would like to pursue having the \$10,000 transferred to the After School Clubhouse program so the program can run for one more year. Funding would come from Department 10, Special Event/Program Costs (Acct 6901) and go to Department 60, Account 5001, 5101 and 6901. The funds would cover staff salaries, payroll taxes and program costs.

**Motion:** To affect the budget transfer as described. Motion by Commissioner Ritz III, second by Commissioner Buckman. Vote: Motion carries 4-0 in favor with Commissioner Sweeney absent.

Agenda #2- Electric Vehicle Parking Ordinance for Consideration: Ms. Willets explained town staff pursued the parking policy per the direction of the Board at a prior town meeting. Ms. Nail and Ms. Willets did research with John Clapp, Town Attorney, to come up with the presented ordinance. Ms. Willets read the ordinance and explained the electric vehicle charging spots would be clearly marked. Commissioner Buckman requested having a security camera on the charging stations to prohibit vandalism, which town staff will look into. Commissioner O'Donnell requested the stations get added to the solar accounts. Town staff will look into the consumption of the stations. If the energy usage is significant the town will put the charging stations on the Town's solar accounts. The Town plans to replace the town car with an electric vehicle once the four charging stations are installed.

**Motion:** To accept ordinance number 18-11 as presented. Motion by Commissioner Ritz III, second by Commissioner Blanchard. Vote: Motion carries 4-0 in favor with Commissioner Sweeney absent.

Agenda #3- Policy Related to Employee Vacation Buyback for Consideration: Ms. Willets explained town staff has been discussing ways to lower the costs of large benefit payouts when an employee leaves employment after many years of service and many step increases. Employees hired prior to December 1, 2016 have no cap on the amount of accrued and unused leave they can carry from year-to-year. Amanda Haddaway, Human Resource contractor, composed the proposed policy to help encourage employees to cash out their leave before separation of employment to help minimize the cost to the Town. The buyback must be in week increments. The Mayor can sign on behalf of the town manager if needed. The Town is not obligated to fund the requests.

**Motion:** To accept the policy as written. Motion by Commissioner Blanchard, second by Commissioner Ritz III.  
Vote: Motion carries 4-0 in favor with Commissioner Sweeney absent.

Agenda #4- Charter Amendment Updates for Consideration: Per the request of the Mayor and town staff, this item has been postponed to a future town meeting pending Board agenda approval.

**Set Agenda Items for September 4, 2018 Town Meeting**

1. Approval of the 2018 Elections Judges
2. Consideration of the Recommendation of the Town's Planning Commission to rezone Lots 10, 11, 15 and the Western Half of Lot 12, as Shown on the Revised Plan of Emmitt Gardens, from Low Density Residential (R1) to Neighborhood Commercial (B1)
3. Welcome Letter for New Residents for Discussion and Possible Consideration
4. For Consideration Sewer Relining Project on East Main Street
5. Authorization to Proceed with Solicitation of Federal Funding for New Pumping Station for Discussion and Consideration

*Consent Agenda Items:*

- A. Reappointment of Mark Walker to the Citizens Advisory Committee.
- B. Appointment of Brian McKenney and Melissa McKenney to the Citizens Advisory Committee.

**Motion:** To accept the town meeting agenda as modified. Motion by Commissioner Buckman, second by Commissioner Blanchard. Vote: Motion carries 4-0 in favor with Commissioner Sweeney absent.

**Motion:** To accept the consent agenda as proposed. Motion by Commissioner Ritz III, second by Commissioner Blanchard. Vote: Motion carries 4-0 in favor with Commissioner Sweeney absent.

**III. Sign Approved Text Amendments and/or Resolutions**

**IV. Adjournment**

With no further business, the August 6, 2018 Town Meeting was adjourned at 9:17 p.m. EST.

Respectfully submitted,

Madeline Shaw, Town Clerk  
Approved:

**B. POLICE REPORT:** Presentation by deputies at the meeting.

### C. TOWN MANAGER'S REPORT

**Town Manager's Report  
July 2018  
Prepared by Cathy Willets**

Streets:

- Staff installed two new streetlights on West Main St.
- Staff assisted contractor with GIS mapping
- Staff replaced faded banners on street light poles.
- Staff conducted monthly street sweeping.

Sidewalk and Bridge Project:

- Staff raised banners to 80" for SHA ADA requirements.

Parks:

- Staff installed new Community Park welcome sign.
- Staff and contractor blacktopped three entrances to the dog park and two patches on walking trail near pavilion.
- Contractor installed new playground in Emmit Gardens.
- Staff removed several loads of wood in Emmit Gardens after Potomac Edison completed tree-trimming project.
- Staff mowed, trimmed and weed killed in all parks.
- Staff pulled weeds, weed killed and put mulch around park signs.
- Staff trimmed trees in Community Park and Farmers Market.

Water:

- Rainbow Lake is at the spillway level of 16.6 feet.
- The roughing filters are being backwashed one time a day and the DE filters are being done one time per week.
- Well levels (optimum level was determined to be May 2011). Well #1 and #2 usage is down as we are starting to get our lake number. Well #4 and #5 are shut off.

