MINUTES
TOWN MEETING
October 1, 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; and Zachary Gulden, Town Planner. *Others Present* – Deputy Whitehouse, John Clapp, Town Attorney.

I. Call to Order
Commissioner Timothy O'Donnell, President of the Board of Commissioners, called the October 1,2018 Town Meeting to order at 7:30 p.m. EST. Pledge of Allegiance was recited. Upcoming meetings were announced.

*Note: Commissioner Buckman arrived at 7:32 p.m.

Approval of Minutes
Motion: To accept the September 4, 2018 town meeting minutes as presented. Motion by Commissioner Ritz III, second by Commissioner Sweeney. Vote: Motion carries 5-0 in favor.

Police Report:
Deputy Whitehouse presented the police report from September 2018 (exhibit attached). Deputy Whitehouse mentioned the drug drop box in the town office was emptied. The deputies are continuing to do a school safety check at Mother Seton School and Emmitsburg Elementary School twice a day. Commissioner O'Donnell asked if any of the accidents were related to the State Highway Administration (SHA) construction. They were not. There were no other questions from the Board.

Town Managers Report:
Cathy Willets, Town Manager, presented the Town Manager's Report from August 2018 (exhibit attached). Ms. Willets mentioned stage two of the SHA's Flat Run Bridge project is still on schedule to be complete by mid-November weather permitting. The trees along Main Street are schedule to go in around mid-October. Regarding wastewater, Rainbow Lake is at the spillway level. The Town received 6.9-inches of rain during August and 75.6% of wastewater treated was wild water. There was a sanitary sewer overflow due to the heavy rainfall that was reported to Maryland Department of the Environment (MDE) and Frederick County Health Department. For noteworthy, Town staff worked on preparations for hurricane Florence in September. MDE notified the Town that a hydrologic and hydrolysis analysis will be required by May 2019. Town staff will bring an engineering firm recommendation to the Board at a later date. Commission Buckman inquired if the state of emergency declared by the governor could provide funding for the pump station work. Town staff plans to use State funds if possible. The sewer relining bid was signed by the Mayor and Town staff advertised the RFP for engineering firms for the Creamery Road Pump Station; the MDE State grant cannot be applied for until the Town gets the proposals from the engineer firms.

Town Planners Report:
Zachary Gulden, Town Planner, presented the Town Planner's Report from August 2018 (exhibit attached). He mentioned the town has been getting numerous applications for the Community Legacy grant the Town offers to residents and businesses through DHCD. The program has been very successful. He also processed a demolition permit for the old Seton Center on South Seton Avenue among other permits.

Commissioner Comments:

Commissioner Ritz III: He thanked everyone for coming to the park concert on September 21 with the Morning Star band. Regarding the last town meeting and the new resident welcome packet, he believes Ms. Buckman was unnecessarily portrayed as a fool. He hopes going forward all agenda items will be given the same care and consideration to make sure they are ready for voting before they go in the agenda packet.

- Commissioner Buckman: She is partnering with Wayne Slaughter to complete the 2018 waddle-waddle race on Thanksgiving day; proceeds will benefit the Seton Center. She congratulated the reelected officials.
- Commissioner Blanchard: He congratulated the new elected officials and thanked the election judges.
- Commissioner Sweeney: He thanked everyone for coming out and voting on election day.
- Commissioner O'Donnell: He was able to attend the MML event on the September 11th regarding municipal ethics. He thanked everyone for coming out and voting and showing support.

Mayor's Comments:
Mayor Briggs attended numerous meetings in September 2018 (meetings listed in agenda packet). Mayor Briggs mentioned he was out part of the month visiting family in Colorado. He thanked the election judges for volunteering their time during the elections. He attended a unity event at the Trinity Methodist Church. He congratulated the winning commissioners Timothy O'Donnell and Clifford Sweeney. He was a guest on Roger Wilsons *All Around Town* show. He also attended a one-year anniversary celebration for First Emmitsburg Baptist Church.

Public Comments:
Jay Swope, 209 Sandy Spring Lane Thurmont MD - Mr. Swope would like a future agenda item modifying the building code to allow trailers on properties. *Karen Bothwell, 113 East Main Street* - She would like to use her property at 113 East Main Street as a lodging facility under the name of Danielson Inn. *Frank Davis, 28 West Main Street* - He requested the Board consider rezoning Emmit Garden differently to give the residents an opportunity to use their property for different purposes since the zoning requirements were changed after the development was built. Di*ane Walbrecker, 535 West Main Street* - Ms. Walbrecker is requesting the town include a blurb regarding flood insurance in the Town's newsletter since most people don't recognize flood insurance is not included in their regular home owner's insurance. The National Flood Insurance program is sold through any insurance agent, but its backed by the federal government. The public can search for providers through the federal governments websites. *Barbara Entmuttle, Attorney* - Ms. Entmuttle explained her client, William Kuhn Jr., received a code violation letter regarding storage trailers not being allowed on any zoning lot. She would like a text amendment to occur at the next town meeting regarding a modification to the building code allowing trailers on industrially zoned property.

