



Town of Emmitsburg

Mayor Donald N. Briggs

Board of Commissioners,
Timothy O'Donnell, *President*
Clifford Sweeney, *Vice President*
T.J. Burns, *Treasurer*
Joseph Ritz III
Frank Davis

Town Manager
Cathy Willets

Town Clerk
Julie Scott

TOWN MEETING AGENDA PACKET TOWN OFFICE – 300A SOUTH SETON AVENUE MONDAY, MAY 2, 2022 – 7:30 P.M.

1. CALL TO ORDER

2. PLEDGE OF ALLEGIANCE

3. FUTURE MEETINGS

FY 2023 Budget Meeting: Monday, May 16, 2022 at 7:30 p.m. (Town Office & Zoom)

Parks and Recreation Committee Meeting: Tuesday, May 17, 2022 at 7:30 p.m. (Town Office)

Planning Commission Meeting: Tuesday, May 31, 2022 at 7:00 p.m. (Town Office)

Town Council Meeting: Monday, June 6, 2022 at 7:30 p.m. (Town Office & Zoom)

4. MEETING ITEMS

A. APPROVE MINUTES: APRIL 4, 2022

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 (DETAILS ATTACHED)

(A). Presentation of proposed work to address flooding issue on the E. Eugene Myers Community Park walking path.

(B). Construction of new ¼-mile long section of trail to link the green and yellow trails for consideration.

I. CONSENT AGENDA:

- Re-Appoint Shannon Cool, Glenn Blanchard, Sandy Umbel, Steve Starliper, and Amanda Ryder to the Parks and Recreation Committee with a term of December 3, 2021 through December 3, 2023.

- Proposal of Trail Volunteer Workdays.

J. TREASURER'S REPORT

K. PLANNING COMMISSION REPORT

L. AGENDA ITEMS (DETAILS ATTACHED)

(1). Initial presentation of the Fiscal Year 2023 budget.

(2). Review and approval of the St. Euphemia's Wayside Exhibit for consideration.

(3). Approval of ordinance 2022-01, which will incorporate the Board's findings. Motion and vote will be presented in writing to Board for approval and execution.

- At their meeting on April 4, 2022, the Board approved a zoning map amendment, which changes the zoning designation of two parcels at the entrance of Brookfield on Timbermill Run from Neighborhood Commercial (B-1) to Low Density Residential (R-1). This ordinance details the Board's findings of facts as required by state and local law.

300A South Seton Avenue • Emmitsburg, Maryland 21727

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- (4). Approval of Policy P22-02, update to parking fees & fines, for consideration.
 - This policy would modernize the Town’s parking meter fees, permits, and fines, which have not been reviewed since 2018. Meter bag permits and parking meter fees would gradually be increased from 07/2022 – 07/2026 in order to help fund various parking upgrades throughout the Town. A five-year parking plan will be presented to the Board.
- (5). Approval of Ordinance 2022-02, update to Title 10 – Parking, for consideration.
 - This ordinance would modernize the Town’s Vehicles & Traffic Code in order to allow parking meter fees, meter bag fees, and parking fines to be paid by credit card via a third party vendor. It would change the parking meter hours of operation to 8am – 8pm Monday through Saturday. Parking boots would be allowed to be utilized. Fines are moved from ordinance to policy.
- (6). ~~Forward proposed Ordinance 2022-03 (zoning text amendment to Chapters 17.04, 17.20, & 17.44) to the Planning Commission and set public hearing for June 6, 2022 for consideration.~~ **(POSTPONED)**
 - ~~This ordinance would make the following changes:~~
 - ~~Chapter 17.04 Add the definition of “Hostel”.~~
 - ~~Chapter 17.20 Allow Hostels as a permitted by right use in the General Commercial Zoning District.~~
 - ~~Chapter 17.44 Update the zoning map & text amendment process in order to be compliant with State Law.~~

M. SET AGENDA FOR FY 2023 BUDGET MEETING: MAY 16, 2022

N. SET AGENDA FOR NEXT TOWN COUNCIL MEETING: JUNE 6, 2022

5. SIGN APPROVED TEXT AMENDMENTS AND/OR RESOLUTIONS

6. ADJOURN

ZOOM MEETING ACCESS INFORMATION:

Town of Emmitsburg is inviting you to a scheduled Zoom meeting.

Topic: Town Meeting: May 2, 2022

Time: May 2, 2022 07:30 PM Eastern Time (US and Canada)

Join Zoom Meeting

<https://us02web.zoom.us/j/87484781154>

Meeting ID: 874 8478 1154

Passcode: 21727

One tap mobile

+13017158592,,87484781154#,,,,*21727# US (Washington DC)

+13126266799,,87484781154#,,,,*21727# US (Chicago)

Dial by your location

+1 301 715 8592 US (Washington DC)

+1 312 626 6799 US (Chicago)

+1 646 558 8656 US (New York)

+1 253 215 8782 US (Tacoma)

+1 346 248 7799 US (Houston)

+1 669 900 9128 US (San Jose)

Meeting ID: 874 8478 1154

Passcode: 21727

Find your local number: <https://us02web.zoom.us/u/kd6BqBGZu6>

The town meeting will begin at 7:30 p.m. If you would like to speak during public comment or an agenda item, you must sign-up to speak BEFORE 7:30 p.m. Sign-up to speak by emailing your name, address and topic you'd like to speak on to jscott@emmitsburgmd.gov or calling (301) 600-6300.

You can also watch the town meeting live on cable channel 99. A recording will be posted to YouTube after (@Town of Emmitsburg).

A. APPROVE MINUTES

**MINUTES
TOWN MEETING
APRIL 4, 2022
TOWN OFFICE – 300A SOUTH SETON AVENUE**

Present: *Elected Officials* - Mayor Donald Briggs; Commissioners: Timothy O'Donnell, President; Clifford Sweeney, Vice President; T.J. Burns, Treasurer, Joseph Ritz III; and Frank Davis. *Staff Present* - Cathy Willets, Town Manager; Julie Scott, Town Clerk; Amy Naill, Code Enforcement Officer; Zachary Gulden, Town Planner; Cole Tabler, Town Accountant; and Madeline Shaw, Grants Administrator. *Others Present* - Sergeant Mark Linehan, Deputy Jason Ahalt, Deputy Cole Bartholow, Leslie Powell, Town Attorney.

I. Call to Order

A quorum being present, Commissioner Timothy O'Donnell, President of the Board of Commissioners, called the April 4, 2022 town meeting to order at 7:30 p.m. Pledge of Allegiance was recited. Upcoming meetings were announced. Cathy Willets, Town Manager, advised there will be a FY 2023 Budget Meeting at the Town Office on Monday, May 16, 2022 at 7:30 p.m.

Approval of Minutes

Motion: Commissioner Davis motioned to accept the March 7, 2022 town meeting minutes as presented; second by Commissioner Ritz III. Yeas - 5; Nays - 0. The motion was adopted. *Motion:* Commissioner Davis motioned to accept the March 16, 2022 town meeting minutes as presented; second by Commissioner Ritz III. Yeas - 5; Nays - 0. The motion was adopted.

Police Report:

Sergeant Linehan explained the changes in deputy assignments for Emmitsburg. Deputy Paul Graves was re-assigned to Myersville and Deputy Cole Bartholow will fill the opening in the Emmitsburg area. Deputy Jason Ahalt presented the police report from February and March 2022. (exhibit attached). Commissioner Sweeney requested one of the deputies attend the Citizen's Advisory Committee meeting on Tuesday, April 19, 2022. An update on the recent accident on Irishtown Road was provided and Deputy Ahalt confirmed it was not related to the construction in that area. Increased law enforcement was requested around West Main Street during the early hours based on concerns received from citizens regarding speeding and loud vehicles. Deputy Ahalt reassured the Town that traffic enforcement is priority and advised that a jake brake ordinance would need to be adopted for truck noise enforcement.

Town Managers Report:

Cathy Willets, Town Manager, presented the Manager's Report from February 2022. (exhibit in agenda packet). Proper etiquette at the dog park was reviewed due to repeated issues with improper waste disposal and clogging of the water fountain. Bulk trash pick-up for Saturday, April 9, 2022 was confirmed including times and accepted items.

Town Planners Report:

Zachary Gulden, Town Planner, presented the Planner's Report from February 2022. (exhibit in agenda packet). The Town was granted \$20,000 for the MS4 tree planting as opposed to the \$10,000 that was originally expected. Four single family dwelling zoning permits for Brookfield were processed and the 2 remaining lots have been sold. He clarified the stop work order for the home demolition on DePaul Street and the steps the homeowner needs to take to rectify this issue. The proposal request for the street sweeper vendor was discussed. The company for the forestry stand 10 project was issued a time extension due to COVID and this is anticipated to be completed by December 31, 2022.

Commissioner Comments:

- Commissioner Ritz III: He acknowledged the increased attendance at this meeting and thanked everyone for coming. He recently visited Tuscany's Pizza and looks forward to eating there again soon. The Frederick County Public Schools band concert in the town bandstand is no longer happening due to a liability issue with the schools. Commissioner Sweeney suggested the Lions Club could sponsor since they have a special event liability policy.
- Commissioner Davis: He has also visited Tuscany's Pizza several times. He praised the local restaurants and encouraged everyone to continue supporting our local businesses. He attended opening day for the Thurmont Little League. They have opened their teams to Emmitsburg children and have also added girls' softball. At this time, every ballfield will be utilized this year and he is happy to see them being used consistently.
- Commissioner Burns: He attended Troop 270's Blue and Gold Banquet. He congratulated all the cub and boy scouts who participated in the bridging ceremony and raising of ranks. He also participated in the hockey fundraiser for Deputy Olander. There were about 150 people in attendance and close to \$5,000 was raised for the family.
- Commissioner Sweeney: He advised that softball and little league will start on Tuesday, April 5, 2022 and the fields will be used 3-4 nights per week. There is a tournament scheduled the first two weekends in June for travelling teams when they will use all of the fields and visit local businesses. He invited everyone to the Community Day meeting at the Knights of Columbus building on Monday, April 18, 2022. He thanked the fire department for letting them use their building for the fundraiser that was held on Saturday, April 2, 2022. He requested the deputies be present in town during the tournament as well as on Community Day.
- Commissioner O'Donnell: He clarified that Community Day and Heritage Day are the same event and the names get used interchangeably. He announced that a public hearing will occur at this meeting. He commended the disc golf group for their avid use of the course and the tournament they held last weekend brought additional visitors to the Town. He sends his condolences to the Blumenfeld family regarding the passing of Shawn Blumenfeld, the cyclist who was struck and killed by a vehicle on Route 140. Information regarding his memorial service is forthcoming. He also reminded everyone to be vigilant as the weather grows warmer, since there are more people outdoors and children outside playing. He invited everyone, especially those with small children, to the free Easter Egg Hunt in Community Park on Sunday, April 10, 2022.

Mayor's Comments:

Mayor Briggs attended numerous meetings in March 2022 (meetings listed in agenda packet). Mayor Briggs commended everyone for all the additional events and activities they have planned to increase community participation and bring visitors to the Town. He announced pickle ball lines will be added to the tennis courts, expanding activity options. The St. Euphemia's Wayside Exhibit was approved by the Daughters of Charity and will be presented to the Board in May. He mentioned several of the grant-funded projects and thanked Town Staff for their work on those. He invited everyone to watch his monthly podcasts, and apologized that the one scheduled with Insurance Brokers of Maryland on Friday, April 1, 2022 was cancelled. He wished everyone a Happy Easter.

Public Comments:

Brian McKenney, DePaul Street – Mr. McKenney requested the Town address the two low lying spots where the water bridges across the paved path in Community Park since the previous attempts to rectify this issue did not work. Town Staff are aware of this issue, but since the path was constructed in a floodplain it is difficult to fix. This issue will be revisited with the Town Planner and the Director of Public Works to see if they can come up with a more permanent solution. Commissioner O'Donnell advised he will follow up with Mr. McKenney as well as with Town Staff.

