



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
Madeline Shaw

TOWN MEETING AGENDA PACKET
TOWN OFFICE – 300A SOUTH SETON AVENUE
MONDAY, NOVEMBER 1, 2021 – 7:30 P.M.

- 1. CALL TO ORDER**
- 2. PLEDGE OF ALLEGIANCE**
- 3. FUTURE MEETINGS**

Town Tree Lighting Ceremony: Monday, December 6, 2021 at 6:00 p.m. (Community Center)
Parks and Recreation Committee Meeting: Tuesday, December 16, 2021 at 7:30 p.m. (Town Office)
Town Council Meeting: Tuesday, December 7, 2021 at 7:30 p.m. (Town Office & Zoom)

- 4. MEETING ITEMS**

- A. APPROVE MINUTES: OCTOBER 4, 2021
- 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). Proclamation for Municipal Governments Works Month November 2021 for Consideration.
 - (B). Discussion of agenda presentation format.
- I. CONSENT AGENDA: 1 APPOINTMENT
- J. TREASURER'S REPORT
- K. PLANNING COMMISSION REPORT
- L. AGENDA ITEMS (DETAILS ATTACHED)
 - (1). Discussion related to MS-4 permit requirements.
 - (2). Approval of an order declaring 507 East Main Street as a hazardous and dangerous building for consideration. - POSTPONED
 - (3). Approval of new employee hire for position of water/sewer operator trainee for consideration.
 - (4). Approval of the sewer connection agreement with 500 East Main Street and authorize Mayor to sign on behalf of the Town for consideration.
 - (5). Approval of the sewer connection agreement with 502 East Main Street and authorize Mayor to sign on behalf of the Town for consideration.
 - (6). Approval of a temporary construction deed of easement with Emmitsburg East Industrial Park, LLC. and authorize Mayor to sign on behalf of the Town for consideration.
 - (7). Approval of a 25-year revertible forest conservation deed of easement with the Daughters of Charity and authorize Mayor to sign on behalf of the Town for consideration.
 - (8). Find that 303 West Lincoln Avenue is no longer needed for a public purpose and set the sale price for consideration.
 - (9). Find that 3 acres at the 16715 Creamery Road, waste water treatment plant property, is no longer needed for a public purpose and set the sale price for consideration.

M. SET AGENDA FOR NEXT MEETING: TUES. DECEMBER 7, 2021

- 5. SIGN APPROVED TEXT AMENDMENTS AND/OR RESOLUTIONS**
- 6. ADJOURN**

300A South Seton Avenue • Emmitsburg, Maryland 21727

Phone 301.600.6300 • Fax 301.600.6313 • info@emmitsburgmd.gov • www.emmitsburgmd.gov

ZOOM MEETING ACCESS INFORMATION:

Topic: Town Meeting: November 1, 2021

Time: Nov 1, 2021 07:30 PM Eastern Time (US and Canada)

Join Zoom Meeting

<https://us02web.zoom.us/j/87406519161>

Meeting ID: 874 0651 9161

Passcode: 21727

One tap mobile

+13017158592,,87406519161#,,,,*21727# US (Washington DC)

+16465588656,,87406519161#,,,,*21727# US (New York)

Dial by your location

+1 301 715 8592 US (Washington DC)

+1 646 558 8656 US (New York)

+1 312 626 6799 US (Chicago)

+1 253 215 8782 US (Tacoma)

+1 346 248 7799 US (Houston)

+1 669 900 9128 US (San Jose)

Meeting ID: 874 0651 9161

Passcode: 21727

Find your local number: <https://us02web.zoom.us/j/ku92xDar1>

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 7:25 p.m. Sign-up to speak by emailing your name, address and topic you'd like to speak on to mshaw@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: OCTOBER 4, 2021

**MINUTES
TOWN MEETING
OCTOBER 4, 2021
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; Madeline Shaw, Town Clerk; Zachary Gulden, Town Planner; and Amy Naill, Code Enforcement Officer. *Others Present* – Deputy Jason Ahalt.

I. Call to Order

A quorum being present, Commissioner Timothy O'Donnell, President of the Board of Commissioners, called the October 4, 2021 town meeting to order at 7:30 p.m. Pledge of Allegiance was recited. Upcoming meetings were announced.

Announcement of a Closed Session

President O'Donnell announced the need for a closed executive session at the end of the town meeting for the purpose of consulting with staff, consultants, or other individuals about potential litigation relating to sanitary sewer backups during rain events as permitted by the General Provisions Article, Section 3-305(b)(8), Annotated Code of Maryland which authorizes Boards to meet in closed session to consult with counsel to obtain legal advice. The Board will not be meeting in another open session after the closed session has ended.

Approval of Minutes

Motion: Commissioner Burns motioned to accept the September 7, 2021 town meeting minutes as modified; second by Commissioner Ritz III. Yeas – 5; Nays – 0. The president declared the motion passed.

Police Report:

Deputy Ahalt presented the police report from September 2021 (exhibit attached). The Board discussed possible solutions to deter future issues with some of the Mount Saint Mary's University students acting disorderly.

Town Managers Report:

Cathy Willets, Town Manager, presented the Manager's Report from August 2021 (exhibit in agenda packet).

Town Planners Report:

Zachary Gulden, Town Planner, presented the Planner's Report from August 2021 (exhibit in agenda packet).

Commissioner Comments:

- Commissioner Ritz III: He thanked those that attended the Arbor Day tree planting on October 2, which he also attended. He requested staff notify the Board of any potential business interest in the future.
- Commissioner Davis: He thanked those that helped with National Fallen Fire Fighters Weekend and the youth baseball tournaments during October 1, 2021 to October 3, 2021.

- Commissioner Burns: He encouraged the Board to start pushing to improve infrastructure in Town to help draw potential new businesses.
- Commissioner Sweeney: The Citizen's Advisory Committee is going to start working on a plan that makes recommendations for Town improvements to aid economic growth in Emmitsburg.
- Commissioner O'Donnell: He thanked everyone who ran for commissioner at the recent elections and he thanked the residents that voted for him. He looks forward to continuing to serve the public.

Mayor's Comments:

Mayor Briggs attended numerous meetings in September 2021 (meetings listed in agenda packet) to include the 20th anniversary of September 11th tribute at FEMA, ground breaking ceremony of Rutter's, Arbor Day tree planting, and the National Fallen Fire Fighters Memorial candlelight service and memorial service.

Public Comments:

Eric Sloanne, East Main Street – Mr. Sloanne is requesting an increase in police patrols and lighting near East Main Street to reduce issues with juveniles. *Kevin Hogan, Huntley Circle* – Mr. Hogan requested the Board members give specifics on their goals for infrastructure and business growth to include where the Board would like to see new businesses in Town and what types of businesses. *Sabrina Paxton-Daily, Zanella Drive* – Ms. Paxton-Daily currently owns honey bees and feels the new regulations and permitting requirements passed via ordinance 21-09 are strenuous and difficult to adhere with. *Laura Maring, East Main Street* – Ms. Maring is with Ripleigh's Creamery and is concerned with the dilapidated building at 507 East Main Street. She would like to know what can be done to declare the abandon building a hazard. Town staff proposed making the topic an agenda item at the November town meeting.

Administrative Business:

- (A). **Proclamation declaring October 2, 2021 as Arbor Day for consideration:** Mayor Briggs read the proclamation aloud. The annual Arbor Day tree planting occurred on October 2, 2021. Seven trees were planted along Willow Rill at the Emmitsburg Elementary School property. The Board gave unanimous consent for the approval of the proclamation.

Consent Agenda:

Mayor Briggs presented the consent agenda. The Stormwater Utility Stakeholder Advisory Committee will give recommendations on how to offset expenses for the Town's State mandated MS-4 program. The members chosen are from a variety of organizational backgrounds. Proposed members for the committee include Commissioner Frank Davis and T.J. Burns, Steve Trout, Shital Patel, George Brenton, John Greenstone, Shannon Moore, Travis Tracey, Mark Long and Rachel Esses. *Motion:* Commissioner Sweeney motioned to approve the committee as presented; second by Commissioner Davis. Yeas – 5; Nays – 0. The motion passed.