Administrative Business:
None.

Consent Agenda:
None.

Treasurer's Report:
Commissioner Blanchard presented the Treasurer's Report for September 2018 (exhibit in agenda packet). The operating balance forward is $5,563,191. There were no questions from the Board.

***Motion*:** Motion to accept the treasurers report as presented.

Motion by Commissioner Buckman, second by Commissioner Ritz III. Vote: Motion carries 5-0 in favor.

Planning Commission Report:
Commissioner Sweeney explained the minutes from the Planning Commission meeting have not been completed yet. Mr. Gulden explained Fort Detrick has asked to be a part of the County's waste plan and according to Maryland Law all municipalities have 30-days to comment on the change. The Commission did recommend approval of the amendments. There were no questions from the Board.

Note: Commissioner O'Donnell called a two-minute recess to allow for the windows to be open due to building heating/cooling problems. The Board returned from adjournment at 8:11 p.m.

Commissioner O'Donnell gave notice of a public hearing occurring on Monday October 1, 2018 at 7:30 p.m. in the Town Office at 300A South Seton Avenue Emmitsburg Maryland. The purpose of the hearing is to inform and take public comment in regard to a zoning map amendment request to rezone Lots 10, 11, 15 and the Western Half of Lot 12, as Shown on the Revised Plan of Emmit Gardens, recorded in Plat Book No.3, folio 52 from Low Density Residential (R1) to Neighborhood Commercial (B1).

II. Agenda Items
Agenda #1- Swearing in of New Commissioners: Mayor Briggs swore in Timothy J. O'Donnell and Clifford L. Sweeney, the winning Commissioners of the September 25, 2018 town meeting. Pictures were taken and the new commissioners signed their oath of office with the Mayor.

Agenda #2- Mayor's Recommendation for Reorganization of the Board of Commissioners: Mayor Briggs explains each year the Mayor makes a recommendation for the structure of the Board. He distributed paper copies of his 2018 recommendation. He recommends Clifford Sweeney for President, Glenn Blanchard for Vice President and Planning Commission Liaison, Timothy O'Donnell for Treasurer, Joseph Ritz III for Parks and Recreation Liaison and Elizabeth Buckman for Citizens Advisory Committee Liaison. Commissioner Buckman requested more variety and

for Commissioner Ritz III to be considered for Treasurer or Vice President. Commissioner Ritz III thanked Commissioner Buckman for her consideration, but stated he was okay with the Mayor's recommendation. Commissioner Buckman and Commissioner Ritz III discussed swapping committees, but decided not to. Commissioner Ritz III thanked Commissioner O'Donnell for his five years of serving as president.

***Motion*:** To accept the Mayor's recommendation for the Board of Commissioners at the October 1, 2018 town meeting.
Motion by Commissioner Ritz III, second by Commissioner Buckman. Vote: Motion carries 5-0 in favor.

The Board rearranged their seats according to the new structure and adjusted their name plates accordingly.

Agenda #3- Charter Amendments for Consideration to Clarify Archaic Language: Postponed per the request of the Mayor and town staff to allow additional edits.

***Motion*:** Motion to recess the town meeting.
Motion by Commissioner Buckman, second by Commissioner Blanchard. Vote: Motion carries 5-0 in favor.

Public Hearing:

Agenda #4: Public hearing on the zoning map amendment request 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): Commissioner Sweeney asked anyone wishing to speak during the public hearing to stand and raise their right hand and swear under penalty and perjury that the testimony they are about to give is true to the best of their knowledge. Mr. Gulden clarified the purpose of the hearing is to inform and take public comment in regards to a zoning map amendment request to rezone Lots 10, 11, 15 and the Western Half of Lot 12, as Shown on the Revised Plan of Emmit Gardens, recorded in Plat Book No.3, folio 52 from Low Density Residential (R1) to Neighborhood Commercial (B1). Public notice was posted on the property September 5, 2018 and in the Frederick News Post on September 6 and 13 of 2018. He then read the background, staff comments, planning commission recommendation, finding of fact and recommended motions as stated in the October 1, 2018 town meeting agenda packet. Mr. Gulden, Town Planner, showed a map of the lots. Commissioner question and comments were taken. Commissioner O'Donnell asked if a monument sign, sign which is supported by uprights columns and not attached to the building, would be allowed on the lots. Mr. Gulden explained 50 square feet. Commissioner O'Donnell is concerned a large illuminating sign will look out of place in a residential neighborhood. The Board requested an updated sign ordinance in the near future. Commissioner Sweeney opened the floor to public comment.