	<u>May 2011</u>	<u>July 2018</u>	<u>Change</u>
○ Well #1:	35'	33'	+2
○ Well #2:	8'	7'	+1
○ Well #3:	12'	20'	-8
○ Well #4:	108'	OFF	n/a
○ Well #5:	10'	OFF	n/a

- Water production and consumption. We produced an average of 267,821 GPD. We consumed an average of 241,769 GPD. The difference is "Backwash Water" ... (10.9%).
  - 43.30% of this water came from wells.
  - 5.17% of this water came from Mt. St. Mary's.
  - 51.53% of this water came from Rainbow Lake.

We purchased 429,000 gallons of water from MSM this month.

Wastewater:

- We received about 13.35" of precipitation this month (the average is 3.66").
  - We have a precipitation **SURPLUS** of 17.26" over the last six months. The average precipitation for the period from February 1 through July 31 is 24.29". We have received 41.55" for that period.



**PARKING ENFORCEMENT REPORT**  
**July 2018**

Overtime Parking	63
Restricted Parking Zone	2
Parked in Crosswalk	
Parked on Sidewalk	
Parked Blocking Road	
Parked by Fire Hydrant	
Parked on Highway	
Failure to Park between Lines	
Other Violation	
Left Side Parking	1
Meter Money	\$698.21
Parking Permits	
Meter Bag Rental	
Parking Ticket Money	\$275.00
Funerals	
<b>Total:</b>	<b>\$973.21</b>

## **D. TOWN PLANNER'S REPORT**

### **Town Planner's Report - July 2018 Prepared by Zachary R. Gulden, AICP**

#### **1. Board of Appeals**

- Started to evaluate and process a variance application for 55 Second Avenue – Lot 24. The applicant has proposed to construct a new single-family dwelling on this empty lot in Emmit Gardens; however, the lot does not meet current minimum lot area per unit and width zoning standards.

#### **2. Community Legacy (CL)**

- Processed and submitted the following reimbursement requests:
  - \$33,191.55 for the Town revitalization project (sidewalks, engineering, & misc. expenses). \$41,808.45 of the grant remains for future bills.
- Processed and mailed the following reimbursements from the CL grant for the following building renovation projects:
  - \$6,990.00 to 25 W. Main St.
  - \$6,120.00 to 1 W. Main St.
- Processed and submitted the following CL FY2017 applications to the Maryland Historical Trust for review and approval:
  - 239 N. Seton Ave.
  - 3 W. Main

#### **3. Maryland Heritage Area Authority (MHAA)**

- Processed and submitted a reimbursement request for the Town revitalization project in the amount of \$30,415.00 (brick sidewalks & seat planters). Grant is now fully utilized.

#### **4. Municipal Separate Storm Sewer System (MS4)**

- Met with representatives from Advanced Land and Water to discuss future MS4 storm drain and outlet mapping projects. They will provide staff a quote in the next few weeks.

#### **5. Permits & Zoning**

- Met with George Brenton regarding Seton Center signage.
- Processed and submitted the Frederick County building permit application for the Town's electric vehicle charging station project.
- Processed and approved the following zoning applications:
  - Sign x 2
  - New single-family dwelling – Brookfield
  - Roof x 2
  - Paver patio
  - Use & occupancy x 2
  - Fence
  - Electric vehicle charging stations.
- Assisted Code Enforcement Officer with various enforcement letters.

**6. Planning Commission**

- Processed a lot addition application for Lots 24, 25, 26, 55, 56, and 57 of the Annan, Horner & Company Development Plat located on S. Seton Ave and an unimproved alley. The PC approved combining lots 24 and 57, 25 and 56, and 26 and 55.
- Processed a petition to amend the Zoning Map at 600-602 E. Main Street. The applicant has proposed changing the zoning from R-1 Low-Density Residential to B-1 Neighborhood Commercial. The PC unanimously recommended approval of the petition.
- Attended Planning Commission meeting on 7/23 regarding above items.

**7. Miscellaneous**

- Gathered information to help the Town Clerk update the Rainbow Lake Emergency Action Plan.
- Attended a walkthrough meeting regarding the sidewalk project with the contractor, State Highway Administration staff, and other Town staff.
- Attended a meeting regarding the bridge project with the contractor, State Highway Administration staff, and other Town staff.
- Met with Town Manager, Town Clerk, Mayor, and Amy Seitz regarding Main Street Affiliate Program.
- Attended the Board of Commissioner's 7/9 meeting.