Treasurer's Report:

Commissioner Burns presented the Treasurer's Report for September 2021 (exhibit in agenda packet). The playground specialist checks were for an upgrade to the Memorial Park playground.

Planning Commission Report:

Commissioner Ritz III presented the report. The Commission last met on September 27, 2021 where the site plan and improvement plat for the Village Liquors and Plaza Inn was conditionally approved. The Creamery Road Pump Station Improvement Plan was postponed until the October 25, 2021 commission meeting.

II. Agenda Items

Agenda #1 - Swearing in of new elected officials: Mayor Briggs swore in re-elected Commissioners Timothy O'Donnell and Commissioner Clifford Sweeney, the winners of the September 28, 2021 town election. Pictures were taken and the elected officials signed their oath of office with Mayor Briggs.

Agenda #2 - Mayor's recommendation for reorganization of the Board of Commissioners for consideration: Mayor Brigg's recommended keeping the Board positions the same with Timothy O'Donnell as president, Clifford Sweeney as Vice President, T.J. Burns as Treasurer, Joseph Ritz III as Planning Commission liaison, Frank Davis as the Parks Commission liaison, and Clifford Sweeney as the Citizen's Advisory Committee liaison. *Motion:* Commissioner Sweeney motioned to accept the reorganization as presented by Mayor Briggs; second by Commissioner Burns. Yeas – 5; Nays – 0. The motion passed.

Agenda #3 - Community Development Block Grant public hearing to provide information on the progress of the Town-Wide ADA Sidewalk Curb Ramp Project: *Motion:* Commissioner Sweeney motioned to close the regular town meeting and to open the public hearing at 9:19 p.m.; second by Commissioner Ritz III. Yeas – 5; Nays – 0. The motion passed. The public hearing was declared open. Mr. Gulden presented the agenda item. The public hearing was advertised in the Frederick News Post on September 20, 2021 in English and Spanish. The Town is required to host two public hearings, one before grant submission (held December 8, 2020) and one during the implementation of the grant. The Town was awarded \$685,893 to renovate 130 sidewalk curb ramps in Town to make them ADA compliant with a Town in-kind contribution of \$10,000 and \$1,800 donation from numerous Home Owners Association (HOA). To date, 35 of the ramps have been completed by MIM Construction, Inc. No issues have occurred, no complaints have been received and the project is within budget and ahead of schedule. Adjacent property owners and HOAs have been notified of the work. The contractor is required to complete work by April 17, 2022; however, the current anticipated date of completion is November 2021. Mr. Gulden invited anyone with complaints and grievances to contact him via phone or email. Public comment was invited. There was no public comment. *Motion:* Commissioner Sweeney motioned to close the public hearing at 9:22 p.m.; second by Commissioner Burns. Yeas – 5; Nays – 0. The motion passed and the hearing was declared closed. *Motion:* Commissioner Burns motioned to close the hearing and re-open the town meeting at 9:23 p.m.; second by Commissioner Davis. Yeas – 5; Nays – 0. The motion passed.

Agenda #4 - Designation of American rescue plan funds for consideration: Ms. Willets presented the agenda item. The American Rescue Plan Act of 2021 Coronavirus Local Fiscal Recovery Funds will give municipalities money from the federal government to support public health expenditures, replace lost revenue, provide premium pay for essential workers and invest in water, sewer and broadband infrastructure. The Town will be getting \$3,150,859.86 in two disbursements. The first payment was received on July 26, 2021 in the amount of \$1,575,429.93 and the second payment of \$1,575,429.93 will be received around July 2022. Mayor and staff recommend using the first payment for the water clarifier project and Creamery Road pump station replacement project. *Motion:* Commissioner Davis motioned to accept the two applications for infrastructure funding as presented; second by Commissioner Burns. Yeas – 5; Nays – 0. The motion passed.

Agenda #5 - Approval of public works equipment purchase for the USDA Facility Disaster Grant for consideration: Ms. Willets presented the agenda item. The USDA awarded the Town \$157,000 with a required 45% town match of \$128,500 for the purchase of four pieces of public works equipment: backhoe loader, multi-use tractor, SCADA computer system and 4x4 work truck. To date all items have been approved except for the 4x4 work truck that needed to be put out to bid due to the cost. The bid packet was published on September 13, 2021 with a due date of October 1, 2021. The Town received two bids; however, one company (Hagerstown Ford) withdrew their bid because information was missing

from the bid. Town staff recommends approving MJR Equipment of Harrisburg for \$63,004.79. The vehicle is a new truck with a plow package and 8-foot utility bed. *Motion:* Commissioner Davis motioned to accept the 4x4 work truck bid from MJR Equipment as presented; second by Commissioner Ritz III. Yeas – 5; Nays – 0. The motion passed.

Agenda #6 - Approval of the Rutter's forest conservation deed of easement and authorize Mayor to sign on behalf of the Town for consideration: Mr. Gulden presented the agenda item. The forest conservation easement and afforestation easement is for the planting of new trees and maintenance of existing trees. The easement will give the Town and State authority to enter onto the property of M&G Realty, Inc. (Rutters) to inspect the trees. *Motion:* Commissioner Ritz III motioned to accept the Rutter's forest conservation deed of easement and authorize the Mayor to sign on behalf of the Town; second by Commissioner Burns. Yeas – 5; Nays – 0. The motion passed.

Set Agenda Items for November 1, 2021 Town Meeting

Agenda Items: (1.) Approval of an order declaring 507 East Main Street as a hazardous and dangerous building for consideration. (2.) Approval of new employee hire for position of water/sewer operator trainee for consideration. (3.) Approval of the sewer connection agreement with 500 East Main Street and authorize Mayor to sign on behalf of the Town for consideration. (4.) Approval of the sewer connection agreement with 502 East Main Street and authorize Mayor to sign on behalf of the Town for consideration. (5.) Approval of a temporary construction deed of easement with Emmitsburg East Industrial Park, LLC. and authorize Mayor to sign on behalf of the Town for consideration. (6.) Approval of a 25-year revertible forest conservation deed of easement with the Daughters of Charity and authorize Mayor to sign on behalf of the Town for consideration. (7.) Find that 303 West Lincoln Avenue is no longer needed for a public purpose and set the sale price for consideration. (8.) Find that 3 acres at the 16715 Creamery Road, waste water treatment plant property, is no longer needed for a public purpose and set the sale price for consideration. **Administrative Business:** (A.) Proclamation for Municipal Governments Works Month November 2021 for Consideration. (B.) Discussion of agenda presentation format. **Consent Items:** (I.) Re-appointment of Bernard Franklin to the Citizen's Advisory Committee. *Motion:* Commissioner Ritz III motioned to approve the November 1, 2021 town meeting agenda as presented; second by Commissioner Sweeney. Yeas – 5; Nays – 0. The motion passed.

III. Sign Approved Text Amendments and/or Resolutions

IV. Adjournment

With no further business, Commissioner O'Donnell motioned to close the October 4, 2021 town meeting at 10:00 p.m. for a closed Executive Session to consult with staff, consultants, or other individuals about potential litigation relating to sanitary sewer backups during rain events as permitted by the General Provisions Article, Section 3-305(b)(8). The reason for a closed session discussion of this topic is that public discussion of the potential litigation would prejudice the Town's ability to defend against and resolve the litigation. The Board of Commissioners will not be meeting in another open session after the closed session has ended; second by Commissioner Davis. Yeas – 5; Nays – 0. The motion passed. The Board took a brief recess prior to the start of the closed session.