Public Hearing Comment:

- *Joseph Baldacchino, 12508 Killian Lane Bowie MD 20715* - Mr. Baldacchino explained the property being discussed was his father's dentist office. When the property was initially rezoned his family was not aware. He believes there was a mistake at the last zoning of the property by the 2015 Comprehensive Plan and Comprehensive Rezoning because the property was rezoned without considering the prior property use (as a dental office). They are hoping to use the property for a hospice house if the rezoning is approved. Town staff explained per 17.44.040 of the Town Code, the Board can impose additional restrictions, conditions or limitations for the property if desired, which may help address sign concerns.
- *Allen Rilley, 16722 Annandale Road* - Mr. Riley explained he does geriatric medicine and is looking for a property to use for his business. He is currently working with the State of Maryland to set up a hospice. If approved, he would practice at 602 and have a hospice in the other section or live in it. He has no plans for large signs. Commissioner O'Donnell requested if the hospice care would be used for assisted suicide. No it would not be.
- *Sara Miller, 12 First Avenue* - Ms. Miller is concerned about the 6-foot fence that would be required for the property if rezoned. The proposed fence would be built about 5-feet from the side of her home. There is also a 10-foot easement near her property for the power company. He son was not able to come, but his lot also backs up to the proposed rezoning property and he is concerned about the required fence too. She is okay with the business, but not the fence. Mr. Gulden showed where the fence would go on a projected map.

Mr. Gulden read the permitted uses by right for the B1 zone. Town staff is concerned that if the fence requirement is waived a future business, such as a convenience store or liquor store, would create more activity without any means to limit noise and light. Commissioner O'Donnell stated not having a fence could hinder nearby property values in the future if a different business goes in on the Lots and there is no fence. The fence has to be solid wood to be a sound and light barrier to nearby properties. Commissioner Sweeney requested any other public comment to come forward. There was no more public comment.

***Motion*:** To close the public hearing.
Motion by Commissioner Blanchard, second by Commissioner O'Donnell. Vote: Motion carries 5-0 in favor.

Commissioner O'Donnell asked if the determination should be made during the hearing or after. John Clapp, Town Attorney, explained the procedures the Board needs to take regarding closing the record if there are no other speakers. Once the record is closed, the Board would discuss the facts then make a decision if a mistake was made during the 2015 Comprehensive Plan because of the lack of facts. The Board can also decide a mistake was made, but decide not to rezone the property. Mr. Clapp stated the Board can make additional provisions for the property regarding signage and fence requirements too. The hearing needs to be reopened.

***Motion*:** To reopen the hearing.
Motion by Commissioner Blanchard, second by Commissioner O'Donnell. Vote: Motion carries 5-0 in favor.

The Board discussed fence requirements for the property. Section 17.20.090 requires the 6-foot commercial district buffer fence. Mr. Clapp explained provisions are made on a case-by-case basis and that making a provision now does not require the Board to make provisions in the future. Town staff is concerned if one change is made additional provisions will be requested in the future because of current alteration before the Board.

Agenda #5: Consideration 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):

***Motion*:** To accept that there was a mistake made in the original Comprehensive Plan from 2015.
Motion by Commissioner Buckman. No second was made because Mr. Clapp said the motion needs to include the findings of fact. Commissioner Buckman withdrew her motion.

Motion: To acknowledge the Board of Commissioners made a mistake in 2015 upon approval of the Town's Comprehensive Plan in that due to a previous dentist office being located at Lots 10, 11, 15 and the western half of lot 12 in Emmit Gardens. Therefore, the Board of Commissioners at that time should have acknowledged that the location was a commercial rather than residential and the Comprehensive Plan should have been amended as such. Motion by Commissioner Ritz III, second by Commissioner Buckman. Commissioner Sweeney added the Board was not aware the Lots were a dental office during the approval of the 2015 Comprehensive Plan and the owners of the property weren't of right mind when the changes were being made so a mistake was made. Vote: Motion carries 4-1 in favor with Blanchard, Sweeney, Buckman and Ritz III in favor. Commissioner O'Donnell in opposition.

Motion: To approve the zoning map amendment request to rezone Lots 10, 11, 15 and the Western Half of Lot 12, as shown on the Revised Plat of Emmit Gardens, recorded in Plat Book No.3, folio 52 from R1 Low Density Residential to B1 Neighborhood Commercial. Motion was withdrawn to determine stipulations regarding fence and sign requirements for the Lots. Mr. Clapp clarified the Board can reserve the power to approve or disapprove of structures on the property.