Administrative Business:

- (A). **Proclamation declaring April 2022 Child Abuse Prevention month:** Mayor Briggs read the proclamation aloud. Kristen Dunn with Frederick County Department of Social Services Child Advocacy Center (CAC), introduced herself as well as Heiress, the facility dog. She explained the services the CAC provides to children and caregivers. There will be blue pinwheels “planted” in Emmitsburg during the month of April to raise awareness. *Motion:* Commissioner Ritz III motioned to accept the proclamation as presented; second by Commissioner Davis. Yeas - 5; Nays - 0. The motion was adopted.
- (B). **Proclamation declaring April 16, 2022 as Arbor Day:** President O’Donnell read the proclamation aloud and announced the upcoming Stream Link Tree Plantings. Volunteers are invited to help with these events. *Motion:* Commissioner Sweeney motioned to accept the proclamation as presented; second by Commissioner Burns. Yeas - 5; Nays - 0. The motion was adopted.
- (C). **Designation of two Open Meetings Act representatives for consideration:** Ms. Willets presented the item. She provided information regarding the designation and training requirements for public entities subject to the Open Meetings Act. She recommends the Town Clerk, Julie Scott, as the designated Town Staff representative and deferred to the Board for their recommendation of a Commissioner representative. Commissioner O’Donnell and Commissioner Sweeney volunteered to be the Board designees for the Open Meeting Act representatives. *Motion:* Commissioner Davis motioned to designate Commissioner O’Donnell, Commissioner Sweeney, and Julie Scott as the Open Meeting Act representatives for the Town; second by Commissioner Ritz III. Yeas - 5; Nays - 0. The motion was adopted.

Consent Agenda:

Appoint _____ as an alternate to the Board of Appeals with a term of April 4, 2022 through January 11, 2024. Ms. Willets requested a postponement of this item. The Mayor is seeking to fill the alternate vacancy on the Board of Appeals, but there are currently no volunteers. Interested persons should contact the Town Office.

Treasurer’s Report:

Commissioner Burns presented the Treasurer’s Report for March 2022 (exhibit in agenda packet).

Planning Commission Report:

Commissioner Ritz III presented the report. The Commission last met on Monday, March 28, 2022. At this meeting, they approved the request in the East Industrial Park II for no sidewalks, curbs, and gutters as well as a reduction in the amount of required vehicle and bicycle parking spaces. The vote for approval of the Federal Stone site plan has been postponed. They voted in favor of recommending to the Board that RJD Development Corporation successfully demonstrated a mistake in zoning for the parcels at the entrance of Brookfield. This is related to Agenda Item #2 and the public hearing. The Commission is not scheduled to meet in April and the next meeting is tentatively scheduled for May 23, 2022.

II. Agenda Items

Agenda #1 - To consider a real property tax rate that exceeds the constant yield tax rate. The Board will consider whether or not to reduce the real property tax rate sufficiently to fully offset tax revenues resulting from increasing assessments to make the property tax revenues equivalent to the prior year’s tax revenues (the constant yield tax rate), excluding new development: Ms. Willets, Town Manger and Mr. Tabler, Town Accountant presented the item. Ms. Willets explained the constant yield tax rate, how it is calculated, and how the state determines its recommendation for the rate. Town Staff recommend the rate of \$0.3464 per \$100 of assessment for FY 2023. This is 3.7% higher than the current state’s recommended rate of \$0.3340. Mr. Tabler advised that the tax rate has been \$0.3464 for the past several

years, except for FY 2022 where the decrease resulted in a significant loss of revenue. The proposed rate will increase revenue to offset rising operating costs. The state recommendation to lower tax rates and the increase in the amount of state required mandates that require town funding were discussed. *Motion:* Commissioner Davis motioned to maintain the constant yield tax rate of \$0.3464 per \$100 of assessment in FY 2023; seconded by Commissioner Burns. Yays - 5; Nays - 0. The motion was adopted.

Agenda #2 - Zoning map amendment public hearing and consideration for Lots C and D as shown on the Final Plat of Section 1 – Plat 1 Parcels “C”, “D” & “E” of Brookfield recorded in Plat Book No. 58, Page 40: A public hearing on this item was held. President O’Donnell provided an overview and called the public hearing to order. Leslie Powell, Town Attorney, provided additional guidance on this process. The applicant, staff, and public testifying took an oath and were sworn in. The petition to determine if lots “C” and “D” should be rezoned from neighborhood commercial to residential was presented to the Board. Mr. Gulden advised that the applicant intends to construct 7 single family detached residential homes on that property. He provided the Planning Commission recommendations as well as explained the requirements of the rezoning petition, the change or mistake rule, and the factors that led to the mistake after the adoption of the last comprehensive plan. Ms. Powell advised that an ordinance that sets forth the findings of the Board needs to be presented at the next meeting. Bruce Dean, attorney with the law firm of McCurdy, Dean, and Graditor in Frederick, MD presented on behalf of the applicant, Richard Demmitt with RJD Development Corporation. A summation was given to provide evidence of a mistake in zoning and a change in the character of the neighborhood. The applicant, Mr. Demmitt from Clarksville, MD, provided comment on the lack of market interest in that area and the reasons he believes a mistake was made. The Board discussed the impact additional homes could have on public facilities, primarily school capacity and storm water management. Town population, infrastructure, commercial development, and viability were also considered. They determined that a few additional homes would not be detrimental, but this could change with future growth. President O’Donnell opened the hearing to public comment. Dianne Walbrecker, West Main Street, participated in the development of the original comprehensive plan. She explained the mixed-use vision and the intent for that design. She suggested looking into other opportunities to develop that area as neighborhood commercial and encouraged the Board to reevaluate the zoning in that location during the next comprehensive plan to allow time to gather more information from the citizens. Bob Laudani, Timbermill Run, commented on the length of time the property has been vacant and the lack of interest from commercial developers. He would rather see houses built in that area than businesses and is concerned about the implications of commercial traffic in that area. He asked the Board to work with the developer to allow the houses to be built to benefit the neighborhood as well as the Town. Chuck Karfonta, Catonsville, MD, is associated with RJD Development, and supports the findings that a mistake was made in zoning. He pointed out that a few different companies attempted to have a convenience store in that area but left because they were not successful. In his opinion, that part of town is not designed for commercial business. President O’Donnell opened the hearing to applicant rebuttal, but Mr. Dean had nothing to add so the hearing moved to Board discussion. The Board expressed understanding of the original goal for the comprehensive plan but questioned the timeframe needed to determine if commercial development is viable there. Commissioner Sweeney explained that the zoning in the original comprehensive plan was intended to bring businesses into that area of town. At this time, the Board is unsure if commercial is ever going to work there due to the closure of previous businesses in that location and lack of demand in that part of the Town. They discussed the shift in small community design to one-stop type of shopping. President O’Donnell opened the meeting to the fact-finding questions portion where the Board applied the evidence presented to all required questions. Commissioner Ritz III requested a brief summary be included with future agenda items that contain technical language so they are clear and understandable for the public. *Motion:* Commissioner Burns motioned to approve the applicant’s request for the rezoning of parcels “C” and “D” from B1 to R1 based on the factual findings made by the Board; seconded by Commissioner Davis. Yays - 5; Nays - 0. The motion was adopted.

Agenda #3 - Approval of the abandonment of a sewer easement located at the Emmitsburg East Industrial Park II property for consideration: Mr. Gulden presented the item. Federal stone wants to develop the property in this area and has requested that the Town abandon this sewer line easement. Town Staff confirmed that it was never used and is no longer needed. A declaration of abandonment in the land records will need to be filed. *Motion:* Commissioner Davis motioned to approve the abandonment of a sewer easement located at the Emmitsburg East Industrial Park II property; second by Commissioner Ritz III. Yeas - 5; Nays - 0. The motion was adopted.

Agenda #4 - Town of Emmitsburg participation in the Maryland Low Income Household Water Assistance Program (LIHWAP) for consideration: Ms. Willets presented the item. She explained this program is to help those struggling to pay their water and sewer bill. Eligibility, participation, application, and funding were also discussed. Information will be provided on the website, Facebook and newsletters. A flyer will also be included with any past due notices. She suggested that people make sure their phone numbers are listed on their water and sewer bills so that Town Staff can reach out, if needed. The Board suggested contacting Seton Center to let them know this program is available. *Motion:* Commissioner Sweeney motioned to approve the Town of Emmitsburg's participation in the Maryland Low Income Household Water Assistance Program (LIHWAP); second by Commissioner Burns. Yeas - 5; Nays - 0. The motion was adopted.

Agenda #5 - Approval of bid for the purchase and installation of advanced license plate readers for consideration: Ms. Shaw presented the item. This is a grant-funded project to aid law enforcement in locating wanted vehicles, but are not used for speed enforcement. The locations, system equipment, and bid information were reviewed. Town Staff recommend Applied Technology Services in the amount of \$42,140.19. This company was selected due to favorable references, familiarity with local systems, and software compatibility. Sergeant Keith Johnson with the Maryland State Police Coordination and Analysis Center (MCAC) joined the meeting via the Zoom teleconferencing platform. He provided additional guidance on the state system as well as data viability. There are no additional fees for this service, data is restricted to law enforcement use, and safety measures are followed to protect the information collected. The Board discussed the proposed locations, the benefit to the community, and the option of adding a speed camera in the school zone. Town Staff will provide bids for surveillance cameras at a later date. *Motion:* Commissioner Burns motioned to approve Applied Technology Services bid in the amount of \$42,140.19 for the purchase and installation of advanced license plate readers with 24/7 power; second by Commissioner Sweeney. Yeas - 4; Nays - 1. Commissioner Ritz III voted Nay. The motion was adopted.

Agenda #6 - Approval of a change order with MIM Construction, Inc., FY21 sidewalk accessibility ramps FY 21contract 21-SA-21, the amount of \$62,864.50 for consideration: Mr. Gulden presented the item. This is a grant-funded project that came in under budget for the construction of ADA sidewalks. He is seeking approval for the use of these excess funds to add or improve sidewalks and ramps throughout town for ADA accessibility. This would not impact future water and line work. *Motion:* Commissioner Sweeney motioned to approve the change order with MIM Construction, Inc. in the amount of \$62,864.50; second by Commissioner Ritz III. Yeas - 5; Nays - 0. The motion was adopted.

Set Agenda Items for May 2, 2022 Town Meeting

Administrative Business: NONE **Consent Items:** (1.) Proposal of Trail Volunteer Workdays. **Agenda Items:** (1.) Initial presentation of the Fiscal Year 2023 budget. (2.) Review and approval of the St. Euphemia's Wayside Exhibit for consideration. (3.) Approval of ordinance 2022-01, which will incorporate the Board's findings. Motion and vote will be presented in writing to Board for approval and execution. (4.) Approval of Policy P22-02, update to parking fees & fines, for consideration. (5.) Approval of Ordinance 2022-02, update to Title 10 – Parking, for consideration. (6.) Forward proposed

Ordinance 2022-03 (zoning text amendment to Chapters 17.04, 17.20, & 17.44) to the Planning Commission and set public hearing for June 6, 2022 for consideration. Further discussion occurred regarding the agenda items for the May 2, 2022 Town Meeting. Agenda item 6 may need to be postponed as the priority for the June 6, 2022 is the FY 2023 budget. Mr. Gulden provided clarification on agenda item 4 and 6. Ms. Willets advised that depending on the status of water and sewer trainee position, there may be a need for closed session for the potential hiring of a candidate after the May 2 or May 16, 2022 meeting. *Motion:* Commissioner Ritz III motioned to approve the May 2, 2022 Town Meeting Agenda as presented; second by Commissioner Burns. Yeas - 5; Nays - 0. The motion was adopted.

III. Sign Approved Text Amendments and/or Resolutions

IV. Adjournment

With no further business, Commissioner Burns motioned to adjourn the April 4, 2022 Town Meeting; second by Commissioner Sweeney. Yeas – 5; Nays - 0. The meeting adjourned at 11:12 p.m.