Respectfully submitted,

Madeline Shaw, Town Clerk
Minutes Approved On:

**CLOSED EXECUTIVE SESSION SUMMARY
EMMITSBURG TOWN OFFICE
OCTOBER 4, 2021**

Time Closed Session Began: 10:06 p.m.

Place of Closed Session: Emmitsburg Town Office 300A South Seton Avenue Emmitsburg MD 21727. The town attorney joined the meeting via zoom teleconferencing platform.

Purpose: To consult with staff, consultants, or other individuals about potential litigation.

Members Who Voted to Meet in Closed Session: Commissioners: Timothy O'Donnell, Clifford Sweeney, Frank Davis, Joseph Ritz III and T.J. Burns.

Persons Attending Closed Session: Commissioners: Timothy O'Donnell, Clifford Sweeney, Frank Davis, Joseph Ritz III and T.J. Burns. Staff Present: Cathy Willets, Town Manager; Zachary Gulden, Town Planner; Madeline Shaw, Town Clerk; Amy Naill, Parking and Code Enforcement. Others Present: Leslie Powell, Town Attorney.

Authority Under § 3-305 for the Closed Session: Section 3-305(b)(8), consult with staff, consultants, or other individuals about potential litigation.

Topics Actually Discussed: Legal advice given by town attorney regarding sanitary sewer backups during rain events.

Actions Taken: The Board directed town staff to send letters to the property owners of the sewer backups seeking to rectify the issue and deter future backups.

Time Closed Session Ended: 11:05 p.m.

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

C. TOWN MANAGER’S REPORT

**Town Manager’s Report
September 2021
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 repainted some yellow curbs, put banners and flags up for Fallen Firefighters.
- Staff trimmed, weed ate and weed killed sidewalks, curbs and tree wells on East & West Main St.

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 sanitizing playground equipment twice a week. Will begin sanitizing bathrooms at same time.
- Staff mowed, trimmed and weed killed in parks.
- Staff mowed, trimmed, weed killed disc golf course in E. Eugene Myers Park.
- Contractor completed Memorial Park swing set project (installed new swing set, relocated swing set and rock wall from Community Park).
- Staff put mulch in and repaired boarder boards at Emmitt Gardens Park (damage from flooding).
- Contractor installed a new hot water heater in Community Park bathroom.
- Staff repaired sewer clean out cap to concession stand along Memorial Park Rd.

Water:

- Rainbow Lake is at the spillway level (16.6 feet).
- Still having difficulties with the lake water, but made progress at the end of the month. The LG Sonic was adjusted several times and is finally getting the algae under control.
- The wells are still being run primarily with the lake being secondary. With the plentiful rainfall, the wells have recovered.
- The roughing filters are being backwashed four times a day. This is a result of the high turbidity from the Lake (very fine dirt). The DE filters backwashing started the month at one time a day and ended with once a week.
- Well levels (optimum level was determined to be May 2011). All five wells ran in the month of September.

	<u>May 2011</u>	<u>September</u>	<u>Change</u>
○ Well #1:	35’	40’	-5’
○ Well #2:	8’	15’	-7’
○ Well #3:	12’	31’	-19’
○ Well #4:	108’	121’	-13’
○ Well #5:	10’	15’	-5

- Water production and consumption. We produced an average of 245,777 GPD. We consumed an average of 231,882 GPD. The amount of Backwash Water in the month of September is ... (14.2 0%).
 - 85.2% of this water came from wells.
 - 5.4% of this water came from Mt. St. Mary's.
 - 9.4% of this water came from Rainbow Lake.

We purchased 416,850 gallons of water from MSM this month.

Wastewater:

- We treated an average of 889,000 gpd (consumed 231,882 GPD) which means that 74% of the wastewater treated this month was "wild water". This was due largely to the Tropical Storm IDA and then a significant rain event just weeks later. The pump station can no longer keep up with these high flows.
- Staff had been transferring from the lagoons back through the plant to lower the levels from the heavy rains.
- Contractor had to come in and pump the rags/grease out of the pump station. Staff pulled out five garbage bags by hand, but not enough. Contractor scheduled to come back November 1st to complete the clean out. Need to physically remove everything that won't get removed during pumping.
- We had two spills of untreated sewage in the month of September. MDE and Frederick County Health Department notified.
- We did exceed the plant's design capacity nine times in the month of September.
 - 09/01 3,434,000 gpd 09/02 1,352,000 gpd 09/08 1,151,000 gpd
 - 09/09 1,599,000 gpd 09/15 755,000 gpd 09/16 933,000 gpd
 - 09/22 966,000 gpd 09/23 2,450,000 gpd 09/24 902,000 gpd
- We received about 12.1" of precipitation this month (the average is 4.24"). We have a precipitation **SURPLUS of 6.49"** over the last six months. The average precipitation for the period from April 1 through September 30 is 23.46 ". We have received 29.95" for that period.

Trash: Trash pickup will remain Mondays in the month of November

Meetings Attended:

- 09/07 Attended Town Meeting
- 09/08 Attended department head meeting
- 09/08 Attended support staff meeting
- 09/09 Attended MDE meeting regarding MS-4 credits with Town Planner
- 09/13 Met with Mayor
- 09/14 Attended webinar re: ARPA funds
- 09/15 Attended MD Dept. of Public Works livestream re: water clarifier funding
- 09/16 Met with Mayor
- 09/20 Attended ADA ramp progress meeting
- 09/21 Attended MS-4 yearly training
- 09/28 Town Election

Noteworthy:

- Staff pumps holding tank every 10 days at 8533 Hampton Valley Rd.
- Staff worked the yard waste dumpster twice in September.
- Staff conducted monthly equipment and fire extinguisher maintenance.
- Staff did some water meter upgrades.
- Staff completed some use and occupancy permit inspections in Brookfield.
- Staff conducted quarterly water meter readings.
- Staff set up high water and road closed signs during rain events. Staff also responded to complaints throughout Town during the Tropical Storm and rain event.
- Staff removed old picnic table and installed new one at Rainbow Lake.
- Staff used backhoe at Well #2 to remove trees and logs that was blocking storm drain pipes.
- All staff attended mandatory MS-4 yearly training.
- Staff prepared for and assisted with Town Election.
- Recycle pump at CRPS is shot. A new pump will be installed.

PARKING ENFORCEMENT REPORT
September 2021

Overtime Parking	39
Restricted Parking Zone	2
Street Sweeping	
Parked in Crosswalk	
Parked on Sidewalk/Curb	
Parked by Fire Hydrant	
Parked Blocking Street	1
Failure to Park between Lines	
Left Side Parking	
48 Consecutive Hours	
Meter Money	\$ 899.70
Parking Permits	\$ 115.00
Meter Bag Rental	
Parking Ticket Money	\$ 85.00
Total:	\$ 1,099.70

D. TOWN PLANNER'S REPORT

**Town Planner's Report
September 2021
Prepared by Zachary R. Gulden, MPA**

1. Board of Appeals (BOA):

- Received, processed, and prepared staff reports for the following variance applications:
 - 322 S Seton Ave.
 - 135 Chesapeake Ave.

2. Board of Commissioners (BOC):

- Attended the 9/7 BOC meeting and processed pre/post meeting materials.
- Prepared presentations & meeting materials for the 10/4 BOC meeting items:
 - Rutter's forest conservation deed of easement;
 - CDBG 2nd public hearing; and
 - Appointment of members to SWM Utility Committee.

3. Grants:

- Community Legacy grant management:
 - Submitted FY20 & FY21 grant quarterly reports.
- Chesapeake Bay Trust grant management:
 - Silo Hill SWM basin retrofit design & permitting.
- Community Development Block Grant management:
 - Conducted 7x construction inspections.
 - Reviewed & processed weeks 5, 6, 7, 8, & 9 payrolls.
 - Completed the semi-annual report.
 - Processed payment request #2, which included field measurements of 24 ramps.
 - Processed grant reimbursement request #2.
 - Attended a virtual progress meeting on 9/20.
 - Conducted 4x employee payroll interviews as required per grant.
 - Processed a MDOT SHA permit for Ramp #33.
 - 29 of 130 ramps are completed to date.