Motion: To approve the zoning map amendment request to rezone Lots 10, 11, 15 and the Western Half of Lot 12, as shown on the Revised Plat of Emmit Gardens, recorded in Plat Book No.3, folio 52 from R1 Low Density Residential to B1 Neighborhood Commercial, and with the Commission we reserve the authority as the Board to approve or disapprove future conditions such as signage and fencing. Motion by Commissioner O'Donnell, second by Commissioner Ritz III. Commissioner O'Donnell asked town staff if there was a timeline regarding fencing and signage for the property. Ms. Willets explained once town staff received the property owners request, town staff and the town attorney would bring the item back to the Board for approval. There was no other discussion.
Vote: Motion carries 5-0 in favor.

Motion: To close the record for public input.
Motion by Commissioner Buckman, second by Commissioner Blanchard. Vote: Motion carries 5-0 in favor.

Motion: Motion to reopen our regularly scheduled meeting.
Motion by Commissioner Blanchard, second by Commissioner O'Donnell. Vote: Motion carries 5-0 in favor.

Agenda #6: Review of Ethics Complaint Procedures as Proposed by the Ethics Commission: Ms. Willets explained the Board voted to have the ethics code and appeal procedures referred to the Ethics Commission at the May 7, 2018 town meeting. The Ethics Commission did not recommend any changes to the procedures, they recommended the adjuratory hearing remain private and they agreed to provide a visual flow chart for the compliant process. A draft of the flow chart is included in the agenda packet. Ms. Willets reviewed the flow chart process. Commissioner Buckman requested parallel lettering get added to the flow chart that corresponds with the lettering in the written

procedures. The item will come back to the Board with changes most likely in December 2018. Commissioner O'Donnell requested the *Ethics Violation Compliant Form* add a note that the Town can provide notary services under the instruction section. The Board requested town staff make the requested changes.

***Motion*:** To direct staff to the changes discussed.

Motion by Commissioner Buckman, second by Commissioner Blanchard. Vote: Motion carries 5-0 in favor.

Agenda #7: For Discussion and Possible Consideration, Request By Indian Lookout for Sole Hunting Use of Scott Road Farm: The Board requested Mr. Wantz introduce himself and explain his request. *Kayne A. Wantz, 16617 Annandale Road* - Mr. Wantz read the letter he wrote to Mayor Briggs, Ms. Willets and Commissioner O'Donnell on August 29, 2018. The letter expressed disdain at the past treatment of the property, clarified the mission of the Indian Lookout Conservation Club and requested five of the Club members have access to hunting/fishing on the property in exchange for cleaning up trash and reporting any unauthorized hunters and fishers. There are about 60 members in the club, which has existed since 1947. Town staff is concerned with the request because hunting on town property has been restricted to Emmitsburg residents only and the club has a few people that are not town residents. A few people that have claimed to be part of the Club have also caused problems in the past on the property. In addition, it will be difficult to enforce the no hunting zone while allowing a few individuals to still hunt on the property. Ms. Willets reminded the Board that they gave consent at the August 6, 2018 town meeting to not allow hunting for one year on the property. There was discussion about the initial policy that set hunting guidelines to 21727 residents only. The Policy number is unknown. Mr. Wantz explained sole use is not being requested despite the agenda title. The Board would like to wait one year until the current decision passes. Town staff recommends waiting until June or July 2019 to make modifications. Mr. Wantz thanked the Board for their time.

Set Agenda Items for October 15, 2018 Town Meeting

1. Approval of the Water/Sewer Lead Operator
2. Proclamation for Municipal Governments Works Month November 2018 for Consideration
3. Discussion of Forestry Plan Submitted by the State Regarding Select Harvest of Timber

Consent Agenda: Appointment of Wayne Slaughter to the Citizens Advisory Committee

Consent Agenda: Appointment of Mark Long to the Planning Commission

Administrative Business:

A. Appointment of Zachary Gulden as the Town Zoning Administrator

Motion: To accept the agenda as proposed.

Motion by Commissioner O'Donnell, second by Commissioner Buckman. Vote: Motion carries 5-0 in favor.

Set Agenda Items for November 5, 2018 Town Meeting

1. Update on MHAA Wayside Exhibit Signs
2. Tree Care Ordinance for Consideration
3. Municipal Separate Storm Sewer Systems (MS-4) Update by Staff
4. Update Ordinance Related to Trailers 15.24

Administrative Business:

B. Proposed Trail Volunteer Days

Motion: To accept the agenda as proposed.

Motion by Commissioner Blanchard, second by Commissioner O'Donnell. Vote: Motion carries 5-0 in favor.

Motion: To close the meeting.

Motion by Commissioner Blanchard, second by Commissioner Ritz III. Vote: Motion carries 5-0 in favor.

III. Sign Approved Text Amendments and/or Resolutions

IV. Adjournment

With no further business, the October 1, 2018 Town Meeting was adjourned at 10:44 p.m. EST.

Respectfully submitted,

Madeline Shaw, Town Clerk
Approved On: November 5, 2018