Respectfully submitted,

Julie Scott, Town Clerk
Minutes Approved On:

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

C. TOWN MANAGER’S REPORT

**Town Manager’s Report
March 2022
Prepared by Cathy Willets**

Streets:

- Staff replaced and repaired some street signs around town.
- Staff conducted monthly street sweeping.
- Staff repaired and replaced some street lights.
- Staff conducted monthly storm drain inlet cleaning.
- Staff cold patched some pot holes around Town.
- Staff power washed message board in front of 22 East Main St.
- Staff and contractor responded for a snow event.
- Staff took down damaged Welcome to Emmitsburg sign on North Seton Ave.
- Staff trimmed shrubs, trees and bushes along creek bed on Creamery Rd.
- Staff removed snow flags from fire hydrants.

Parks:

- Staff conducted daily park checks – trash cans, cameras, dog waste stations, restrooms.
- Staff conducted monthly park maintenance – playground equipment, roads, fences, pavilions, etc.
- Staff working on new board fence project in Community Park.
- Completed contract for tree removal project in Emmit Gardens and Community Park.
- Staff removed graffiti from signs, dugouts, pavilions and picnic tables in parks.
- Staff scraped and painted two park benches in Memorial Park.
- Staff trimmed tree limbs around Community Park dog park.
- Staff pulled weeds and weed killed the Memorial area in Community Park.
- Staff summarized all restroom buildings, concession stand and dog park.

Water:

- Rainbow Lake is at the spillway level (16.6 feet).
- The roughing filters are being backwashed two times a day by the end of the month. The DE filters are getting two week runs.
- Well levels (optimum level was determined to be May 2011).

	<u>May 2011</u>	<u>March</u>	<u>Change</u>
○ Well #1:	35’	33’	+2’
○ Well #2:	8’	9’	-1’
○ Well #3:	12’	30’	-1’
○ Well #4:	108’	OFF	N/A
○ Well #5:	10’	OFF	N/A

- Water production and consumption. We produced an average of 216,371 GPD. We consumed an average of 217,499 GPD (finish water + MSM). The amount of Backwash Water in the month of March is ... (11.83%).
 - 20% of this water came from wells.
 - 6% of this water came from Mt. St. Mary's.
 - 74% of this water came from Rainbow Lake.

We purchased 438,400 gallons of water from MSM this month.

Wastewater:

- We treated an average of 582,000 gpd (consumed 217,499 GPD) which means that the 63 % of the wastewater treated this month was "wild water".
- We did not have any spills of untreated sewage in the month of March.
- We did not exceed the plant's design capacity in the month of March.
- We received about 2.25" of precipitation this month (the average is 4.05"). We have a precipitation **DEFICIT of 5.60"** over the last six months. The average precipitation for the period from October 1 through March 31 is 20.25". We have received 14.65" for that period.

Trash: Trash pickup will remain Mondays in the month of May except Memorial Day. Trash will be picked up Tuesday, May 31st.

Meetings Attended:

- 03/01 Met with Mayor
- 03/02 Met with staff and Federal Stone to review plans
- 03/02 Attended bid opening with staff for ALPR
- 03/03 Attended initial FY23 budget planning meeting with staff
- 03/04 Attended initial FY23 budget planning meeting with staff
- 03/07 Attended Town Meeting
- 03/08 Attended meeting staff re: potential development
- 03/08 Attended webinar regarding: Low Income Household Assistance Program
- 03/09 Attended personnel meeting with water/sewer staff
- 03/15 Attended meeting with staff to review Federal Stone plan
- 03/16 Attended budget presentation meeting with staff
- 03/16 Attended Town Meeting
- 03/17 Met with Mayor
- 03/21 Attended ARPA reporting webinar
- 03/22 Conference call with staff and Town Attorney re: Welty Ave. code enforcement
- 03/23 Attended department head meeting
- 03/23 Attended support staff meeting
- 03/25 Attended Frederick County ALERT training
- 03/25 Attended meeting with staff and contractor re: water/sewer rate and connection fee study

Noteworthy:

- Staff pumps holding tank every 10 days at 8533 Hampton Valley Rd.
- Staff worked the yard waste dumpster twice in March.
- Staff conducted monthly equipment and fire extinguisher maintenance.
- Staff did some water meter upgrades.
- Staff completed some use and occupancy permit inspections.
- Staff worked with contractor installing new sewer service to 500 and 502 East Main St.
- Contractor blacktopped sewer line ditch on Creamery Rd.
- Staff conducted quarterly meter readings.
- Contractor repaired the east side of the salt shed at the WWTP.
- Staff completed water and wastewater capacity management reports for MDE and County.
- Rutter’s is still boring under Rte. 140. Once completed they will start installing sewer and water lines toward the new pump station.
- Staff working with Federal Stone re: tie in of their lot and grinder pump.
- WTP storage tank levels have been adjusted and are now very accurate.
- Hydrant flushing scheduled for week of April 25th. Discolored water complaints after staff replaced two curb stops on East Main St. and the line was turned back on.

**PARKING ENFORCEMENT REPORT
 March 2022**

Overtime Parking	117
Restricted Parking Zone	11
Street Sweeping	
Parked in Crosswalk	
Parked on Sidewalk/Curb	
Parked by Fire Hydrant	
Parked Blocking Street	
Failure to Park between Lines	1
Left Side Parking	2
48 Consecutive Hours	5
Meter Money	\$ 937.21
Parking Ticket Money	\$ 2,120.00
Total:	\$ 3057.21

D. TOWN PLANNER'S REPORT

Town Planner's Report – March 2022

Prepared by Zach Gulden, MPA

1. Board of Commissioners (BOC):

- Attended the 3/7 BOC meeting and processed pre/post meeting materials.
- Attended a meeting regarding the sewer/water rate study on 3/25.
- Finalized proposed Policy P22-02 – update to parking fees & fines.
- Worked on Proposed Ordinance 2022-02 – Update to Title 10 – Vehicles & Traffic.
- Prepared BOC staff memo for zoning map amendment.

2. Grants:

- Community Legacy grant management.
 - Submitted the quarterly report for FY21 award.
 - Completed grant award & agreements for 2x projects.
- Chesapeake Bay Trust:
 - Silo Hill SWM basin retrofit design & permitting grant management.
 - Submitted grant extension request.
- Community Development Block Grant (ADA Ramps) management:
 - Conducted 6x construction inspection.
 - Processed payment request #6 & 7.
 - Processed grant reimbursement request #6 & 7.
 - Reviewed & processed weeks #30, 31, & 32 payrolls.
 - Prepared contract addendum #1 / for work with extra grant funds.
 - Finalized grading permit with County.
 - 122 ramps are completed to date.
- Community Development Block Grant (DePaul St waterlines):
 - Attended a virtual grant workshop on 3/24.
- Main Street Communities Cooperative Fund:
 - Applied for \$10,000 in order to fund denied Community Legacy grant applications.

3. Municipal Separate Storm Sewer System (MS4):

- Silo Hill SWM basin retrofit & tree planting project management.
- SWM Utility Feasibility Study project management:
 - Worked with contractor on creating educational brochure.
 - Started researching utility implementation.
- SWM Utility implementation:
 - Reviewed and started transferring data for implementation phase.
 - Issued addresses for 47 vacant lots.
- Worked with contractor/attorney on Cedar Ave swale project.
- Finalized street sweeping RFP & put out to bid.

4. Code Enforcement & Permits:

- Processed 13x zoning permit applications:
 - 4x single-family dwellings (3x – Brookfield & 1x - Southgate).
 - 2x fences.
 - 4x signs.
 - 1x change of use – boarding house.
 - 1x patio.
 - 1x deck.
- Processed 17x backflow preventer permit applications.
- Applied for a Frederick County building permit for new Town sign.
- Worked with contractor on applying for electric permit for new Town sign.
- Worked with Frederick County on getting Town sign approved on County property.
- Mailed 1x high hazard backflow permit required letter.
- Attended a meeting at the Gettysburg Borough on 3/15 with code enforcement officer regarding parking enforcement software.
- Met with code enforcement/permitting software company on 3/8 & 3/22.
- Met with manager & town attorney on 3/22 regarding Welty Avenue court case.
- Prepared documents for court cases (Welty Avenue & East Main Street).
- Attended court trials with code enforcement officer on 3/23 & 3/30 (Welty Avenue).
- Met with parking enforcement/permitting software company on 3/25.
- Responded to incident reports.

5. Planning Commission (PC):

- Rutter's, Irishtown Road (Brookfield Lots 1-19), Federal Stone, Village Liquors & Plaza Inn, and Ripleigh's Creamery, & Emmitsburg East Industrial Park II project management.
- Pump Station Project:
 - Reviewed improvement plat for Mayor & PC signatures.
- Village Liquors & Plaza Inn:
 - Reviewed Corrected Site Plan for Mayor & PC Signatures.
 - Reviewed Corrected Improvement Plan for Mayor & PC Signatures.
- Federal Stone:
 - Reviewed and finalized staff memo for site plan.
 - Reviewed the final subdivision plat for Mayor & PC signatures.
 - Met with Federal Stone & Visit Frederick Count on 3/1 regarding fast tracking permitting & business incentives.
 - Met with Federal Stone, manager, public works director, & sewer/water superintendent on 3/2.
 - Met with manager, public works director, & sewer/water superintendent on 3/15 to discuss staff memo.
 - Delivered subdivision plans to Health Department on 3/29.

- Rutter's:
 - Worked with engineer on sewer construction specification approvals.
- Emmitsburg East Industrial Park II:
 - Met with town manager & potential developer of Lots 5 & 6 on 3/7.
 - Reviewed final forest conservation plan for Mayor & PC signatures.
- Zoning map amendment – Entrance of Brookfield:
 - Finalized staff memo for PC meeting.
- Attended the 3/28 PC meeting and processed pre/post meeting materials.

6. Miscellaneous:

- Forestry stand 10 project management:
 - Prepared contract addendum to provide a time extension.
- Worked with contractor on the street tree plan.
- Created an address for Emmit Gardens' Park (21 Park Drive).
- Various website updates under Planning Department.
- Attended a budget meeting on 3/3.
- Provided floodplain map to sewer/water superintendent.
- Met with contractor and sewer/water superintendent on 3/17 regarding GIS upgrade project.
- Attended a department head meeting on 3/23.
- Provided information to sewer/water superintendent to update sewer/water capacity plan with Frederick County Health Department.
- Met with manager & water/sewer superintendent on 3/31.

7. New Business / Development Updates:

- **Brookfield 10-unit cul-de-sac** – Sketch plan submitted. Zoning map amendment submitted to change zoning from B-1 to R-1.
- **Christ's Community Church** – concept plan submitted to build 12,500 sq. ft. church with 98 parking spaces on Creamery Road around Quality Tire.
- **Emmit Ridge 2** - Property has sold to an investor. RJD Development & Ryan Homes working with investor to purchase. Wetlands have been found to compromise 8 proposed lots and part of proposed Irishtown Drive. Wetland mitigation will need to be approved by State of MD. 48 total lots proposed.
- **Federal Stone** - Final subdivision plat, forest conservation plan, & site plan have been submitted for combined lots 7 & 8.
- **Frailey Farm** - Property is for sale. No activity with the Town this month.
- **Mason Dixon Logistics Park (Trout Property)** – concept plan submitted to staff. Commercial / industrial park.
- **MDOT/SHA Park & Ride** – Design is 15% complete. Project is on hold due to State budget cuts resulting from COVID-19. Staff working with legislators to push project forward. No activity with the town this month.
- **Ripleigh's Creamery** – Working on obtaining FC building permit.
- **Rutter's** – active construction. Expected completion is late summer of 2022.

- **Village Liquors & Plaza Inn** – Working with FC on erosion & sediment control and stormwater management permits. Also working on conditions of approval on Town site & improvement plans.
- **Warthen's Court 5-unit townhomes** – Sketch plan submitted. Developer is preparing required engineered plans for Planning Commission submittal.