4. Municipal Separate Storm Sewer System (MS4):

- Silo Hill SWM basin retrofit & tree planting project management.
- Tree planting project:
 - Issued a press release on grant and partnership.
- Worked on current year MS4 permit.
- SWM Utility Feasibility Study:
 - Worked with attorney in preparing contract.
 - Worked with Mayor in recommending workgroup members.
- Attended a conference call on 9/9 with Manager & MDE representatives about MS4 permit.
- Prepared & attended the annual staff MS4 training on 9/21.

5. New Business / Development Updates:

- **Rutter's** – started clearing trees & installing sediment/erosion control.
- **Federal Stone** - Preparing required engineered plans for Planning Commission submittal.
- **Village Liquors & Plaza Inn** - Working on meeting Planning Commission conditions & permitting from Town & County.
- **Ripleigh's Creamery** – Working on obtaining FC building permit.
- **Tuscany's Pizzeria** - Occupancy permit issued by County. Awaiting grand opening date from owner.
- **Emmit Ridge 2** - Property has sold to an investor. RJD Development & Ryan Homes working with investor to purchase.
- **McNair Property** - Property is no longer for sale. No activity with the Town this month.
- **Frailey Farm** - Property is for sale. No activity with the Town this month.
- **Catoctin Vistas (Trout Property)** - Property is for sale. No activity with the town this month.
- **Brookfield 10-unit cul-de-sac** – Sketch plan submitted. Zoning map amendment required.
- **Warthen's Court 5-unit townhomes** – Sketch plan submitted. Preparing required engineered plans for Planning Commission submittal.

6. Permits & Zoning:

- Processed 5x zoning permit applications:
 - 1x - public sidewalk for remaining lots in Southgate.
 - 1x - addition & renovation (Emmitsburg Veterinary Hospital).
 - 1x – parking space.
 - 2x – roof.
- Processed 8x backflow preventer permit applications.
- Processed 1x street closure permit application.
- Mailed 8x high hazard backflow permit renewal reminder letters.
- Responded to incident reports.

7. Planning Commission (PC):

- New Creamery Road Pump Station, Rutter's, Irishtown Road (Brookfield Lots 1-19), Federal Stone, Emmitsburg East Industrial Park II, Village Liquors & Plaza Inn, and Ripleigh's Creamery project management.
- New Creamery Road Pump Station:
 - Received, reviewed, and prepared a staff memo for the:
 - Improvement plat; and
 - Addition plat.
- Irishtown Road (Brookfield Lots 1-19):
 - Oversaw construction & processed extended street closure permit.
- Village Liquors & Plaza Inn:
 - Received, reviewed, & created the PC staff memo for the:
 - Site Plan; and
 - Improvement Plat.
 - Reviewed traffic impact analysis.
 - Reviewed and provided comments on corrected Site Plan.

- Rutter's:
 - Processed the following deeds of easements:
 - Forest conservation; and
 - Storm water management.
- Ripleigh's Creamery:
 - Received, reviewed, & approved the following for final signatures:
 - Site Plan;
 - Landscape Plan; and
 - Lighting Plan.
- Attended the 9/27 PC meeting and processed pre/post meeting materials.
- Attended a conference call on 9/28 with Federal Stone engineer.

8. Miscellaneous:

- Forestry stand 10 project management.
- Attended a department head meeting on 9/8.

E. COMMISSIONER COMMENTS

F. MAYOR'S COMMENTS

October 2nd, Saturday 9 am, Arbor Day tree planting along Willow Rill.

October 2nd, Saturday 6:30 pm, 40th Annual National Fallen Firefighters Memorial Weekend,
Gave welcoming address, Candlelight Service.

October 4th, Monday, 7:30 pm, regularly schedule town meeting (virtual and in person).

October 12th, Tuesday, 8:45 am, Maryland Municipal League Fall Conference, with town
clerk Maddy Shaw accepted Sustainable Maryland award for town and attended
class on mediation.

October 13th, Wednesday, 11:20 am, at Town Square, with Commissioner Davis, Scott Grove
Wayside exhibit designer.

October 13th, Friday, Noon, Gave welcoming address at groundbreaking for Mount St.
Mary's University - Frederick Health Medical facility, Commissioner Davis
also in attendance.

October 17th, Sunday, 2pm, Gave welcoming address at third annual Emmitsburg
Ecumenical Council Community Unity event in Meyers Community Park,
Commissioner Sweeney also in attendance.

October 19th, Tuesday, Greeted 25+ members of Gettysburg Walking Club (GWC) down for
walk and lunch at the Carriage House Inn on a beautiful day – Thank you to
Dee Conley a town resident and a GWC member for bringing exposure and
business to town.

G. PUBLIC COMMENTS

H. ADMINISTRATIVE BUSINESS

- (a) **Proclamation for Municipal Governments Works Month November 2021 for Consideration:** Presentation at town meeting.



Proclamation

MUNICIPAL GOVERNMENT WORKS MONTH NOVEMBER 2021

The Mayor and Council of the Town of Emmitsburg proclaim November 2021 to be Municipal Government Works Month.

WHEREAS, the Town was established in 1785; and

WHEREAS, Maryland is home to 156 other municipalities; and

WHEREAS, municipal government represents the most responsive level of government, allowing citizens to have direct access to elected officials; and

WHEREAS, in an effort to educate citizens about municipal government and the importance of their participation, the Town of Emmitsburg is proud to promote municipal government awareness; and

WHEREAS, municipalities have enhanced the quality of life for their respective residents maintaining natural and historic sites and structures and helping to make Maryland a great place to live, work, play and explore.

NOW, THEREFORE, BE IT PROCLAIMED, that the Mayor and Council of the Town of Emmitsburg, Maryland do hereby join the Maryland Municipal League in declaring November 2021 to be Municipal Government Works Month in Emmitsburg.

ADOPTED this 1st day of November, 2021

Donald N. Briggs
Mayor

Timothy J. O'Donnell, President
Board of Commissioners

(b) Discussion of agenda presentation format: Presentation at town meeting.

I. CONSENT AGENDA

I. Citizen Advisory Committee (2-year term)

Re-appointment of Bernard Franklin to the Citizen’s Advisory Committee.
Term: September 3, 2021 to September 3, 2023

J. TREASURER REPORT

**Town of Emmitsburg
CASH ACTIVITY as of October 26, 2021**

\$7,446,969	Cash Balance October 1, 2021
410,192	Deposits
<u>-355,971</u>	Withdrawals
\$7,501,190	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>
\$94,554	MIM Construction	ADA Ramp Project	09.29.21	42772
\$74,550	Treasurer of Frederick County	1Q FY22 Law Enforcement Services	10.13.21	42825
\$73,858	MIM Construction	ADA Ramp Project	10.20.21	42858
\$68,394	Treasurer of Frederick County	4Q FY22 Law Enforcement Services	10.13.21	42826
\$23,863	Comptroller of Maryland	1Q FY22 Bay Restoration Fee	10.06.21	42797
\$19,106	MD Dept of Budget & Mgmt	Sep 21 Health Insurance	09.29.21	42766
\$7,029	Republic Services	Oct 21 Refuse Services	10.06.21	42809
\$4,658	Frederick County DUSWM	Sep 21 Tipping Fees	10.13.21	42823
\$3,922	Powell LLC	Legal Services	10.06.21	42808
\$3,082	Mount Saint Mary's University	1Q FY22 Water Usage	10.13.21	42831

Check dates 09.28.21 to 10.26.21

K. PLANNING COMMISSION REPORT: Presentation at the meeting.

L. AGENDA ITEMS:

AGENDA ITEM# 1. Discussion related to MS-4 permit requirements: Presentation at town meeting by staff and ARRO Consulting. Delegate Jesse Pippy and a representative from Senator Hough's office will be in attendance.