## E. COMMISSIONER COMMENTS

## F. MAYOR'S COMMENTS

### August 2018 meetings attended:

- August 1, Mayor's corner – FB & website.
- August 1, Met with town manager.
- August 1, National Night out, Lib and I served hotdogs.
- August 2, Met with town manager.
- August 4, Christ's Community Church, Back To School event.
- August 6, Seton Center - Getting Ahead Graduation.
- August 6, Getting Ahead Graduation speaker, Seton Center, welcome address.
- August 6, Met with town manager.
- August 6, Town meeting.
- August 7, Meeting with new Trinity Methodist Church minister Richard Baker.
- August 8, attended Thurmont Enrichment Program graduation Frederick Rescue Mission.
- August 8, Met with town manager.
- August 9, Frederick Rescue Mission 55 strong visit our pool for a swim (and some pizza).
- August 9, Video production, for Municipalities impact award Fr Co Off of Economic Development
- August 16, EBPA breakfast, Carriage House Inn , made presentation, 8 am.
- August 16, Met with town manager.
- August 17, Pool party.
- August 20, toured town with Town planner Gulden.
- August 20, Met with Dan Reaver, president and Allen Knott, Emmitsburg Glass and Chip Jewell Fred CO Fire and Rescue Mus, re: William Cochran glass etching.
- August 21, Met Chief of Staff W. Green and K. McVeary at Mount re; A student project in town.
- August 28, Interpretive sign meeting at the Square, Dough Boy, Emmit House.
- August 29, Green Team meeting at Seton Center.
- August 30, Conference call with Lisa McDonald, Mayor and Mrs. Shaw.
- August 30, Met with town manager.
- August 30, Conference call with Brookville developer, mayor and town manager re: completion of sidewalk.

**G. PUBLIC COMMENTS**

**H. ADMINISTRATIVE BUSINESS: NONE**

**I. CONSENT AGENDA**

- I. Citizen’s Advisory Committee (2-year term)**  
 Reappointment of Mark Walker to the Citizen’s Advisory Committee.  
 Term: 10/20/2018 to 10/20/2020
  
- II. Citizen’s Advisory Committee (2-year term)**  
 Appointment of Brian McKenney to the Citizen’s Advisory Committee.  
 Term: 09/04/2018 to 09/04/2020
  
- III. Citizen’s Advisory Committee (2-year term)**  
 Appointment of Melissa McKenney to the Citizen’s Advisory Committee.  
 Term: 09/04/2018 to 09/04/2020

**J. TREASURER REPORT**

**Town of Emmitsburg  
 CASH ACTIVITY as of August 27, 2018**

\$5,183,780	Cash Balance August 1, 2018
710,646	Deposits
<u>-312,874</u>	Withdrawals
\$5,581,552	Operating Balance Forward

**Top 10 Check Amounts:**

<u>Amount</u>	<u>Vendor Name</u>	<u>Description</u>	<u>Check Date</u>	<u>Check Number</u>
\$43,914	Columbia Bank	Aug 18 Lincoln Ave Water Line Loan	07.25.18	38623
30,445	Local Govt Insurance Trust	FY19 Prop, Gen Liab, Pub Off, Auto Ins	07.25.18	38635
21,315	MD Dept of Budget & Mgmt	Jul 18 Health Insurance	08.01.18	38661
13,926	UGI Energy Services	Jul 18 Solar Field #1	08.22.18	38759
13,307	UGI Energy Services	Jul 18 Solar Field #2	08.22.18	38759
11,736	UGI Energy Services	Jun 18 Solar Field #1	07.25.18	38646
9,989	UGI Energy Services	Jun 18 Solar Field #2	07.25.18	38646
9,950	TFJ Excavating	Lake Bank Rip Rap	08.01.18	38669
9,082	RSV Pools Inc	Sep 18 Pool Mgmt	08.01.18	38666
7,665	P&S Compressor	120 Gallon Receiver for Compressor	07.25.18	38640

*Check dates 07.25.18 to 08.24.18*

**K. PLANNING COMMISSION REPORT:** Presentation at the meeting.

**L. AGENDA ITEMS:**

- I. Approval of the 2018 Elections Judges:** Presentation at meeting by Mayor Briggs.

Election judge applicants in order of filing:

<b>Applicant:</b>	<b>Experience:</b>	<b>Received:</b>
Charlotte Mazaleski	Recent Town election judge	07/16/2018
Barbara Weedon	Recent Town election judge	07/19/2018
Sharon Hane	Recent Town election judge	07/26/2018
Tammy May	Frederick County 2018 at Sabillasville Elementary	07/31/2018
Joan Tracey	Frederick County 2018	08/08/2018

**Mayor' Recommendation:**

**Chief Judge:** Sharon Hane  
**Judge:** Barbara Weedon  
**Judge:** Charlotte Mazaleski  
**Alternate Judge:** Tammy May

**AGENDA ITEMS CONTINUED:**

- II. Consideration of the Recommendation of the Town's Planning Commission to rezone Lots 10, 11, 15 and the Western Half of Lot 12, as Shown on the Revised Plan of Emmit Gardens, from Low Density Residential (R1) to Neighborhood Commercial (B1):** Presentation at meeting by town staff.