E. COMMISSIONER COMMENTS

F. MAYOR'S COMMENTS

Meetings attended since last town meeting:

- Monday, April 4th @ 7:30 PM: regularly scheduled town monthly meeting.
- Friday, April 9th @ 11:30 AM: meeting with Town Manager Willets and Commissioner Burns, Zoom call with Frederick County Public Schools building staff.
- Sunday, April 10th @ 1:00 PM: attended Knights of Columbus Easter Egg Roll in Meyers Park with Commissioner Burns.
- Tuesday, April 18th @ 2:30 PM: special meeting with Town Manager regarding staff evaluations.
- Wednesday, April 20th @ 6:30 PM: Mount St Mary's University Frederick Campus - Mount Alumni, College of Liberal Arts Symposium.
- Thursday, April 21st @ 8:30 AM, St. Johns College, Annapolis - Santa Fe Classics Symposium (virtual).
- Friday, April 22nd @ 10:30 AM: Mount St. Mary's University College of Liberal Arts, Academic Advisory Board meeting (virtual).
- Friday, April 29th: meeting with K. Vaughan, Daughters of Charity - Security.

G. PUBLIC COMMENTS

H. ADMINISTRATIVE BUSINESS

- (A). **Presentation of proposed work to address flooding issue on the E. Eugene Myers Community Park walking path.** Presentation at the meeting.

- (B). **Construction of new ¼-mile long section of trail to link the green and yellow trails for consideration:** Presentation at the meeting by Commissioner O'Donnell.

I. CONSENT AGENDA

1. **Re-Appoint Shannon Cool, Glenn Blanchard, Sandy Umbel, Steve Starliper, and Amanda Ryder to the Parks and Recreation Committee with a term of December 3, 2021 through December 3, 2023.** Presentation at the meeting by Commissioner Davis.
2. **Proposal of Trail Volunteer Workdays.** Presentation at the meeting by Commissioner O'Donnell.

J. TREASURER REPORT

**Town of Emmitsburg
 CASH ACTIVITY as of April 26, 2022**

\$7,500,058	Cash Balance April 1, 2022
205,694	Deposits
<u>-398,912</u>	Withdrawals
\$7,306,840	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>
\$74,550	Treasurer of Frederick County	3Q FY22 Law Enforcement Service	04.06.22	43484
\$69,777	MIM Construction	ADA Ramp Project	03.30.22	43472
\$41,900	TFJ Excavating	Cedar Ave. Sidewalk Work	04.20.22	43566
\$31,400	GHD Inc.	Scada	04.13.22	43519
\$23,987	Comptroller of Maryland	3Q FY22 Bay Restoration Fee	04.06.22	43492
\$23,774	MIM Construction	ADA Ramp Project	04.20.22	43555
\$20,062	MD Dept of Budget & Mgmt	Mar 22 Health Insurance	03.30.22	43471
\$17,549	MIM Construction	ADA Ramp Project	04.06.22	43493
\$15,075	Strickler	Office Sign - 30% Progress Payment	04.06.22	43506
\$14,307	RK&K	Rutters Engineering - to be reimbursed	04.06.22	43503

Check dates 03.29.22 to 04.26.22

For more information, go to www.emmitsburgmd.gov

K. PLANNING COMMISSION REPORT: Presentation at the meeting.

L. AGENDA ITEMS:

AGENDA ITEM# 1. Initial presentation of the Fiscal Year 2023 budget. Presentation at the meeting by staff.

AGENDA ITEM# 2. Review and approval of the St. Euphemia’s Wayside Exhibit for consideration. Presentation at the meeting by staff.

St. Euphemia’s Wayside Exhibit Background

- This wayside exhibit will be #12 in the Town’s future historic walking tour (11 signs already exist and are installed throughout Town).
- The exhibit will be placed at 50 DePaul Street at the apartment building where St. Euphemia’s School once existed.

Project Cost

Town Funding & In-Kind Match:	\$3,548
FY2022 HCWHA Mini-Grant:	+ \$3,547
Total Project Cost:	\$7,095

Grant Timeline

File sent for fabrication	By May 15, 2022
Installation of panel by staff	By June 15, 2022

St. Euphemia's School

This building is the former St. Euphemia's School, a Catholic School founded by St. Joseph's parish. It served children, grades 1-8, from 1878-1956.

The school was operated and instructed by the Daughters of Charity. St. Euphemia's was a tuition-based school, however, students who could not afford to pay attended for free.

Until 1954 in Maryland and other states it was illegal for Black and White public school students to be educated in the same building. These segregation laws did not apply to private schools. St. Euphemia's School began admitting Black students in 1886, teaching the Black and White students in separate classrooms. In 1944, the classrooms were integrated.



Students from St. Euphemia's School attending mass at St. Joseph's Catholic Church in Emmitsburg, MD.

Since 1896, local governments were required to provide "separate but equal" schools for Black and White students. No Frederick County government-sponsored Black school is known to have existed in Emmitsburg when St. Euphemia began admitting Black students in 1886. An Emmitsburg attorney, Vernon Sebold appealed to the State Assembly in the 1920s to request that Frederick County government pay the tuition for Black students attending St. Euphemia.

St. Euphemia's School classroom, circa 1950s.

Courtesy: Fred County Historical Society, Inc., 2016, p. 46.



The building on the left was built in about 1878 and served as the school and the residence for the sisters who taught there. Black and White students were taught in separate classrooms. In 1887, school records show that 177 students attended the school, 137 were White and 40 were Black.

The building on the right was completed in 1892 and only the school's White students were instructed here. In 1944, St. Euphemia's integrated its classrooms.

In 1956, St. Euphemia's consolidated with St. Anthony's School to form Mother Seton School and closed.

A Student's Memories

Prior to the 1960s, Black citizens in Maryland were limited in where they could shop, dine or use public facilities. Despite St. Euphemia's admission of Black students, discrimination existed.

Barbara VanBrakle Weedon, a Black student, recalls her experience at St. Euphemia's during that era in a 2004 interview at age 69.

Transcript excerpt from 2004, audio interview conducted by Sister Eleanor Casey.

"We were all in the one room no matter what grade we were. And we were not allowed to drink from the water fountain. And then we weren't allowed to use the restrooms. There was an outhouse outside that we used... we couldn't be in any of [the] school plays. And when we made our First Communion and Confirmation we always walked together at the end of the line. So we were separated. But as kids you never thought [about] it..."

"My father was always so grateful because Sister Beata [teacher] was determined. She had such respect for the children that she was determined that they were worth something. That they were going to learn."



Barbara VanBrakle Weedon (1934-2021) served as Executive Assistant to the President of Mount St. Mary's University for 16 years, retiring in 1996. She was a lifelong Catholic and a member of St. Joseph's Catholic Church in Emmitsburg.



The 1964 Brown vs. Board of Education ruling by the U.S. Supreme Court led to the national desegregation of public schools and is considered to have launched the Civil Rights Movement for Black Americans. St. Euphemia's integrated its classrooms 10 years earlier.

Photo: William Stebbins, Department of Government, University of Maryland, 2010. Photo: National Archives, 1964. Photo: U.S. Supreme Court, 1954.

AGENDA ITEM# 3. Approval of ordinance 2022-01, which will incorporate the Board’s findings. Motion and vote will be presented in writing to Board for approval and execution. Presentation at the meeting by staff.

ORDINANCE SERIES: 2022
ORD. NO: 22 - 01

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AN ORDINANCE TO AMEND
ORDINANCE 15-07
OF THE CODE OF EMMITSBURG
ENTITLED
THE 2015 COMPREHENSIVE PLAN AND ZONING MAP

Draft

Applicant/Owner: R.J.D. Development Corporation (Richard Demmitt)
Application Type: Zoning Map Amendment
Property Tax Map / Parcel No.: 0031/0683 Parcels C & D
Property Address: Lots C & D on Timbermill Run.
Current Zoning District: Neighborhood Commercial (B-1)
Proposed Zoning District: Low Density Residential (R-1)
File No.: 2022-03

Legislative History:

Date of Application - January 10, 2022
Planning Commission Public Hearing - March 28, 2022
Letter of Recommendation Submitted to Board of Commissioners – March 31, 2022
Mayor and Board of Commissioners Public Hearing - April 4, 2022

BACKGROUND AND FACTS

Applicant has requested that Parcels C and D of the Brookfield subdivision recorded at plat book number 58, page 40, be rezoned from B-1, to R-1residential based on either mistake or change in the neighborhood.

The Applicant has owned this property for approximately twenty years. During that time period, Mr. Demmitt testified that he has attempted to sell and develop the property for a commercial use including, day care, coffee shop, and small retail commercial. All efforts have been unsuccessful. The surrounding neighborhood is zoned R-1 residential.

As noted by Staff there is no evidence of any factual findings made by the Board at the time of the 2015 comprehensive rezoning and map adoption as to this particular property nor is there any discussion of trends or other factors on which they may have relied. Public comment was put forth by Ms. Walbrecker, among others. Ms. Walbrecker noted that in the 2009 review process the Planning Commission wanted to see these two parcels remain as B-1 to promote walkability and a neighborhood feel. However, there was no testimony indicating that this was a viable proposal and the testimony of Mr. Demmitt and Mr. Dean indicate that it was not and remains unworkable. Mr. Dean testified based on his years of land use experience that development trends are going away from commercial development and that purchasing patterns are changing including significant on-line purchasing as well as the move toward working from home, largely as a result of the unforeseen COVID-19 pandemic. As noted, past boards stated that retail would be beneficial for the surrounding residentially zoned property but any analysis relating to the viability of such zoning is not apparent nor does it appear to have been factually supported.

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ORD. NO: 22 - 01

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At this time, there is already a small retail convenience store in the area which is largely supported because it has a liquor license. This is borne out by the fact that a prior retail establishment, Rutters, did not succeed in that general area. Insufficient support exists for another one.

The viability of additional retail (B-1) zoning is doubtful given the fact that substantial commercial development has occurred less than a mile away from the subject site. The impact of that development does not appear to have been considered or even foreseen by the planners at the time of the comprehensive rezoning and adoption of the most recent map. In addition, Lots C and D are not visible from any major arteries and the existing population in that area will not support further commercial.

The total population of Emmitsburg in the 2010 census was noted as 2,814 residents; in 2020 it is reported as 2,770. (Exhibit 1 attached.) This lack of population does not support the need for additional commercial retail space, particularly when such commercial development is already in close proximity to the property.

Development trends demonstrate the need for additional residential housing. There is a tremendous shortage of residential units available and there is lack of inventory in Frederick County generally and Emmitsburg in particular. The proposed R-1 zoning would support the addition of seven new residential units which are much needed.

The Board noted that Emmitsburg Elementary School is in dire need of renovation and that the Board of Education does not seem to be willing to make improvements, particularly as the Emmitsburg schools are under capacity. The Developer offered to work with the Town of bring this to the attention of the Board of Education.

There was no evidence put forward that the valuation of any of the surrounding properties would be harmed by this request for rezoning. The proposed rezoning supports the addition of a small number of additional housing units and is consistent with the housing that has been and is currently being built in this neighborhood. This area of the Town is largely single family residential. Traffic would not be impacted and the addition of seven new homes will not adversely affect the road ways.

Further, this additional development would assist the Town in maintaining its viability with the increase in residents to alleviate the drop in population. The Town has adequate infrastructure to support the development of this property if it rezoned and the transportation patterns will be consistent with that of the neighborhood.

Either the previous Board originally did not take these trends and development and zoning impact of surrounding areas into account or the impact of the location of the commercial areas less than a mile away was not foreseen as affecting the viability of commercial development on these two small parcels.

The Board further adopts the findings of fact of the Planning Commission based on the testimony before the Board. Exhibit 2.

ORDINANCE SERIES: 2022
ORD. NO: 22 - 01

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FINDINGS:

Based on the foregoing facts, the Board finds that the Applicant has met its burden to establish legal mistake.

With respect to legal mistake, as set forth above, there is no indication that the prior Board undertook any analysis regarding the propriety of maintaining B-1 zoning on these two commercial parcels that are not located on a major road way or visible outside the neighborhood. Likewise, the impact of commercial development less than a mile away for the designated parcels and lack of adequate population to support commercial development were not anticipated by the board in 2015. Likewise, the changes toward on-line purchasing and impacts of COVID 19 on retail were not and could not have been anticipated in 2015. The trends in development were not considered or evaluated in designating this area for commercial development.