AGENDA ITEM# 2. Approval of an order declaring 507 East Main Street as a hazardous and dangerous building for consideration: Presentation at meeting by staff.

ITEM POSTPONED

- AGENDA ITEM# 3. Approval of new employee hire for position of water/sewer operator trainee for consideration:** Presentation at meeting by town staff and Mayor Briggs.

AGENDA ITEM# 4. Approval of the sewer connection agreement with 500 East Main Street and authorize Mayor to sign on behalf of the Town for consideration: Presentation at meeting by staff.

RESIDENTIAL SEWER CONNECTION AGREEMENT

It is this ____ day of October, 2021, hereby agreed between the Town of Emmitsburg (“Town”) on the one hand and Elizabeth C. Sloane, Christina R. Callahan, and Eric E. Sloane (“Sloane”) on the other hand, for good and valuable consideration as set forth below, that Town will install a lateral sewer line from the Sloane residence, and a line from the Sloane property boundary to the Town sewer system.

WHEREAS, a disconnection from the Sloane residence, located at 500 East Main Street, more fully described in the land records of Frederick County, Maryland at Liber 9754, folio 331 (hereafter the “Sloane Property”), to the Town sewer system has occurred; and

Whereas, Sloane has paid water and sewer service fees to the Town; and

Whereas, rather than dispute who has the obligation to correct or repair any connection errors, defects, or cause of damage, the Town has agreed, at its cost and expense, to install a new sewer line from the residence to the Town sewage collection system; and

Whereas, the Sloane has agreed not to seek reimbursement from the Town for paid sewer fees; it is now, therefore,

AGREED AS FOLLOWS:

1. The foregoing Whereas clauses are incorporated herein by reference.
2. The Town shall install a sewer line from the Sloane residence to the Town mainline located under and along Creamery Road in the area generally depicted on Exhibit A.
3. The Town will install a new lateral line coming from the east side of the residential structure to the property line and shall extend the line beyond the property line to the Town Main Sewer Line located on Creamery Road.
4. The line will be hook up to the existing cast iron pipe where it exists in the resident on the south-east side of the basement.
5. The Town work will be conducted within the general area depicted in Exhibit A attached hereto.

6. The installation shall include the hook up of the lines within the residence. The details of the work to be performed are reflected in Exhibit B attached hereto. No other work is contemplated except as set forth herein.
7. The Town is not repairing or replacing any existing fixtures or the cast iron pipe or lines interior to the residence.
8. In addition, at its cost, the Town will remove and replace the slate pavers in the disturbed area, remove and re-install the wire dog fence in the disturbed area, remove and replace sidewalk in the disturbed areas, install a new sidewalk from the backdoor steps of the residence to the basement entrance of approximately forty feet by two feet. The precise area will be reviewed and agreed upon by Sloane and the Town in advance of the sidewalk work.
9. The Town will provide advance notice of the dates and times of the work.
10. Sloane or an adult designee shall be present within the residence when the work has to be performed within the residence.
11. The work will be performed by the Town's contractor, KelCo Plumbing and Backhoe Service, LLC.
12. The Town will indemnify Sloane from any damage to the property caused by the Contractor.
13. The Town will use its best efforts to preserve existing landscaping and lawn areas. Disturbed areas will be reseeded to the extent appropriate.
14. The Town will restore the Sloane property to its general condition as it existed prior to performance of the work with the exception of the improvements herein described.
15. Sloane acknowledges and agrees that is shall make the property reasonably accessible for the Town to conduct the repairs set forth herein.
16. The Town hereby releases Sloane from any claims relating to the sewer connection from the Sloan residence to the Town system; known or unknown, suspected or unsuspected from the beginning to time to the completion of the work described herein. Such release does not include Sloane's obligation to pay its sewer charges assessed by the Town.

17. Except for obligations of the Town as described herein, Sloane hereby releases the Town from any claims relating to the sewer charges assessed by the Town against the Sloane property and from any claims relating to the sewer connection from the Sloane residence to the property line; known or unknown, suspected or unsuspected from the beginning of time to the completion of the work described herein.
18. As a condition of this Agreement, Sloane acknowledges that it shall not seek any refunds for monies paid to the Town for water and sewer service.
19. Following completion of the work described herein, it shall be Sloane's obligation to maintain the sewer lines from its property line into and within its residence and to pay its utility bills. This Agreement shall not be construed as including any continuing obligation by the Town to maintain the Sloane lateral line or sewer systems within the Sloane Property boundaries.
20. The parties recognize that this is a resolution of disputed claims, and neither party acknowledges any liability to the other in connection with the Sloane sewer system connections.
21. Any disputes relating to the parties' obligations hereunder shall be resolved in the courts of Frederick County, Maryland, and all parties hereto SHALL WAIVE ANY RIGHT TO TRIAL BY JURY.
22. Neither party has offered anything to the other that is in addition to the respective obligations set forth in this Agreement and this Agreement represents an integrated whole. No promises outside the scope of this Agreement were made to any party as an inducement to enter into this Agreement.

WITNESS:

Elizabeth C. Sloane

Christina R. Callahan

Eric E. Sloane

[SIGNATURES CONTINUE ON THE FOLLOWING PAGE.]

ATTEST:

MAYOR, TOWN OF EMMITSBURG

By: _____
Cathy Willets, Town Manager

By: _____
Donald N. Briggs, Mayor

Reviewed for Legal Sufficiency:

By: _____
Leslie A. Powell, Town Counsel

EXHIBIT A



EXHIBIT B

KelCo Plumbing and Backhoe Service LLC
6902 Debold Road
Sabillasville, MD 21780
301-748-1726
Kelcoplumbingllc@gmail.com

10/8/2021

Town of Emmitsburg
300 A South Seton Ave
Emmitsburg, MD 21727

Reference: 500 East Main St. and Creamery Road

All work to be performed by KelCo Plumbing and Backhoe Service, LLC, to hook to existing cast iron pipe where it exists house on south east side of basement, gravity flow with 4-inch pvc to west of property line along Creamery Road from there install 6-inch property cleanout and run 6-inch pipe across Creamery Road to existing 10-inch sewer main with saddle tap. This will include the following:

- Pipe and sleeve through stone wall to existing hung sewer in basement.
- Saw blacktop and disposal.
- Saw and jackhammer through curb.
- Removal of excess dirt and replace CR-6 stone and tamping in roadway.
- Replace blacktop and curb.
- Install 6-inch cleanout and pipe from property to sewer main.
- Tie into existing cast-iron in basement.
- Back fill, seed, and straw.
- Labor and equipment included.
- Frederick Co permit for 4-inch line from property existing cast-iron south east side of house.
- Town responsible for permission to cross property lines.

Total Price: \$13,000

Please call Bruce with any questions and/or approval for this project.

- The prices are based on clean earth excavations. In the event that the contractor encounters water, sand, rock, frozen ground or other unforeseen obstruction, and the contractor is required either to pump water shore, excavate rock, break frozen ground, provide additional support to the piping system the contractor agrees to pay the subcontractor all additional costs involved at the rates plus any additional expenses such as but not limited to blasting, shoring or dewatering which will be billed at cost plus 20%.
- Not responsible for hardscapes, settlement of ground or germination of seed.

KelCo Plumbing and Backhoe Services, LLC

Bruce Boyd,
President

Accepted: _____

Title: _____

Date: _____

- AGENDA ITEM# 5. Approval of the sewer connection agreement with 502 East Main Street and authorize Mayor to sign on behalf of the Town for consideration:** Presentation at meeting by staff pending finalization of legal documents.

- AGENDA ITEM# 6. Approval of a temporary construction deed of easement with Emmitsburg East Industrial Park, LLC. and authorize Mayor to sign on behalf of the Town for consideration:** Presentation at meeting by staff pending finalization of legal documents.