*Memo*

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DATE: August 13, 2018

TO: Town of Emmitsburg Board of Commissioners & Mayor

FROM: Zachary R. Gulden, MPA  
Town Planner

RE: Property Address: 600/602 East Main Street, Ext.  
Applicant: Mr. Joseph Baldacchino  
Property Owner: The Sarah E. Baldacchino Trust  
File Name: 600/602 East Main Street, Ext.  
Property Tax ID: 05157854  
Zoning District: R-1 Low-Density Residential

**Location**

Lots 10, 11, 15, and the western half of 12 as shown on the revised Plat of Emmit Gardens, recorded in Plat Book No.3, folio 52 (600/602 East Main Street, Ext).

**Background**

A petition to amend the Town of Emmitsburg's Zoning Map by rezoning a particular property (piecemeal map amendment) may be submitted at any time. In accordance with Maryland State Law, in order for a piecemeal rezoning to be granted, petitions for zoning map amendments, when not part of a comprehensive rezoning undertaken by the governing body, must be judged by the "**change or mistake rule.**"

- **Change in Character of the Neighborhood:** It must be shown that there has been a change in the character of the neighborhood, since the last Comprehensive Zoning Plan, where the request for rezoning is located. As part of this premise, an applicant is to provide an accurate and acceptable definition of the neighborhood where the change is alleged to have occurred, the specific events that have cause the change, and describe the character of the neighborhood before and after the change.

- **Mistake in Original Zoning:** A mistake in the current zoning can be shown to have occurred when there has been a failure to take into account projects or trends probable of fruition. Decisions based on erroneous information, facts that later prove to be incorrect, events that occurred since the current zoning, or ignoring facts in evidence can all contribute to a legitimate mistake having occurred.

The petitioner, Mr. Baldacchino, is alleging that there was a mistake in the last zoning of the property (by virtue of the adoption of the last Comprehensive Plan and Comprehensive Rezoning in 2015). They do not seem to be claiming that there has been a substantial change in the neighborhood.

A petitioner seeking a piece-meal rezoning has a heavy burden. The “mistake” has to be that in adopting the last Comprehensive Plan, the Board relied upon erroneous or incomplete factual information in reaching the decision to zone the property. When the underlying factual basis is not erroneous or incomplete, then the “mistake” is not that the decision based on those facts was in error. In that case, it is simply a matter of bad judgment, not “mistake” within the meaning of rezoning law. In other words, there is no “mistake” if the Board simply made a “wrong” decision (bad judgment) if the underlying factual basis for that decision was complete and error-free.

Whether the petitioner can convince the Board that they had erroneous or incomplete information before them when they adopted the Comprehensive Plan will be the central issue in this current case.

### Staff Comments

1. The applicant based their request on the argument that the Board of Commissioners would have re-zoned this property to B-1 during the Comprehensive Rezoning if they were made aware of its history as a dental office (the “mistake”). They also argued that neither the parents nor the relatives realized that there was a Comprehensive Plan process being undertaken, in combination with a Comprehensive Rezoning. Mr. Baldacchino said that if they would have known, they would have requested that their property be included in the B-1 zoning district. The Comprehensive Plan and Rezoning processes were advertised in the Frederick News Post, and on the Town website, with a public hearing held by the Planning Commission on July 20, 2015, and by the Town Board on October 5, 2015. Yellow yard signs were installed on the involved properties specifically for the proposed change from Residential R-1 to Neighborhood Commercial B-1, and announcing the public hearing. Information was also on the town website. There is no requirement to notify individual landowners regarding a Comprehensive Rezoning.
2. During conversations and e-mail exchanges with the current owners during 2018, the previous Town Planner informed the current owners of the zoning status of the property. Since it was built in 1960, R-1 (Single-family residential) zoning was adopted for the neighborhood in 1976, and its use for dentistry ceased in 1985, it had pre-existing, nonconforming status until the dentistry use ceased for more than six months. They were not aware of the situation with regard to zoning and thought the building could be used again as a medical/dental office. The tax assessment records show the property as residential.
3. Code Sections regarding nonconforming uses:
  - *"17.08.070 - Conformance of nonconforming uses. Any lawful use of land or structure existing at the time of adoption of the ordinance codified in this title, or subsequent amendment of this title, may be continued with the following limitations.*

- *17.08.100 - Discontinued nonconforming use not to re-establish after six months. No nonconforming use shall be established or re-established after having been discontinued for six months.*
  - *17.08.110 - Nonconforming uses not to be substituted. A nonconforming use may not be substituted for any other nonconforming use."*
4. The applicant stated that they would like to be part of the B-1 zoning district designated in 2015 as a result of the rezoning process. One major way in which the B-1 Zoned area is different from 600-602 E Main St., Ext. is that all of the B-1 lots have access directly to East Main Street, rather than being within a residential neighborhood. When MD140 was re-routed, E. Main Ext. became a truncated street, with a guard rail separating it from the lots now in B-1. Emmet Gardens became a relatively separate residential neighborhood. The criteria considered during the rezoning process for these properties are attached.