The Applicant also met the established criteria set forth in Section 17.44.040(B):

The population of Emmitsburg has decreased and seven new residential units will assist in maintaining the population of Emmitsburg as well assist in connection with the current housing shortage. The addition of this zoning will not adversely affect current development and is consistent with the zoning in the immediately surrounding area.

Adequate public facilities exist to serve the property as rezoned, and there will be no adverse impact on existing or future transportation patterns in the area.

The proposed rezoning and does not adversely impact the comprehensive plan. The development of these two parcels will add residential population to Emmitsburg and the land will no longer lie fallow in the Town but instead can be put to use and provide future tax revenue to the Town.

Therefore,

BE IT RESOLVED, ENACTED AND ORDAINED by the Mayor and Board of Commissioners of the Town of Emmitsburg, Maryland, pursuant to the authority granted to them by the laws of Maryland and the Charter of the Town of Emmitsburg, that the 2015 Comprehensive Plan and Zoning Map of the Town of Emmitsburg, based on the findings of fact pursuant to the Town of Emmitsburg Code, Section 17.44.030(B) as set forth in the minutes of the meeting held on April 4, 2022, shall be amended as follows:

To amend paragraphs 1, 3 and 5 of the 2015 ordinance adopting the Comprehensive Plan and Zoning Map to delete the B-1 Neighborhood Commercial zoning designation on Lots C and D as shown on the Final Plat of Section 1 – Plat Parcels “C”, “D” & “E” for the Brookfield Subdivision recorded in Plat Book No. 58, page 40, Property tax Map/Parcel No. 0031/0683 Parcels C and D as reflected in the comprehensive plan of 2015 and as shown on the zoning map adopted in 2015, (Exhibit 3), and to rezone Parcels “C” and “D” as R-1, Low Density Residential as shown on Exhibit 4. Except to the extent amended herein, the 2015 Comprehensive Plan and Zoning Map is re-affirmed as stated in Ordinance 15-07 and Exhibit 3 until such time as it may be further amended or restated.

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 ORD. NO: 22 - 01

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THE NEIGHBORHOOD COMMERCIAL (B-1) ZONING DESIGNATION SHALL BE STRICKEN ON LOTS C AND D OF SECTION 1 – PLAT PARCELS “C”, “D” & “E” FOR THE BROOKFIELD SUBDIVISON RECORDED IN PLAT BOOK NO. 58, PAGE 40, PROPERTY TAX MAP/PARCEL NO. 0031/0683 PARCELS C AND D, AND REDESIGNATED AS LOW DENSITY RESIDENTIAL (R-1). THE TOWN OF EMMITSBURG 2015 ZONING MAP IS HEREBY AMENDED AS SHOWN ON EXHIBIT 4 TO REFLECT THIS ZONING CHANGE.

New language is indicated by being in **BOLD, CAPITAL LETTERS**, and deleted language is designated by being in ~~brackets and strike out~~.

BE IT FURTHER RESOLVED, ENACTED AND ORDAINED that this Ordinance shall take effect on the date on which the Mayor approves the Ordinance after passing by the Board of Commissioners or on the date on which the Board of Commissioners passes the Ordinance over the veto of the Mayor.

PASSED this ___ day of _____, 2022 by a vote of

Commissioners:	For	Against	Absent	Abstain
O'Donnell				
Sweeney				
Ritz III				
Burns				
Davis				
TOTAL:				

ATTEST:

BOARD OF COMMISSIONERS:

 Julie Scott, Town Clerk

 Timothy J. O'Donnell, President

MAYOR

_____ APPROVED _____ VETOED

this _____ day of _____, 2022.

 Donald N. Briggs, Mayor

I hereby certify that the foregoing Ordinance has been posted as required by Chapter 2.04 of the Emmitsburg Municipal Code.

Julie Scott, Town Clerk
 Date:

EXHIBIT 1

Emmitsburg

2020 Census Summary

Results of the 2020 Census (August 2021) provide counts of population in households and group quarters and reveal racial and ethnic diversity at the County and municipal level for the first time in a decade. Population by race and ethnicity follows the Census 2000 terminology that allowed individuals to self-identify with more than one race.

	2010		2020		Change	
TOTAL POPULATION	2814	100.0%	2770	100.0%	-44	-1.6%
In households	2630	93.5%	2624	94.7%	-6	-0.2%
In group quarters	184	6.5%	146	5.3%	-38	-20.7%
Institutionalized	76	2.7%	0	0.0%	-76	-100.0%
Non-institutionalized	108	3.8%	146	5.3%	38	35.2%
Under age 18	733	26.0%	605	21.8%	-128	-17.5%
Age 18 and older	2081	74.0%	2165	78.2%	84	4.0%
TOTAL HOUSING UNITS	1070	100.0%	1101	100.0%	31	2.9%
Occupied	997	93.2%	1042	94.6%	45	4.5%
Vacant or seasonally occupied	73	6.8%	59	5.4%	-14	-19.2%
Average household size	2.64		2.52			
RACE ALONE OR IN COMBINATION						
White alone	2672	95.0%	2489	89.9%	-183	-6.8%
Black or African American alone	56	2.0%	86	3.1%	30	53.6%
American Indian and Alaska Native alone	5	0.2%	3	0.1%	-2	-40.0%
Asian alone	25	0.9%	22	0.8%	-3	-12.0%
Native Hawaiian and Other Pacific Islander alone	0	0.0%	3	0.1%	3	N/A
Some Other Race alone	19	0.7%	21	0.8%	2	10.5%
Two or more races	37	1.3%	146	5.3%	109	294.6%
HISPANIC OR LATINO ORIGIN BY RACE						
Not Hispanic/Latino Total	2744	97.5%	2644	95.5%	-100	-3.6%
White alone	2618	93.0%	2443	88.2%	-175	-6.7%
Black or African American alone	56	2.0%	76	2.7%	20	35.7%
American Indian and Alaska Native alone	5	0.2%	1	0.0%	-4	-80.0%
Asian alone	25	0.9%	22	0.8%	-3	-12.0%
Native Hawaiian and Other Pacific Islander alone	0	0.0%	3	0.1%	3	N/A
Some Other Race alone	6	0.2%	3	0.1%	-3	-50.0%
Two or more races:	34	1.2%	96	3.5%	62	182.4%
Hispanic or Latino Total	70	2.5%	126	4.5%	56	80.0%
White alone	54	1.9%	46	1.7%	-8	-14.8%
Black or African American alone	0	0.0%	10	0.4%	10	N/A
American Indian and Alaska Native alone	0	0.0%	2	0.1%	2	N/A
Asian alone	0	0.0%	0	0.0%	0	N/A
Native Hawaiian and Other Pacific Islander alone	0	0.0%	0	0.0%	0	N/A
Some Other Race alone	13	0.5%	18	0.6%	5	38.5%
Two or more races	3	0.1%	50	1.8%	47	1566.7%

Sources: US Census Bureau 2010 and 2020 P.L. 194-177 (redistricting data).

Compiled by the Livable Frederick Planning and Design Office

EXHIBIT 2

Findings of the Planning Commission

RE: **Applicant/Owner:** R.J.D. Development Corporation (Richard Demmitt)
Application Type: Zoning Map Amendment
Property Tax Map / Parcel No.: 0031/0683 Parcels C & D
Property Address: Lots C & D on Timbermill Run.
Current Zoning District: Neighborhood Commercial (B-1)
Proposed Zoning District: Low Density Residential (R-1)
File No.: 2022-03

REQUEST:

The applicant is seeking rezoning from B-1 to R-1 of Parcels C and D of Final Plat of Section 1 – Plat Parcels “C”, “D” & “E” for the Brookfield Subdivision recorded in Plat Book No. 58, page 40, Property tax Map/Parcel No. 0031/0683 based upon either change in the character of the neighborhood or legal mistake.

SUMMARY:

The Planning Commission does not determine that change in the character of the neighborhood has been established. Although it appears that five rezonings may have occurred, the investigation by staff does not support this determination because of the lack of ordinances documenting any of these changes. The maps, however, may indicate that such changes have occurred.

The applicant for the rezoning of parcels C and D of Final Plat of Section 1 – Plat Parcels “C”, “D” & “E” for the Brookfield Subdivision recorded in Plat Book No. 58, page 40, Property tax Map/Parcel No. 0031/0683 has met the criteria of the Code of Emmitsburg and State Law to establish Legal Mistake.

EVIDENCE CONSIDERED AND FINDINGS:

The Planning Commission considered the staff report and presentation of the applicant and public testimony in reaching its findings:

Population change – in Emmitsburg the total population has decreased.

Adequate public facilities are available and the addition of 7-10 single family homes will not adversely affect any transportation patterns.

School capacity is available although all agreed that improvements need to be made within the elementary school in Emmitsburg, but it was noted that without increased population, the funding for such improvements from the Board of Education were unlikely.

The Owner/Developer has been trying to sell this property or develop it for over twenty years without success.

The change to R-1 from B-1 for the addition of seven-ten single family homes does not adversely affect the comprehensive plan and is consistent with all the development in the surrounding area which, with a very few exceptions, is zoned R-1.

While members of the public and some Commission members would like to see some small retail or commercial development, there is no evidence that such a project is viable.

The loss of population and density required for B-1 development does not appear to have been considered by the Town in the development of the comprehensive plan and map in 2015.

The impact of the development less than a mile from the location does not appear to have been considered by the prior Board in its evaluation of the zoning of these parcels. Commercial Development has been concentrated on the East side of Town where signage and easy access are readily available.

The prior board could not and did not consider the trends in commercial retail, the impact of nearby commercial development or the housing shortage. While the Planning Commission would consider R-3 to provide diversity of housing types the Applicant did not request this classification and the R-1 as stated is consistent with the rest of the Brookfield development of which this would become a part.

The Planning Commission does not find evidence of change in the character of the neighborhood because of the lack of ordinances documenting zoning changes within the neighborhood as defined by the Applicant.

MOTION:

Motion made by Terri Ray:

Based on the foregoing including the testimony presented, the staff report and materials contained therein, and other evidence submitted at the public hearing, and for the reasons set forth in the Applicant's submissions, that the Planning Commission recommend to the Board of Commissioners that Applicant has demonstrated Legal Mistake and that parcels C and D of Final Plat of Section 1 – Plat Parcels "C", "D" & "E" for the Brookfield Subdivision recorded in Plat Book No. 58, page 40, Property tax Map/Parcel No. 0031/0683 have met the criteria of the Code of Emmitsburg and State Law and that Parcels C and D should be rezoned from B-1 to R-1.

After discussion, the Motion was seconded by Mark Long.