AGENDA ITEM# 7. Approval of a 25-year revertible forest conservation deed of easement with the Daughters of Charity and authorize Mayor to sign on behalf of the Town for consideration: Presentation at meeting by staff.

Parcel ID No.: 05-172233
NO TITLE EXAMINATION

**REVERTIBLE FOREST CONSERVATION
DEED OF EASEMENT / MAINTENANCE
COVENANTS AND AGREEMENT**

This Revertible Forest Conservation Deed of Easement / Maintenance Covenants and Agreement, (“Easement Agreement”) made this ____ of _____, 2021, by and between the Daughters of Charity Ministries, Inc., a Missouri not-for-profit corporation (hereinafter collectively, the “Grantor”), and the Town of Emmitsburg, Maryland, a body corporate and politic of the State of Maryland (“Town”).

WHEREAS, the Town has established a Reforestation Program to restore, enhance, and maintain the chemical, physical, and biological integrity of waterways, including the control and/or minimization of nonpoint source pollution, soil erosion, local flooding, and impervious surface runoff and in furtherance of the Town’s compliance with the Maryland NPDES Municipal Separate Storm Sewer System Program and Permit (“MS4”), and

WHEREAS, the Grantor is the owner of a certain tract of land located in Frederick County, Maryland (defined below as the “Property”), and has agreed to provide a temporary revertible non-exclusive easement over and across the Property for the planting and maintenance of trees (the “Forest Conservation Easement”), and

WHEREAS, the parties have agreed to enter into this Easement Agreement to provide for the future protection, maintenance, and inspection of the Forest Conservation Easement, and

NOW THEREFORE, WITNESSETH THAT, for no monetary consideration, but for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Grantor does hereby grant and convey and donate unto the Town, its successors and assigns, a temporary revertible non-exclusive forest conservation easement

(hereinafter "Forest Conservation Easement") containing 16 acres, more or less, identified being more particularly described in Exhibit A and shown on the drawing attached hereto as Exhibit B, and incorporated herein by reference.

The herein described easement being in, through, over, and across part of that real property which was conveyed unto Daughters of Charity Ministries, Inc. from Sisters of Charity of St. Joseph's by Deed dated June 13, 2011, and being recorded among the Land Records for Frederick County, Maryland, in Liber 8396, Folio 423 (the "Property").

To have and to hold the Forest Conservation Easement, together with the rights and privileges appurtenant to their proper use and benefits by the Town, their successors and assigns, in accordance with the terms set forth herein, as follows:

FIRST: That the Town, its successors, agents and assigns, shall at all times have a right of ingress to and egress from the Forest Conservation Easement for the purpose of inspecting, maintaining, planting or replacing vegetation within the Forest Conservation Easement. The right of access shall be in, through, over and across the land of the Grantor located south of the Forest Conservation Easement area: provided, however, that the Town shall use existing roadways and driveways where possible and shall minimize damage to growing crops, planted or cultivated fields, streams, lawns, pastures, and structures;

SECOND: The responsibilities for the maintenance of, and the restrictions on the activities within, the Forest Conservation Easement shall be as set forth in the Maintenance Covenants and Agreement attached hereto as "Exhibit C" and incorporated by reference as if fully set forth herein;

THIRD: The term of the Forest Conservation Easement shall be twenty-five (25) years commencing on the date planting is completed and the Town issues a letter to the Grantor

indicating as much (but no later than October 31, 2023) and terminating three hundred (300) months later. The termination of the Forest Conservation Easement shall be self-operating and no additional writing need be recorded by either party.

FOURTH: The Grantor further covenants and agrees that the easement, right of way, maintenance covenants and agreements contained herein shall run with the land and shall bind the Grantor and its successors and assignees and shall bind all present and subsequent owners of the Property;

FIFTH: The Grantor covenants and agrees that all parties having an interest in the Property which is subject to this Easement Agreement have executed this document and agreed to the terms hereof;

SIXTH: The Grantor agrees that no other easements may be imposed or placed in, on, or through the Forest Conservation Easement without the prior written consent of the Town, not to be unreasonably withheld, conditioned or delayed;

SEVENTH: The Grantor will warrant specially the Forest Conservation Easement and shall execute such further assurances thereof as may be requisite; and

EIGHTH: The Grantor agrees that the Town will receive all MS4 credit for the planting and maintenance of trees within the Forest Conservation Easement.

[SIGNATURES BEGIN ON THE NEXT PAGE]

**GRANTOR:
DAUGHTERS OF CHARITY
MINISTRIES, INC.**

Witness

By: _____
George Benton
Title: _____

STATE OF _____, COUNTY OF _____

On this ____ day of _____, 2021, before me, the undersigned, personally appeared George Benton, the _____ of Daughters of Charity Ministries, Inc., a Missouri not-for-profit corporation, and acknowledged that he executed the foregoing instrument for the purposes therein contained, by signing his/her name as _____ of Daughters of Charity Ministries, Inc.

In witness whereof, I hereunto set my hand and official seal.

My Commission Expires: _____ Notary Public _____

ATTEST/WITNESS:

GRANTEE:
TOWN OF EMMITSBURG,
FREDERICK COUNTY, MARYLAND

Donald N. Briggs, Town Mayor

STATE OF MARYLAND, TOWN OF EMMITSBURG, TO WIT:

I HEREBY CERTIFY that on this this ____ day of _____, 2021, before me, the subscriber, a Notary Public in and for the State and County aforesaid, personally appeared Donald N. Briggs, Mayor of the Town of Emmitsburg of Frederick County, Maryland, a body politic and corporate of the State of Maryland, and acknowledged the foregoing instrument to be the act of said body public and corporate and that he is duly authorized to make this acknowledgement on its behalf.

My Commission Expires: _____ Notary Public

This instrument has been prepared by or under the supervision of the undersigned, an attorney duly admitted to practice before the Court of Appeals of Maryland.

Leslie A. Powell

ROBERT F. GAUSS & ASSOCIATES, INC.
PROFESSIONAL LAND SURVEYORS
103 EAST MAIN STREET, P.O. BOX 128
EMMITSBURG, MARYLAND 21727
PHONE: (301) 447-2222 FAX: (301) 447-3158
GaussPLS@RFGauss.com

EXHIBIT A

25 August, 2021

Description for the 16.0000 Ac. Forest Conservation Easement on the
Daughters of Charity Ministries property, Situated on U.S. RT. 15 & Creamery
Road Emmitsburg Election District #5 Frederick County, Maryland.

Beginning for the same at a point on the right of way line of U.S. RT.15 at station # 368+00 as shown on S.H.A. Plat # 46422, and being on the western outline of Tract 6 of the land conveyed by Sisters of Charity of St. Joseph's unto Daughters of Charity Ministries, Inc. by deed dated 13 June, 2011, and recorded among the land records of Frederick County in Liber 8396 Folio 423, thence as now surveyed by R. F. Gauss & Associates, Inc., Professional Land Surveyors, and running with said land

1. by a curve to the left with a radius of 2963.87', an arc of 154.27', which arc is subtended by a chord of North 39° 38' 00" East 154.25' to a point, thence
2. North 38° 08' 34" East 702.38' a point, thence leaving said right of way line and running on, over & across said Daughters of Charity Ministries Property the following 5 courses & distances
3. South 72° 03' 50" East 832.01' to a point on the proposed right of way line of Creamery Road, thence with it
4. South 03° 31' 16" East 299.15' to a point, thence leaving proposed right of way line
5. South 76° 31' 48" East 428.23' to a point, thence
6. South 35° 53' 09" West 270.00' to a point, thence
7. North 78° 58' 01" West 805.60' a point on said right of way line of U.S.RT.15, thence with it
8. North 26° 02' 14" East 52.84' to the place of beginning,

Containing 16.0000 Ac. of land more or less

Being part of the land conveyed by Sisters of Charity of St. Joseph's unto Daughters of Charity Ministries, Inc. by deed dated 13 June, 2011, and recorded among the land records of Washington County in Liber 8396 Folio 423.