### **Planning Commission Report and Recommendation**

The Planning Commission (PC) received a request from the Town Board of Commissioners (BOC) to review and comment on a petition to amend the Town Zoning Map by rezoning 600/602 East Main Street, Ext. (Lots 10, 11, 15, and the western half of 12 in the Emmet Gardens' subdivision) from R-1 to B-1, as required in Section 17.44.030 of the of the Town Code. In response, three of the four members and the BOC liaison of the PC met with the Town Planners, the Town Attorney, and the petitioner during a regularly scheduled meeting on July 23, 2018.

During the meeting, the Town Planners presented an overview of the petition, the request from the BOC, and the response options available to the PC. The Town Attorney supplemented the Town Planner's presentation with detailed explanation of the issues to be considered by the PC. The petitioner presented his reasoning for submitting the request. Each of the above-mentioned parties answered numerous questions from the PC and from each other.

Since the petition dealt with a "piecemeal map amendment," the ensuing discussion centered on the "mistake rule," in accordance with Maryland State Law, in the existing zoning of the property. After considerable discussion, and clarifications from the Town Attorney, the matter was concluded that a previous decision made in the 2015 Comprehensive Plan that was based on incomplete or unknown data, through no fault of any person or policy, could be considered a "mistake." Other issues presented but with less discussion, included 1. The 1976 zoning decision for the subject property; 2. The identities of the properties immediately adjacent to the subject lot; 3. The functions of the four nearby lots rezoned to B-1 in 2015; 4. The town's knowledge of the subject property's historic functions; 5. The review process if petition is accepted; 6. The vision of a potential buyer of the subject property; and 7. The functions allowed in a B-1 zoning district.

At the conclusion of the discussions, the PC was reminded of the options available for an appropriate response to the BOC. In accordance with Robert's Rules of Order, a motion was made and seconded to recommend acceptance of the petition and to proceed with the zoning map amendment review process in accordance with the Town's ordinance. During debate of the motion, the Town Attorney reminded the PC that the recommendation should include its findings of facts of the elements stated in the relevant chapter of the Town Code. An amendment to add the findings of fact described in the petitioner's Justification Statement with the current motion on the floor was then made and seconded. After a brief discussion, the proposed amendment was voted on and adopted by a unanimous count. Attention was

returned to the motion on the floor, as amended. With no additional debate, it was voted on and adopted by a unanimous count.

**Conclusion**

The Town met the requirements for advertising and notifications during the 2015 Comprehensive Plan and Rezoning processes, so there is no basis for a claim of “mistake” due to the lack of information about a specific property stemming from the owner not knowing about the activity underway.

Given the differences in the locations and surroundings of the rezoned parcels and the subject parcel, it is not clear that the Board of Commissioners “would have rezoned 600/602 to B-1 as part of the same area rezoned to B-1 on the other side of First Avenue” if only they had been informed about the history of the property. Public input from the residential neighborhood would also have been weighed during public hearings.

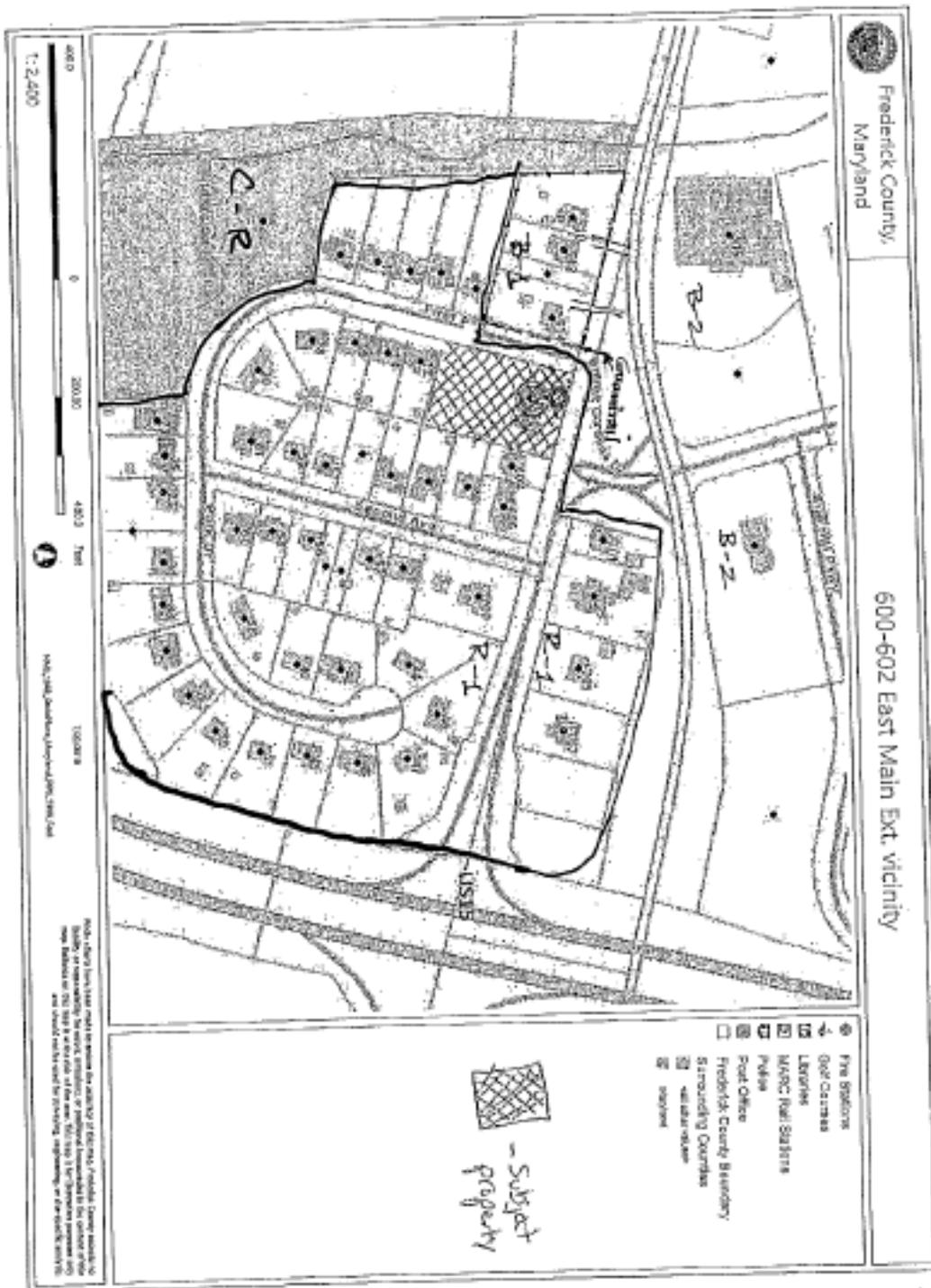
The Board must determine if they would like to continue the process of the map amendment request. If yes, the next step is to set a public hearing on the matter. If not, no further action is needed.