Motion passes:

In favor:

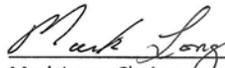
Terri Ray
Mark Long

Against:

Amy Boehman-Pollitt

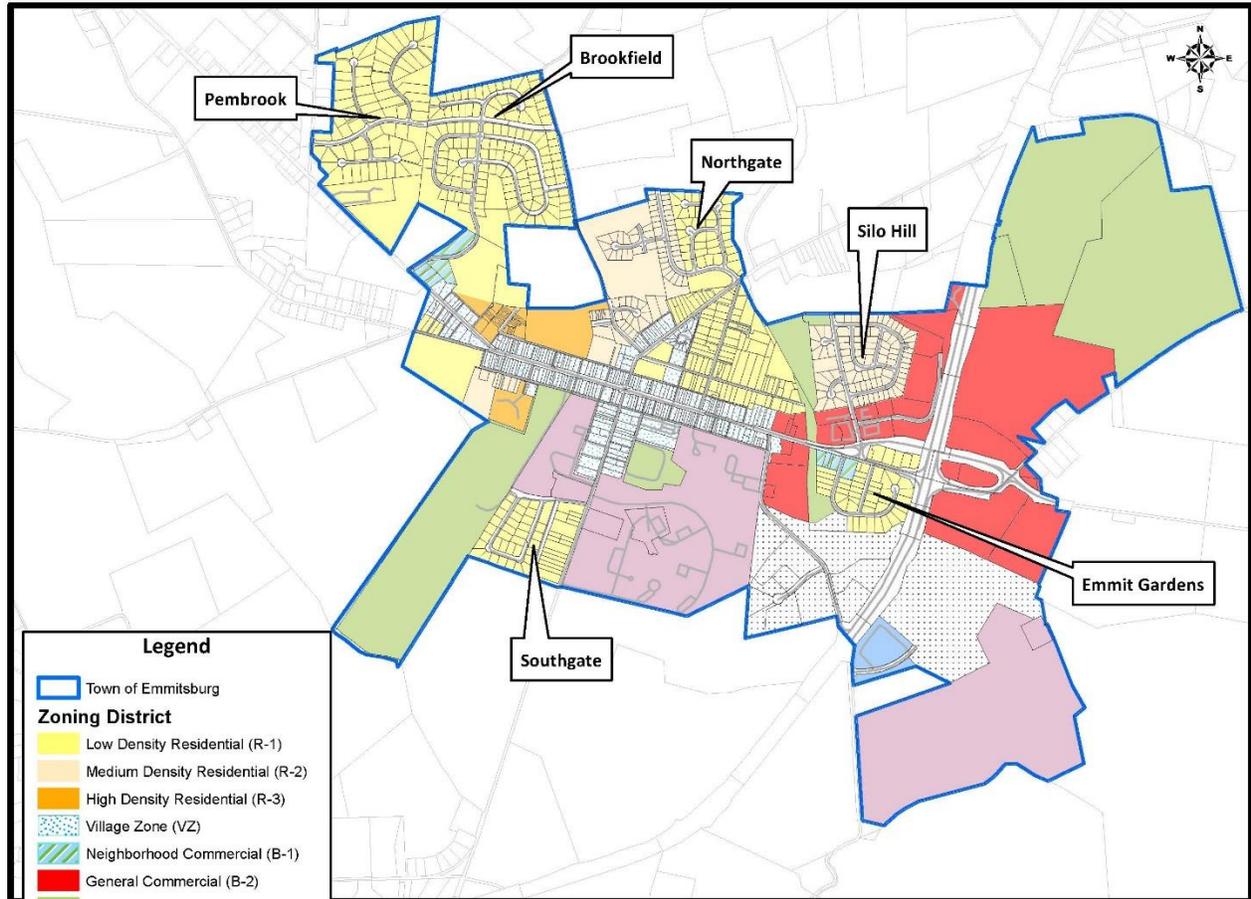
Abstaining:

Kevin Hagan
Joseph Ritz (Board of Commissioner's liaison member. Mr. Ritz refrained from voting as this matter will be presented to the Board of Commissioners.)


Mark Long, Chairperson

3/31/2022
Date:

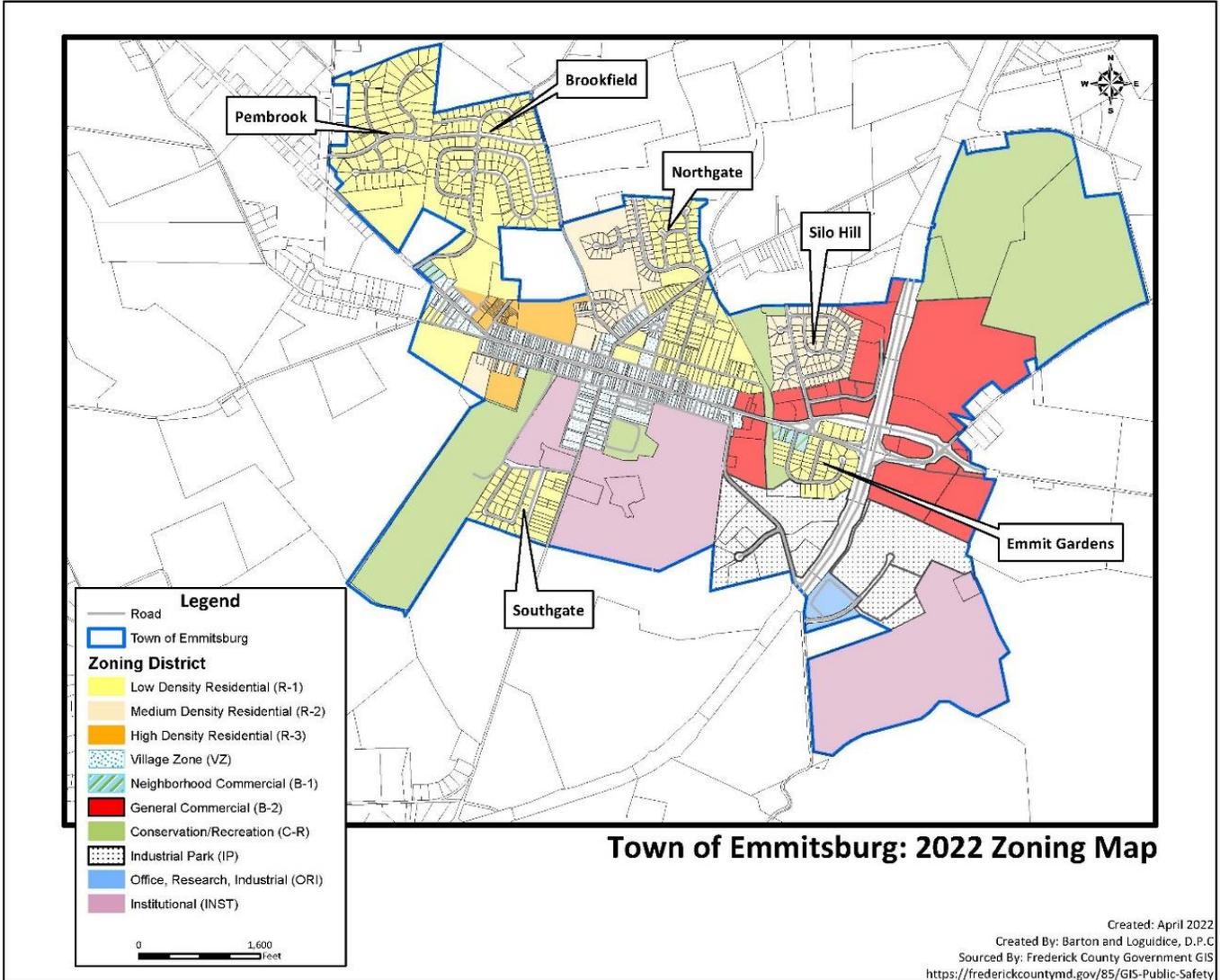
EXHIBIT 3



Town of Emmitsburg: 2021 Zoning Map

Created: August 2021
Created By: Barton and Loguidice, D.P.C
Sourced By: Frederick County Government GIS
<https://frederickcountymd.gov/85/GIS-Public-Safety>

EXHIBIT 4



AGENDA ITEM# 4. Approval of Policy P22-02, update to parking fees & fines, for consideration. Presentation at the meeting by staff.

Proposed 5-Year Parking Plan

Current – 06/30/2022

- ✓ Purchase parking enforcement handheld device & software - \$9,222,00.
 - Provides more effective, efficient, & legal issuance of parking tickets, allows online payment of parking tickets & permits, no longer need to issue parking permit stickers, etc.
- ✓ Update parking code to allow parking boots, allow electronic payments via software vendor, allow payment of parking tickets/fines/permits via town website, updated meter hours, updated location of meters, etc.
- ✓ Update / modernize parking fee/fine policy.

07/01/2022 – 06/30/2023

- Parking enforcement software yearly cost - \$3,588.00
- Purchase 2x parking boots & accessories. \$2,000.00 estimated cost.

07/01/2023 – 06/30/2024

- Parking enforcement software yearly cost - \$3,588.00
- Purchase 130 new digital meters to replace existing mechanical meters on Main Street. \$66,000.00 estimated cost.
- Contract with vendor to accept electronic meter payment on new meters. No cost to Town.
- Sell 303 West Lincoln Avenue. Proceeds to be used towards municipal parking lot.
- Purchase property for municipal parking lot. Estimated cost =???

07/01/2024 – 06/30/2025

- Parking enforcement software estimated yearly cost - \$3,650.00
- Install 32 digital meters (15 doubles & 2 singles) & 17 poles at Community Pool parking lot. \$18,000.00 + new pole installation estimated cost.
- Engineering of municipal parking lot project - \$40,000.00 estimated cost.

07/01/2025 – 06/30/2026

- Parking enforcement software estimated yearly cost - \$3,650.00
- Construct municipal parking lot. Estimated cost = ???.

07/01/2026 – 06/30/2027

- Parking enforcement software estimated yearly cost - \$3,650.00

TOTAL ESTIMATED COSTS = \$153,348.00 + \$??? for new municipal parking lot

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 Policy No. P22- 02

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**TOWN OF EMMITSBURG
 PARKING FEES & FINES**

 This Policy will replace previously adopted policy P18 - 03.

BE IT FURTHER RESOLVED, ENACTED AND ORDAINED that this policy shall take effect this 2nd day of May, 2022.

As of this date and pursuant to Title 10, Section 10.12 entitled Stopping, Standing and Parking and Section 10.16 entitled Parking Meters of the Emmitsburg Municipal Code, parking rates, parking violation fines, and parking permit fees shall be as follows:

New language is indicated by being in **BOLD, CAPITAL LETTERS**, and deleted language is designated by being in ~~[brackets and strike out]~~.

A. All parking violations will be fined according to the following fee schedule:

Violation:	Fine*:	FINE After 20 Days*:
Overtime Parking	[\$10.00] \$25.00	[\$25.00] \$40.00
Restricted Parking Zone	[\$15.00] \$25.00	[\$30.00] \$40.00
Parked [in] BY Crosswalk	\$25.00	[\$35.00] \$40.00
Parked on Sidewalk/Curb	\$25.00	[\$35.00] \$40.00
Parked Blocking Driveway	\$25.00	[\$35.00] \$40.00
Parked by Fire Hydrant	[\$40.00] \$50.00	[\$55.00] \$65.00
Parked Blocking Street	\$40.00	\$55.00
Failure to Park Between Lines	[\$15.00] \$25.00	[\$30.00] \$40.00
Left Side Parking	[\$15.00] \$25.00	[\$30.00] \$40.00
Snow Emergency Route	[\$25.00] \$40.00	[\$35.00] \$55.00
Parking for 48 Consecutive Hours	[\$15.00] \$25.00	[\$30.00] \$40.00
PARKED IN HANDICAPPED SPACE	\$50.00	\$65.00
NON-ELECTRIC VEHICLE (EV) PARKED IN EV ONLY PARKING SPACE	\$25.00	\$40.00

***IN ADDITION TO ANY THIRD PARTY FEES IF PAID VIA VENDOR.**

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B. Parking permit and **DAILY** parking [~~sign~~] **METER PERMIT** charges will be according to the following fee schedule:

	Daily [sign] BAG Rental*	Three (3) Month Permit*	Six (6) Month Permit*
PRESENT – 06/30/2022	\$5.00	\$60.00	\$115.00
07/01/2022 – 06/30/2024	\$6.00	\$65.00	\$120.00
07/01/2024 – 06/30/2026	\$9.00	\$70.00	\$125.00
07/01/2026 - INDEFINITELY	\$12.00	\$75.00	\$130.00

***IN ADDITION TO ANY THIRD PARTY FEES IF PAID VIA VENDOR.**

C. PARKING METER FEES:

PRESENT–06/30/2022: \$0.10 FOR 24 MINUTES & \$0.25 PER HOUR
07/01/2022–06/30/2024: \$0.20 FOR 24 MINUTES & \$0.50 PER HOUR*
07/01/2024–06/30/2026: \$0.30 FOR 24 MINUTES & \$0.75 PER HOUR*
07/01/2026–INDEFINITELY: \$0.40 FOR 24 MINUTES & \$1.00 PER HOUR*

***IN ADDITION TO ANY THIRD PARTY FEES IF PAID VIA VENDOR.**

D. PARKING BOOT FEES:

BOOT REMOVAL FEE: \$50.00*
BOOT REPLACEMENT FEE: AT COST*

***IN ADDITION TO TOWING FEES IF APPLICABLE.**

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PASSED this 2nd day of May, 2022 by a vote of:

Commissioners:	For	Against	Absent	Abstain
O'Donnell				
Sweeney				
Ritz III				
Burns				
Davis				
TOTAL:				

ATTEST:

EMMITSBURG BOARD OF COMMISSIONERS:

Julie Scott, Town Clerk

Timothy J. O'Donnell, President

_____ APPROVED _____ VETOED

this 2nd day of May, 2022.