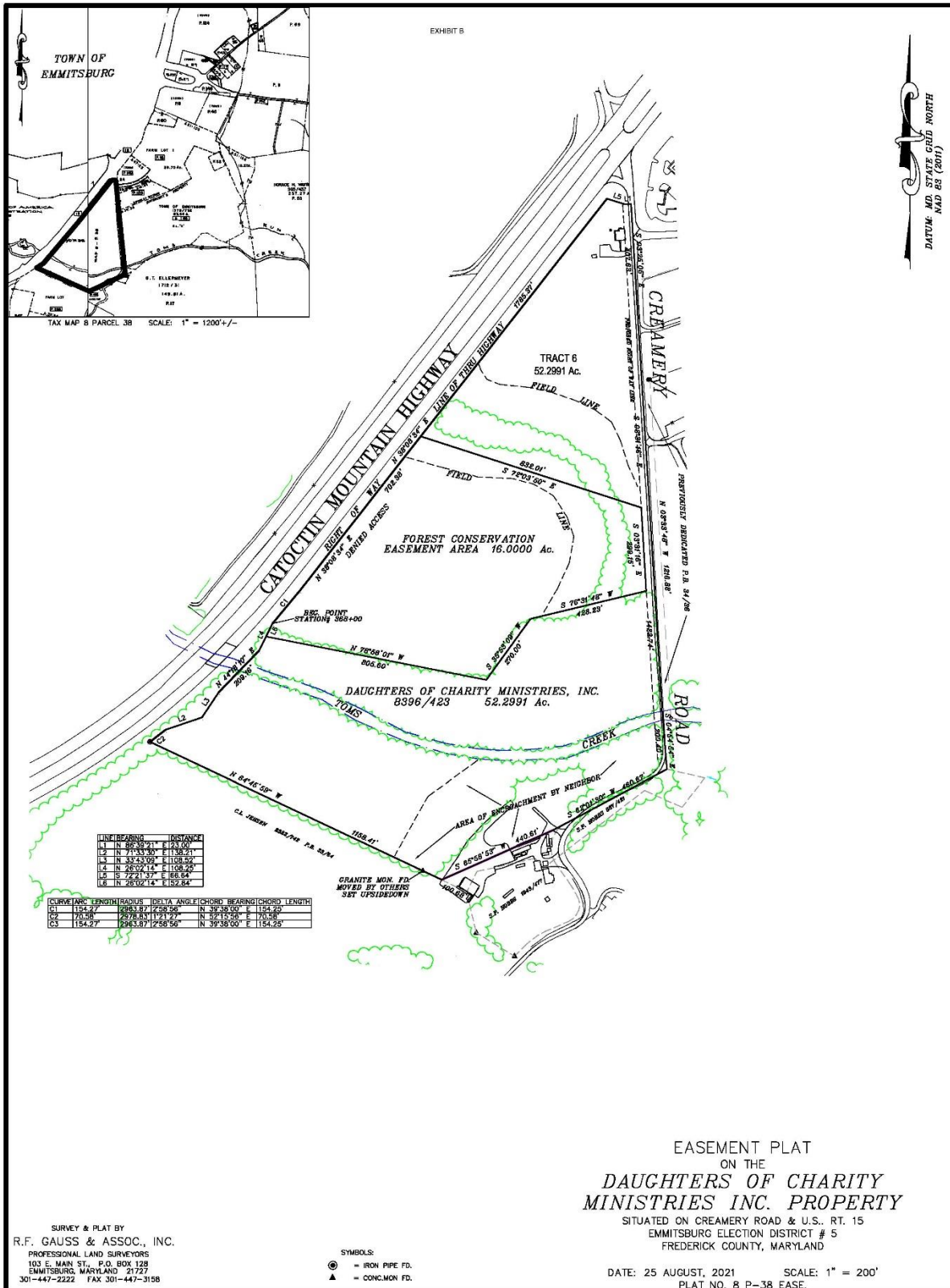


EXHIBIT C

**FOREST CONSERVATION EASEMENT
INSPECTION AND MAINTENANCE COVENANTS AND AGREEMENT
("Agreement")**

This Forest Conservation Easement Inspection and Maintenance Covenants and Agreement (referred to hereinafter as the "Agreement") is entered into this ___ day of _____, 2021 by and between Daughters of Charity Ministries, Inc., a Missouri not-for-profit corporation (hereinafter referred to as "Grantor") and the Town of Emmitsburg, Maryland, a body corporate and politic of the State of Maryland.

RECITALS

WHEREAS, Grantor is the owner of certain real property conveyed by Deed dated June 13, 2011 from Sisters of Charity of St. Joseph's and being recorded among the Land Records for Frederick County, Maryland, in Liber 8396, Folio 423 (the "Property"); and

WHEREAS, Grantor has agreed to grant and donate to the Town a twenty-five (25) year non-exclusive revertible forest conservation easement over and across a part of the Property for the planting and maintaining of trees (the "Forest Conservation Easement"), said Forest Conservation Easement, and its purpose and intent, being more fully described in a Revertible Forest Conservation Deed of Easement/Maintenance Covenants and Agreement to which this Agreement shall be attached as Exhibit C; and

WHEREAS, the parties desire to set forth the obligations of each with respect to the Forest Conservation Easement during its term.

NOW THEREFORE, WITNESSTH THAT, in consideration of the foregoing Recitals, each of which is incorporated herein by reference as a material part of this Agreement, and for

other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties covenant and agree as follows:

1. OBLIGATIONS OF THE PARTIES: The Town at its expense shall be solely responsible for planting new forest and inspecting, monitoring, and maintaining the forest and allowing natural regeneration of vegetation, at its discretion, within the Forest Conservation Easement for a period of twenty-five (25) years from the date planting is complete. The maintenance standard shall be at least 100 trees per acre with at least 50 percent of those trees having a 2-inch or greater diameter at 4.5 feet above the ground (the "Standard Forest Density"). The Town shall inspect the Forest Conservation Easement at least four (4) times per year and ensure it is in compliance with the Standard Forest Density and the provisions of this Agreement for which the Town is responsible.

Grantor shall allow the Town and its agents to access the Forest Conservation Easement to perform its obligations under this Agreement and shall comply with all obligations and restrictions on the use of the Forest Conservation Agreement provided for herein.

2. CORRECTING DEFICIENCIES: Upon receipt of at least sixty (60) days prior written notice from the Town of any problems or deficiencies in the new forest, existing forest, or regeneration vegetation in the Forest Conservation Easement caused by Grantor's violation of the conditions and restrictions hereunder, the Grantor, its successors, and assigns, will correct problems as directed. If the requested corrections are not made as directed in the notice, and provided the Grantor has not provided written notice to the Town that it disputes the alleged problems or deficiencies were caused by Grantor's violation of the conditions and restrictions hereunder, the Town may, at its discretion, perform all of the necessary work to correct the deficiency and the Grantor shall be assessed for the commercially reasonable cost of the work. If

not paid within thirty (30) days, the assessment shall create a lien on the Property and may be included in the water / sewer bill for the Property or properties on which the Forest Conservation Easement is located and collected by the Town.

3. **INDEMNIFICATION:** The Grantor shall indemnify and save the Town harmless from any and all claims for damages to persons or property arising from Grantor's use of the Forest Conservation Easement, excluding, however, any claims for damages to persons or property arising from the Town's, or the Town's agents and employees' use or access upon the Property or arising from use or access upon the Property by trespassers and third parties unaffiliated with Grantor for which the Town shall indemnify and save Grantor harmless.