**Suggested Motion if process is to continue**

Move to set a public hearing date for October █, 2018 at █:█PM and advertisement for the Zoning Map amendment request to rezone Lots 10, 11, 15, and the western half of 12 as shown on the revised Plat of Emmet Gardens, recorded in Plat Book No.3, folio 52 from R-1 Low-Density Residential to B-1 Neighborhood Commercial.

Thank you.

cc: Cathy Willets, Town Manager  
File



**AGENDA ITEMS CONTINUED:**

- III. Welcome Letter for New Residents for Discussion and Possible Consideration:** Presentation at meeting by Commissioner Buckman.

**ANNUAL EVENTS IN EMMITSBURG**

**September**  
 • Thurmont & Emmitsburg Community Show  
**October**  
 • 1st weekend) National Fallen Firefighters Memorial Weekend  
 • (2nd Weekend) Colorfest Weekend  
 • TOWN Halloween Parade and Party held on **October 31**  
**December** (1st Monday) Tree Lighting and Christmas Party at the Carriage House Inn  
**March/April** Knights of Columbus Easter Egg Hunt (usually weekend before Easter)  
**May (3rd Week)** - Mother Seton School Carnival  
**June (Last Saturday)** - Emmitsburg Community Heritage Day & Fireworks Emmitsburgevents.com)

**NON-EMERGENCY CONTACTS**

**Vigilant Hose Company** (Local Fire company):  
 301-447-2728  
 www.vhc6.com  
**Emmitsburg Ambulance Company:**  
 301-447-6626  
 www.emmitsburgems.net  
**Local Police /Deputy Sheriff's Office**  
 (non-emergency number): 301-600-2071  
 Emmitsburgdeputies@emmitsburgmd.gov  
**Local Hospitals/Urgent Care main Operator:**  
 Gettysburg Hospital: 717-334-2121  
 Frederick Hospital: 240-566-3300  
 Waynesboro Hospital: 717-765-4000  
 Carroll Hospital: (410) 848-3000  
 Gettysburg Urgent/Ready Care (717) 339-2875  
 Frederick Urgent Care 240-379-7776

**TOWN GOVERNMENT**

[Emmitsburgmd.gov](http://Emmitsburgmd.gov)  
 300A S. Seton Avenue  
 Emmitsburg MD 21727  
 301-600-6300

Get Involved!  
 Join one of our  
 town committees!

**LOCAL SCHOOLS**

Emmitsburg Elementary School  
 (K - 5th grade)  
 (240) 236-1750  
**Mother Seton School** (K-8 grade)  
 301-447-3161  
**Thurmont Middle** (6 -8 grade)  
 240-236-0900  
**Catoctin High School**  
 (240) 236-8100  
**Mount St. Mary's University**  
 General Phone: 301-447-5290  
 Athletic Center: 301-447-6122