Donald N. Briggs, Mayor

AGENDA ITEM# 5. Approval of Ordinance 2022-02, update to Title 10 – Parking, for consideration. Presentation at the meeting by staff.

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AN ORDINANCE TO AMEND
TITLE 10
OF THE CODE OF EMMITSBURG
ENTITLED
VEHICLES AND TRAFFIC

draft

BE IT RESOLVED, ENACTED AND ORDAINED by the Mayor and Board of Commissioners of the Town of Emmitsburg, Maryland, pursuant to the authority granted to them by the laws of Maryland and the Charter of the Town of Emmitsburg, that Title 10, Vehicles and Traffic, of the Emmitsburg Municipal Code, be amended as follows:

New language is indicated by being in **BOLD, CAPITAL LETTERS**, and deleted language is designated by being in [~~brackets and strike out~~].

CHAPTER 10.08 – VEHICLE AND TRAFFIC RULES

§10.08.030 – ENGINE BRAKES

A. FOR PURPOSES OF THIS SECTION THE TERM "ENGINE BRAKE" SHALL MEAN AN ADD-ON ENGINE COMPRESSION BRAKE FOR DIESEL ENGINES, OTHERWISE COMMONLY REFERRED TO AS A "JAKE BRAKE".

B. NO PERSON SHALL OPERATE A MOTOR VEHICLE EQUIPPED WITH AN ENGINE BRAKE WITHIN THE TOWN UNLESS THE ENGINE BRAKE IS CONNECTED TO A PROPERLY FUNCTIONING EXHAUST MUFFLER SYSTEM IN CONSTANT OPERATION WHEN THE VEHICLE'S IGNITION IS ENGAGED.

C. A VIOLATION OF THIS SECTION SHALL BE A MUNICIPAL INFRACTION PUNISHABLE BY A CITATION OF TWO HUNDRED AND FIFTY DOLLARS (\$250.00) FOR A FIRST TIME OFFENSE AND FIVE HUNDRED DOLLARS (\$500.00) FOR ALL SUBSEQUENT OFFENSES.

Chapter 10.12 – Stopping, Standing, and Parking

§10.12.020 – [~~Inoperable unattended vehicles~~] **STATIONARY VIOLATIONS**

IT IS UNLAWFUL TO PARK [A]Any motor vehicle **ON THE PUBLIC STREETS OR PUBLIC PROPERTY** that: [~~is inoperable and is left unattended on a public street or public property for more than forty eight (48) consecutive hours~~], is not displaying currently valid registration plates; [~~or~~] is displaying registration plates of another vehicle; is disabled or inoperable; is dismantled or partially dismantled; **OR** is substantially damaged or in disrepair. [~~It shall be deemed to be an abandoned vehicle and may be taken into custody by the Town of Emmitsburg after providing the owner with adequate notification such as posting prominent notification on the vehicle and if possible a certified letter to the last owner on record with the motor vehicle administration (if the owner can be located) with return receipt requested.~~] **THE OWNER OF ANY VEHICLE IN VIOLATION OF THIS ORDINANCE MAY BE ISSUED A CITATION.**

§10.12.080 – Double parking

Double parking of passenger cars is declared to be unlawful. Double parking of commercial vehicles is permitted only where there is no available parking space at the curb in the immediate

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neighborhood, and then only for the purpose of loading or unloading and ~~[while in action, and]~~ while so engaged all such vehicles shall park or stand parallel with the curb. **THE OWNER OF ANY VEHICLE IN VIOLATION OF THIS ORDINANCE MAY BE ISSUED A CITATION.**

§10.12.090 – Two-hour parking.

It is unlawful for any person, except persons to whom parking permits **OR** parking signs have been granted to place, stand or park any motor vehicle or other conveyance for more than two hours at any time on any of the following streets:

- A. East Main Street, except where meters are installed; and
- B. West Main Street, except where meters are installed.

THE OWNER OF ANY VEHICLE IN VIOLATION OF THIS ORDINANCE MAY BE ISSUED A CITATION.

§10.12.101 - Reserved parking for recharging plug-in electric drive vehicles.

{A-E unchanged}

- F. The owner of any vehicle in violation of this ordinance may be issued a citation and shall be subject to a ~~[ten dollar (\$10.00)]~~ fine for each day of violation. In addition, the vehicle in violation of this ordinance may be towed at the owner's expense.

§10.12.110 – Parking on public PROPERTY ~~[streets]~~.

IT IS UNLAWFUL TO PARK ANY VEHICLE IN THE SAME LOCATION ON ANY PUBLIC STREET OR PROPERTY FOR MORE THAN FORTY-EIGHT (48) CONSECUTIVE HOURS. ANY VEHICLE PARKED ON PUBLIC STREETS OR PROPERTY FOR MORE THAN FORTY-EIGHT (48) CONSECUTIVE HOURS MAY BE ISSUED A CITATION. ANY VEHICLE IN VIOLATION OF THIS ORDINANCE SHALL BE CONSIDERED ABANDONED AND MAY BE IMMOBILIZED OR IMPOUNDED PURSUANT TO THE PROVISIONS OF CHAPTER 10.20 OF THIS TITLE.

~~[It is unlawful to park any vehicle of any description upon the streets of the town for a period of time of forty eight (48) consecutive hours.]~~

§10.12.130 – Violations – Penalties

{A-C unchanged}

D. All parking citations are to be paid in full to the town at any of the following locations or in the following manners:

{1-5 unchanged}

6. BY CREDIT CARD ON THE TOWN WEBSITE AT WWW.EMMITSBURGMD.GOV.

{E unchanged}

Chapter 10.16 – Parking Meters

§10.16.050 - Operation of meters.

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- A. *{unchanged}*
- B. When any vehicle shall be parked in any parking meter space, the operator thereof shall upon entering the same, deposit or cause to be deposited the required coins **OR ELECTRONIC PAYMENT** as indicated on the meter. Instructions are printed on each meter. If such vehicle shall remain parked in any such parking space beyond the period of time paid for by the operator, as indicated on the meter, the parking meter shall indicate such illegal parking and in that event such vehicle shall be considered as parked overtime and beyond the period of legal parking time in violation of the provisions of this chapter.
- C. Each parking meter shall be so set as to display a signal showing legal parking upon the deposit of the required coins **OR ELECTRONIC PAYMENT** as indicated on the meter, and each meter shall by its device and pointer **OR DIGITAL DISPLAY** clearly set out the periods of time allowed upon the deposit of such coins **OR ELECTRONIC PAYMENT**, and after being started it shall continue in operation from the time of depositing one of such coins **OR ELECTRONIC PAYMENT** until the expiration of the time paid for by the parker.
- D. **IT SHALL BE UNLAWFUL TO PARK IN ANY PARKING METER SPACE WHEN THE METER IS NOT PROPERLY FUNCTIONING, INCLUDING WHEN THE METER FAILS TO DISPLAY A SIGNAL SHOWING LEGAL PARKING AND THE PERIOD OF TIME REMAINING UPON THE DEPOSIT OF THE REQUIRED COINS OR ELECTRONIC PAYMENT.**

§10.16.110 - Duty of a police officer and/or parking enforcement officer in case of overtime parking.

- A. It shall be the duty of a police officer and/or parking enforcement officer of the town, acting in accordance with instructions issued by the mayor, to report:
1. The number of each parking meter that the vehicle occupying the parking space adjacent to is or has been parking in violation of any of the provisions of this chapter;
 2. The state license number of such vehicle; and
 3. Any other facts, a knowledge of which is necessary to a thorough understanding of the circumstances attending such violation.
- B. Each such police officer and/or parking enforcement officer shall also attach to such vehicle a notice to the owner or operator thereof that such vehicle has been parked in violation of a provision of this chapter, and instructing such owner or operator to report ~~[at police headquarters in the town in regard to such violation.]~~ **TO THE TOWN OFFICE OR OTHER DESIGNATED LOCATION TO PAY THE FINE OR REQUEST TO STAND TRIAL.**

§10.16.120 - Use of coins deposited **AND ELECTRONIC PAYMENT RECEIVED.**

The coins required to be deposited in parking meters **OR ELECTRONIC PAYMENT RECEIVED** as provided in this chapter are levied and assessed as fees to provide for the proper regulation and control of traffic upon the public streets, and also the cost of supervision and regulating the parking of vehicles in the parking meter zones created, and to cover the cost of the purchase, supervision, protection, inspection, installation, operation, maintenance, control and use of the parking meters described therein.

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§10.16.130 – Hours ~~[spaces may be used]~~ OF OPERATION.

The parking meter spaces established by this chapter may be used by those desiring to occupy the same with vehicles between the hours of ~~[nine]~~ EIGHT a.m. to ~~[six]~~ EIGHT p.m. on Monday, Tuesday, Wednesday, Thursday, Friday and Saturday BY THE PAYMENT OF THE FEE HEREIN PROVIDED. ~~[with]~~ Sundays, community heritage day and holidays excluded. ~~[by the payment of the fee herein provided for.]~~

§10.16.140 – Designation of zones.

Parking meter zones are established on the following streets: East and West Main Street (both sides), AND THE COMMUNITY POOL PARKING LOT. THE COMMUNITY POOL PARKING LOT SHALL BE RESTRICTED TO POOL PATRONS FROM MAY 15 THRU SEPTEMBER 15TH FROM 12:00 PM TO 7:00 PM (POOL SEASON). PARKING FOR POOL PATRONS DURING POOL SEASON SHALL BE FREE.

§10.16.150 – Violations-Penalties

A. Violation of any of the sections ~~[enumerated in subsection B.]~~ of this ~~[section]~~ CHAPTER shall be a municipal infraction.

B. FINES SHALL BE ESTABLISHED FROM TIME TO TIME BY POLICY, RESOLUTION, OR ORDINANCE BY THE MAYOR AND BOARD OF COMMISSIONERS.

~~[B. The following fines shall be assessed against the operators and/or owners of automobiles who violate certain provisions of this chapter as follows:~~

- ~~1. Failure to park between lines in violation of Section 10.16.030: fifteen dollars (\$15.00); every twenty four (24) hours in violation of this section counts as a separate offense and may be fined accordingly;~~
- ~~2. Overtime parking in violation of Section 10.16.090: ten dollars (\$10.00); according to the parking citation policy P18-03; every two hours in violation of this section counts as a separate offense and may be fined accordingly.~~

~~C. In the event that any fines set forth in subsection B. of this section shall not be paid within twenty (20) days from the date a citation is issued, the amount of the fine shall be increased to the following amount:~~

- ~~1. Failure to park between lines in violation of Section 10.16.030: thirty dollars (\$30.00); according to the parking citation policy P18-03;~~
- ~~2. Overtime parking in violation of Section 10.16.030: twenty five dollars (\$25.00); according to the parking citation policy P18-03.]~~

Chapter 10.20 – IMMOBILIZING AND Impounding of Vehicles.

§10.20.010 – Authorization.

A. When any vehicle is: ~~[found]~~

1. DEEMED ABANDONED PURSUANT TO § 10.12.110 OF THIS TITLE; OR
2. FOUND parked or moving at any time on any street in the town against which there are three or more unsatisfied or unpaid summonses, citations for parking violations, or any

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other legal processes, and when at least thirty (30) days have elapsed since the issuance of the third unsatisfied summons, citation for parking violation~~[s]~~ or any other legal process;

the police officer, or parking enforcement officer assigned to enforce this chapter, is authorized and empowered to **IMMOBILIZE THE VEHICLE WITH A TIRE LOCKING DEVICE (BOOT)**, AND/OR remove or cause to be removed said vehicle, either by towing, conveying, or in any other manner, and impound same in a place designated by the mayor or town manager, or as may be set forth in other provisions of this chapter.