**LOCAL UTILITIES**

**Electric Provider:**  
**Potomac Edison**  
 76 South Main Street  
 Akron, OH 44308-1890  
[www.firstenergycorp.com](http://www.firstenergycorp.com)  
 800-686-0011  
**Natural Gas Provider**  
**UGI**  
 P.O. Box 508,  
 Lockhaven PA 17745-0508  
[www.ugi.com](http://www.ugi.com)  
 800-652-0550  
**CABLE TV Provider;**  
**XFINITY - COMCAST**  
[www.xfinity.com](http://www.xfinity.com)  
 8098 Sandpiper Circle  
 Baltimore, MD 21236-4928  
 800 934-6489  
**Local Phone Provider:**  
**Verizon**  
 800-922-0204 (customer svc)  
 800-225-5499 (sales)  
**Local Verizon Store:**  
 120 Frederick Rd,  
 Thurmont, MD 21788  
 (301) 271-2290  
[www.verizon.com](http://www.verizon.com)  
**Water/Sewer/ Trash:**  
 Town of Emmitsburg  
 300A S. Seton Avenue  
 Emmitsburg MD 21727  
 301-600-6300  
[www.Emmitsburgmmd.gov](http://www.Emmitsburgmmd.gov)  
**Plumbing:**  
**Rohrbaugh Septic Cleaning**  
 16658 Old Emmitsburg Rd,  
 Emmitsburg, MD 21727  
 301-447-2286  
**Micks Plumbing & Heating**  
 27 Howard St,  
 Thurmont, MD 21788  
 (301) 271-2488  
**WRF & Son**  
 418 E Baltimore St,  
 Taneytown, MD 21787  
 (410) 751-1113  
**Heating & Air Conditioning**  
**Holtzople Heating & Air**  
 (301) 898-3494  
**Cornerstone Heating & Air**  
 (240) 674-3100  
**Real Comfort Systems**  
 (301) 662-3661

**LOCAL OIL COMPANIES**

**Aero Energy**  
 230 Lincoln Way E,  
 New Oxford, PA 17350  
 855-976-4182  
 8038 B Liberty Rd,  
 Frederick, MD 21701  
 301-662-4101  
**Dee Wees C Richard Fuel Oil**  
 211 Eyley Rd,  
 Thurmont, MD 21788  
 301-271-7303  
**Griffin Energy Services**  
 8 Sullivan Ave,  
 Westminster, MD  
 877-772-1032  
**Mason Dixon Oil Company**  
 301-447-3199  
**McLaughlin's Heating Oils**  
 11931 Buchanan Trl E,  
 Waynesboro, PA 17268  
 717-762-5711

**Shiple Oil Co Inc.**  
 1894 York Rd,  
 Gettysburg, PA 17325  
 717-334-7650  
**Thompson Oil Co**  
 329 W North St, Waynesboro, PA 17268  
 877-331-5681  
**West Oil Inc.**  
 6603 Mountindale Rd,  
 Thurmont, MD 21788  
 301-898-7116

**TRASH PICKUP EVERY MONDAY RECYCLING PICKUP EVERY OTHER FRIDAY (see schedule on Town Website under public works)**

**This list is not an endorsement of any company or business. These are simply suggestions or starting point for new/existing residents.**

**LOCAL RESTAURANTS**

**Carriage House Inn** - 301-447-2366  
200 S. Seton Avenue  
www.carriagehouseinn.info

**Carleos Pizza & Subs** -301-447-1999  
101 Silo Hill Rd, Ste 5

**OTT House** - 301-447-2625  
5 W Main Street

**Palms Restaurant** - 301-447-3689  
20 W. Main Street

**Pizza Hut** - 301-447-6672  
210 S. Seton Avenue

**Rubes Crab Shack** - 301-447-4116  
17308 N Seton Ave  
rubescrabshackllc.com

**Stavros** - 301-447-6767  
2 E. Main Street

**Subway** - 301-447- 2059  
101 Silo Hill  
order.subway.com

**MISCELLANEOUS BUSINESSES**

**Chronicle Press**  
107 S Seton Ave  
301-447-2333  
chroniclepress@verizon.net

**Cleaning Angels  
Extraordinaire** - 240-446-2752

**Emmitsburg Tattoo Company**  
(301) 447-6837

**EPlus Copy Center**  
515-B East Main Street  
301-447-2804  
epluspromotes.com

**Dollar General** - (240) 428-2433  
501 E Main St, Emmitsburg, MD 21727

**Getz Computers** - 301-447-4292  
402 West Main St.  
bgetz@getzcomputers.com

**Insurance Brokers of MD**  
301-447-2565  
1 Creamery Way  
Robert.Phelan@ibmofmd.com

**Jubilee Foods** - 301-447-6688  
515 East Main Street  
shopjubileefoods.com

**Let it Bee Child Care** -443-605-2426

**Melissa Wetzel, CPA** - 301-447-3797  
301 West Main St.  
melissawetzelcpa@verizon.net

**Miss. B's Family Child Care**  
301-447-4161  
216 Depaul St  
brittanyfritz915@yahoo.com

**Myers-Durboraw Funeral Home**  
301-447-6244  
210 West Main Street

**State Farm Insurance - Jim Hatcher**  
301-447-6524  
101 Silo Hill Road, Suite 2

**Top Dry Cleaners** -301-447-3262



**Join us on Facebook!**

**Emmitsburg Cares**

**Emmitsburg Community Heritage Day**

**Town of Emmitsburg**

**DENTISTS & DOCTORS**

**Dr. Portier (General)**- Emmitsburg  
301-447-3310

**Dr. Carroll (General)**- Emmitsburg  
(301) 447-6155

**Dr. Curley (General)**-Emmitsburg  
301-447-3369

**Wellspan Family**- Thurmont  
(301) 271-3535

**Dr. Krantz Family**- Thurmont  
301-447-4333

**Gettysburg Pediatric**  
(717) 334-7681

**Frederick Pediatric Center**  
(301) 663-0133

**DENTISTS**

**Bringardner Timothy B DDS**  
301-447-6662

**DHA Dental: Hargadon Michael, DDS** -  
301-447-3585

**VETERINARY SERVICES**

**Catocin Veterinary**  
(301) 271-0156

**Emmitsburg Veterinary**  
(301) 447-6237

**AUTO REPAIR & SERVICE**

**His Place Auto Body**  
301- 447-3560

**East Park Auto**  
301-447-2800

**Talcott Auto**  
717-642-9955

**SALONS**

**Curly Sue's** - (301) 447-9922  
Emmitsburg, MD

**Total Look** -(301) 447-2541  
Emmitsburg, MD

**Joanne's Cut & Curl** (301) 447-3211  
Emmitsburg, MD

**Shear Joy** - (301) 447-6883  
Emmitsburg, MD

**Emmitsburg Family Barbershop**  
(301) 447-3660

**Here's Clyde's Family Hair Care**  
(301) 271-4479 Thurmont, MD

**Modern Reflections** - (301) 447-3440  
Emmitsburg, MD

**My Father's Footsteps** - 301-447-6600  
Emmitsburg

**M&T Shear Magic Inc** - (301) 271-2113  
Thurmont, MD

**GO TO CABLE CHANNEL 99 TO  
SEE ALL TOWN COUNCIL MEET-  
INGS WHICH ARE HELD 1ST MON-  
DAY OF EACH MONTH - SEE WEB-  
SITE FOR MORE INFORMATION**

**AREA CHURCHES**

**Basilica - National Shrine of Saint  
Elizabeth Ann Seton**  
339 S Seton Ave,  
301-447-6606  
setonshrine.org

**Christ's Community Church**  
303 W Lincoln Ave,  
301-447-4224  
www.cccemmitsburg.org

**Elias Evangelical Lutheran Church**  
100 W North Ave,  
301-447-6239  
eliaslutheranchurch.com

**Emmitsburg Community Baptist Church**  
17750 Creamery Road, Ste 8B  
Emmitsburg, MD  
240-397-1700  
www.emmitsburgcbc.org

**Emmitsburg United Presbyterian  
Church**  
415 W Main Street,  
301-447-2413  
www.emmitsburg.net/epc

**Incarnation United Church of Christ**  
124 W Main Street,  
(240) 439-7632  
Facebook page:  
@IncarnationUnitedChurchOfChrist

**Trinity United Methodist Church**  
313 W Main St,  
301-447-3740  
trinityumc.yolasite.com

**Toms Creek United Methodist Church**  
10926 Simmons Rd,  
301-447-3171  
www.tomscreekumc.org

**St. Joseph Catholic Church**  
47 Depaul St,  
Emmitsburg, MD 21727  
301-447-2326  
www.stjosephemmitsburg.org

**St. Anthony Catholic Church**  
6150, St Anthony Rd,  
Emmitsburg, MD 21727  
301-447-2367  
www.sasolmc.org

**CIVIL ORGANIZATIONS**

**Emmitsburg Business &  
Professional Association (EBPA)**  
PO Box 633  
Emmitsburg, MD 21727  
www.ebpa.biz

**Emmitsburg Memorial Post  
No. 6658 Veterans of Foreign Wars**  
VFW Post 6658  
12 W. Main Street  
Emmitsburg, MD 21727-9247  
301-447-6141

**The Emmitsburg Lions Club (ELC)**  
Joe Ritz, President  
P.O. Box 1182  
Emmitsburg, MD 21727-1182  
301-447-2939

**Francis X. Elder American  
Legion Post 121**  
121 N Seton Ave  
Emmitsburg, MD 21727  
301-447-2274

**Knights of Columbus**  
Brute Council 1860  
307 W Main Street  
Emmitsburg, Maryland, 21727  
www.kofc-1860emmitsburg.org

**AGENDA ITEMS CONTINUED:**

- IV. For Consideration Sewer Relining Project on East Main Street:** Presentation at meeting by town staff. Handouts given at town meeting.

**AGENDA ITEMS CONTINUED:**

- V. Authorization to Proceed with Solicitation of Federal Funding for New Pumping Station for Discussion and Consideration:** Presentation at meeting by town staff. Handouts given at town meeting.

**M. SET AGENDA FOR NEXT MEETING: OCTOBER 1, 2018 at 7:30 P.M.**

- 1.
- 2.
- 3.
- 4.
- 5.

*Administrative Business:*

- A.
- B.
- C.
- D.