- B. IT SHALL BE UNLAWFUL AND A VIOLATION OF THE PROVISIONS OF THIS CHAPTER FOR ANY PERSON TO DEFACE, INJURE, TAMPER WITH, OPEN OR WILLFULLY BREAK, DESTROY OR IMPAIR THE USEFULNESS OF ANY IMMOBILIZATION DEVICE EMPLACED OR INSTALLED UNDER THE PROVISIONS OF THIS CHAPTER. OFFENDERS SHALL BE SUBJECT TO A ONE HUNDRED DOLLAR (\$100.00) FINE AND THE COST TO REPLACE THE DEVICE.**

§10.20.020 – Responsibility of owner.

The registered owner of a vehicle **IMMOBILIZED OR IMPOUNDED PURSUANT TO THIS CHAPTER** ~~[having against it three or more violations as set forth herein shall be presumed to be the driver and owner of the vehicle] at the time the summons, citation for parking violation or any other legal process was issued and shall be severally~~ **BOOTED OR IMPOUNDED** responsible for the offenses and the costs of the **BOOT AND/OR** impoundment, except ~~[where]~~ **WHEN** the ~~[use of the]~~ vehicle was **PREVIOUSLY REPORTED AS STOLEN** ~~[obtained by the operator without the owner's consent].~~

§10.20.030 - Notice.

- A. WHEN A VEHICLE IS BOOTED, NOTIFICATION OF THE ACTION SHALL BE PLAINLY DISPLAYED ON THE DRIVER'S SIDE WINDSHIELD OR SIDE WINDOW. THE NOTICE SHALL INCLUDE THE FOLLOWING INFORMATION:**
- 1. NOTICE THAT THE OWNER OR PERSON ENTITLED TO POSSESSION SHALL HAVE THE RIGHT TO CONTEST THE BOOT PURSUANT TO SECTION 10.20.050 OF THIS CHAPTER.**
 - 2. NOTICE THAT THE OWNER OR PERSON ENTITLED TO POSSESSION SHALL HAVE THE RIGHT TO HAVE THE BOOT REMOVED IMMEDIATELY BY WAIVING ITS RIGHT TO HEARING IN WRITING AND PAYING ALL OUTSTANDING FEES, FINES, PENALTIES, AND CHARGES, INCLUDING A PARKING BOOT FEE, AT THE TOWN OFFICE PURSUANT TO SECTION 10.20.40.**
 - 3. NOTICE THAT IF THE OWNER OR PERSON ENTITLED TO POSSESSION DOES NOT CONTEST THE BOOT OR PAY ALL OUTSTANDING FEES, FINES, PENALTIES, AND CHARGES WITHIN FORTY-EIGHT (48) HOURS OF THE POSTING OF THE NOTICE THAT THE VEHICLE MAY BE IMPOUNDED.**
- B. Whenever a vehicle has been impounded pursuant to the provisions of this chapter, notice of the removal and storage of said vehicle shall be mailed within twenty-four (24) hours by registered or certified mail to the last registered owner of the vehicle and each secured party as shown on the**

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records of the Motor Vehicle Administration. The notice shall contain at least the following information:

1. A complete description of the vehicle, including the year, make, model, and vehicle identification number;
2. A statement that the vehicle has been impounded pursuant to the provisions of this chapter and the exact location of the facility where the vehicle is held;
3. Notice that the owner or secured party **HAS THE RIGHT TO CONTEST THE IMPOUNDMENT OF THE VEHICLE PURSUANT TO SECTION 10.20.050 OR MAY RECOVER THE VEHICLE REMOVED IMMEDIATELY BY WAIVING ITS RIGHT TO HEARING IN WRITING AND PAYING ALL OUTSTANDING FEES, FINES, PENALTIES, AND CHARGES, INCLUDING A PARKING BOOT FEE, AT THE TOWN OFFICE PURSUANT TO SECTION 10.20.40.**
~~[may recover his vehicle within thirty (30) days from the date of the notice, upon payment of all FEES, fines, penalties and charges of towing, preservation and storage resulting from the impoundment of the vehicle];~~
4. Notice that the failure of the owner or secured party to exercise ~~[his]~~ ITS right TO **CONTEST THE IMPOUNDMENT OR TO PAY ALL OUTSTANDING FEES, FINES, PENALTIES AND CHARGES WITHIN THIRTY (30) DAYS FROM THE DATE OF THE NOTICE** ~~[in the time provided]~~ shall be considered a waiver of all right, title, and interest in the vehicle, and be considered a consent to the sale of the vehicle at public auction.

§10.20.040 - Release of **BOOTED AND/OR** impounded vehicles prior to hearing or trial.

- A. Vehicles **BOOTED AND/OR** impounded pursuant to this chapter will be released to their lawful owner (or person entitled to possession) upon a showing of adequate evidence of a right to its possession, **WRITTEN NOTICE FROM THE OWNER OR PERSON ENTITLED TO POSSESSION WAIVING ITS RIGHT TO CONTEST THE BOOT OR IMPOUNDMENT AT A HEARING OR IN DISTRICT COURT** and upon payment of all accrued FEES, fines, and costs for each outstanding unsatisfied summons, citation for parking violation, or any other legal processes outstanding against said vehicle, **AND ALL CHARGES FOR TOWING, PERSERVATION AND STORAGE RESULTING FROM BOOTING OR IMPOUNDING THE VEHICLE.** ~~[or the depositing of same pending the outcome of said hearing and trial in the District Court of Maryland on the outstanding citations and charges. In addition, thereto, the charges for impounding, as set forth herein, shall be paid or deposited prior to said hearing.]~~
- B. **IF THE OWNER OR PERSON ENTITLED TO POSSESSION WISHES TO CONTEST THE BOOT OR IMPOUNDMENT AND RELEASE THE VEHICLE PRIOR TO THE HEARING, THE OWNER OR PERSON ENTITLED TO POSSESSION MAY DEPOSIT THE CHARGES FOR THE BOOT, IMPOUNDMENT, AND ALL OTHER OUTSTANDING FEES AGAINST THE VEHICLE WITH THE TOWN.**

§10.20.050 - Hearing rights.

- A. Time. The owner shall have a right to contest the **BOOT AND/OR** impoundment of the vehicle by requesting a hearing. The request for hearing shall be granted within forty-eight (48) hours, excluding Sunday and holidays, from the time the owner files the application for hearing before the hearing officer.

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B. Hearing Officer.

1. The hearing shall be held before a hearing officer consisting of the following: mayor, one of the commissioners, ~~[police department representative]~~ or town manager.
2. Procedure.
 - a. The hearing shall be held in an informal manner. The findings of the hearing officer shall be in writing. A copy of same shall be furnished to the owner. ~~[as prescribed by the department of police procedure.]~~
 - b. If it is determined by the hearing officer that the vehicle should not have been BOOTED AND/OR impounded, the owner shall not be required to pay the BOOT FEE, towing, storage and preservation charges provided for under this chapter to secure the release of said vehicle. ~~[If the charges were paid prior to the hearing, a refund shall be made to the owner who paid said charges in order to have the vehicle released.]~~
 - c. The decision of the hearing officer shall ONLY RELATE TO WHETHER OR NOT THE VEHICLE WAS PROPERLY BOOTED AND/OR IMPOUNDED AND SHALL NOT DETERMINE THE VALIDITY OF ~~[not have any effect or be considered a determination of]~~ ANY ~~[the]~~ outstanding unsatisfied summonses, citations or any other legal processes against the vehicle BOOTED AND/OR impounded.
 - d. The owner is and shall be entitled to a hearing in the district court on said charges. THE OWNER SHALL HAVE THIRTY (30) DAYS FROM THE DATE OF THE HEARING OFFICER'S DECISION TO REQUEST A HEARING IN DISTRICT COURT.

§10.20.060 - Refund of charges upon not guilty verdict.

- A. If, following a trial in the District Court of Maryland ~~[or other tribunal,]~~ a not guilty verdict is entered upon any of the violations charged against the stored vehicle, notwithstanding the ruling of the hearing officer with respect to the BOOTING AND/OR impounding of the vehicle, all charges advanced as having accrued upon the vehicle by virtue of its BOOTING AND/OR IMPOUNDMENT ~~[impounding]~~, including the collateral advanced for the violations upon which a not guilty verdict was entered, shall be returned to the person who advanced such sums upon presentation of the official receipt issued at the time said vehicle was released.
- B. ~~[It is further provided that if, as a result of the court's decision, the number of violations charged against the vehicle previously BOOTED AND/OR impounded is reduced to two or less, and provided no refund has previously been made, all fees and charges shall be returned to the person who advanced such fees, upon presentation of the official receipt issued at the time said vehicle was released.]~~

§10.20.070 - Sale of unclaimed vehicles

- A. ~~[Whenever any vehicle is impounded, pursuant to the provisions of this chapter, shall remain unclaimed by the owner, or other person legally entitled to possession thereof for a period of thirty (30) days from the date of a notice to the owner was mailed as set forth herein,] [t]The town MAY [shall] sell ANY [such] vehicle IMPOUNDED PURSUANT TO THIS CHAPTER at~~

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public auction in accordance with the provisions of Title 25 of the Transportation Article of the Annotated Code of Maryland IF:

1. **THE OWNER OR OTHER PERSON LEGALLY ENTITLED TO POSSESSION HAS NOT CONTESTED THE IMPOUNDMENT PURSUANT TO SECTION 10.20.050 OR PAID ALL CHARGES PURSUANT TO SECTION 10.20.040 WITHIN THIRTY DAYS FROM THE DATE OF THE NOTICE PROVIDED UNDER SECTION 10.20.030.D;**
2. **THE OWNER OR OTHER PERSON LEGALLY ENTITLED TO POSSESSION HAS NOT REQUESTED A HEARING FROM THE DISTRICT COURT OR PAID ALL CHARGES PURSUANT TO SECTION 10.20.040 WITHIN THIRTY (30) DAYS OF THE DATE OF THE DECISION OF THE HEARING OFFICER PURSUANT TO SECTION 10.20.050.**
3. **THE OWNER OR OTHER PERSON LEGALLY ENTITLED TO POSSESSION HAS NOT PAID ALL CHARGES PURSUANT TO SECTION 10.20.040 WITHIN THIRTY (30) DAYS OF THE DATE OF ANY RULING OF THE DISTRICT COURT RELATING TO THE IMPOUNDMENT.**

B. The proceeds of the sale shall be applied in the following order:

1. Payment of expenses of giving notice and advertising and holding the same, including reasonable attorney's fees;
2. All storage, towing and preservation charges;
3. All fines and administrative charges outstanding against the owner of the vehicle impounded under this chapter;
4. The balance, if not claimed within ninety (90) days from the date of the sale by the owner or secured party, to the treasury of the town.

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BE IT FURTHER RESOLVED, ENACTED AND ORDAINED that this Ordinance shall take effect on the date on which the Mayor approves the Ordinance after passing by the Board of Commissioners or on the date on which the Board of Commissioners passes the Ordinance over the veto of the Mayor.

PASSED this 2nd day of May, 2022 by a vote of

Commissioners:	For	Against	Absent	Abstain
O'Donnell				
Sweeney				
Ritz III				
Burns				
Davis				
TOTAL:				

ATTEST:

BOARD OF COMMISSIONERS:

Julie Scott, Town Clerk

Timothy J. O'Donnell, President

MAYOR

_____ APPROVED _____ VETOED

this 2nd day of May 2022.

Donald N. Briggs, Mayor

I hereby certify that the foregoing Ordinance has been posted as required by Chapter 2.04 of the Emmitsburg Municipal Code.

Julie Scott, Town Clerk
Date:

AGENDA ITEM# 6. ~~Forward proposed Ordinance 2022-03 (zoning text amendment to Chapters 17.04, 17.20, & 17.44) to the Planning Commission and set public hearing for June 6, 2022 for consideration. (POSTPONED)~~

M. SET AGENDA FOR FY 2023 BUDGET MEETING: MAY 16, 2022 AT 7:30 PM

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

Administrative Business:

- A.
- B.
- C.

N. SET AGENDA FOR NEXT TOWN COUNCIL MEETING: JUNE 6, 2022 AT 7:30 PM

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

Administrative Business:

- A.
- B.
- C.