4. **INDIVIDUAL TREE REMOVAL:** Non-commercial, selective clearing of individual trees that are less than 30 inches in diameter may occur, provided written permission is obtained in advance from the Town. However, the Forest Conservation Easement area shall not be cleared below the Standard Forest Density of at least 100 trees per acre with at least 50 percent of those trees having a 2-inch or greater diameter at 4.5 feet above the ground. Hazardous trees or tree limbs may be removed to prevent personal injury or property damage without prior approval.

5. **REMOVAL OF NOXIOUS WEEDS AND EXOTICS:** Noxious weeds, as identified by the Maryland Department of Natural Resources; and exotic or invasive trees and shrubs, listed in the State Forest Conservation Technical Manual, may be removed without regard to the Standard Forest Density described in Section 4 above, however, the method of removal must be consistent with the limitations contained in this Agreement. It shall be the responsibility of the Town to provide weed control and mowing, if appropriate.

6. **CONDITIONS OF PERMITTED BRUSH REMOVAL:** For areas of existing forest that exceed the Standard Forest Density, understory plant materials (including, but not limited to brush, shrubs, saplings, seedlings, undergrowth, or vines) may be cut down, removed or destroyed, provided that:

- A. Their removal does not damage, injure, or kill trees having a 6-inch or greater diameter at 4.5 feet above the ground;
- B. Their removal does not create erosion or slope stability problems;
- C. The removal of such understory does not cause the Forest Conservation Easement area to fall below the required Standard Forest Density as described in herein;
- D. The forest floor is allowed to continuously regenerate tree and shrub seedlings to create future forest growth, and to continuously support a biological community consistent with typical forest environments and habitats;
- E. The shrubs, saplings, and seedlings were not planted as part of a forest establishment or improvement project; and
- F. The removal of shrubs, saplings, and seedlings is approved by the Town prior to commencement of clearing activities.

7. **SAPLING AND SEEDLING PROTECTION:** For areas of the Forest Conservation Easement that are below the Standard Forest Density, (such as areas set aside for ‘Natural Regeneration’; or for forested areas that fall below the Standard Forest Density due to natural occurrences, such as fire, pest damage, wind storm, etc.) saplings and seedlings may not be cut down, removed or destroyed until the Forest Conservation Easement area contains sufficient living trees to meet or exceed the Standard Forest Density.

8. FENCES: Fences are permitted along the boundary of the Forest Conservation Easement, provided their construction and maintenance can be executed in compliance with the restrictions of this Agreement. In the event the Property is utilized for the grazing of animals, the Grantor shall install fencing along the boundary of the Forest Conservation Easement, sufficient to prevent the animals from entering the Forest Conservation Easement. The Grantor shall be solely responsible for the installation and maintenance of any fences.

9. SUPPLEMENTAL PLANTING: Grantor may supplement existing (or replace dead) trees or undergrowth with new plantings provided that new plantings are characteristic of trees or undergrowth materials native to Maryland.

10. ALLOWABLE COMMERCIAL TIMBER CUTTING: Timber cutting for commercial purposes is permitted within the Forest Conservation Easement beyond 100 feet from the edge of the stream, provided that the area of timber cutting is performed in accordance with:

A. A Forest Management Plan that is:

- i. Prepared by a licensed professional forester; and
- ii. Approved by the Maryland Department of Natural Resources forester assigned to Frederick County; and
- iii. Approved by the Town; or

B. A Timber Harvest Plan that is:

- i. Consistent with the intent of the Forest Management Plan, and the intent and requirements of the forest conservation plan.
- ii. Prepared by a licensed professional forester; and

- iii. Submitted to and approved by the local Forestry Conservancy Board; and
- iv. Approved by the Town.

11. *HARVESTING/REFORESTATION:* If timber harvesting performed in accordance with Section 10 above causes the Forest Conservation Easement to fall below the Standard Forest Density, the Grantor shall be responsible for reforestation if natural regeneration is inadequate to provide for the cut area to achieve forested conditions in a timely manner. The posting of a financial guarantee and execution of a forest inspection and maintenance agreement (FIPA) shall be required to cover the costs of the Grantor's obligation under this section. The procedures for executing the FIPA and return of the financial security guarantee shall be done in accordance with Article XII of the Town's Forest Conservation Ordinance.

12. *ADDITIONAL IMPROVEMENT RESTRICTIONS:* No construction of new buildings, structures, roadways, driveways, parking lots, and impervious surface coverings is permitted within the Forest Conservation Easement.

13. *ADVERTISING RESTRICTIONS:* No posting of any advertisement, sign, or billboard within the Forest Conservation Easement is permitted.

14. *DUMPING RESTRICTIONS:* No dumping, land filling, storage, burial, application, injection, burning, or accumulation of unsightly or offensive material, including but not limited to, solid waste, hazardous substances, petroleum, sewage, bio-solids, chemicals, pesticides, construction debris, ashes, sawdust, farm machinery, vehicles, or grass clippings shall occur within the Forest Conservation Easement.

15. *FILL AND GRADING RESTRICTIONS:* Construction, excavation, placement of heavy fill, re-grading of the surface, or construction of retaining walls within the Forest Conservation Easement is prohibited, except when done pursuant to a Town approved

environmental enhancement project (such as stream bank restoration). Any change in topography or soil disturbance by filling, grading, stripping of topsoil, plowing, cultivating, or other practices is prohibited.

16. *MOTORIZED VEHICLE RESTRICTIONS:* No motorized vehicles, such as go-carts, dune buggies, trucks, cars, vans, motorcycles, etc., shall be operated or stored in the Forest Conservation Easement, except for those used in periodic maintenance or timber harvesting operations.

17. *UTILITY RESTRICTIONS:* The Forest Conservation Easement shall not be used as a site for any major public utility installation including, but not limited to, electric generating plants, electric transmission lines, gas generating plants, gas storage tanks, radio or microwave relay stations, or telephone exchanges.

18. *MINING RESTRICTIONS:* No mining or on-site extractive activity of any type; no new surface exploration for, or development, storage and extraction of, minerals and hydrocarbons in the Forest Conservation Easement by any method are permitted.

19. *PREVENTION OF DAMAGE:* All rights reserved by or not prohibited to the Grantor shall be exercised so as to prevent or minimize damage to the forest and trees, streams and water quality, plant and wildlife habitats, and the natural topographic character of the Forest Conservation Easement.

20. *APPROPRIATE ACCESS:* Grantor will provide appropriate access to, and hereby authorizes the Town and its agents to enter the portion of the Property subject to the Forest Conservation Easement at reasonable hours for the purpose of making periodic inspections to ascertain compliance with the restrictions, conditions, and easements established herein or to install or maintain forest improvements. The Town shall conduct inspections at least

four (4) times per year. The right of access shall be in, through, over and across that part of the land of the Grantor south of the Forest Conservation Easement: provided, however, that the Town and its agents shall use existing roadways and driveways where possible and shall minimize (and be responsible to repair, restore or compensate Grantor for) damage to growing crops, planted or cultivated fields, streams, lawns, pastures, and structures.

21. GENERAL PUBLIC RESTRICTIONS: This Agreement does not convey to the general public the right to enter the Property or Forest Conservation Easement for any purpose. The Agreement does not restrict or enlarge access by the general public in common open space (if any) held under community or homeowner association control beyond any access rights created by the applicable community or homeowner association covenants and bylaws.

22. VIOLATIONS: Upon finding a violation of any of the restrictions, conditions, covenants and easements established by this Agreement, the Town and the Grantor shall each have the right to enforce against the other such provisions in accordance with any statutory authority (including, if applicable the imposition by the Town of civil monetary fines or penalties in amounts and by such means as may be promulgated from time to time and the pursuit by Grantor of the rights and remedies available under the Maryland Contract Lien Act). The Town and Grantor may also seek injunctive or other appropriate relief in any Court of competent jurisdiction, including the right to recover damages in an amount sufficient to restore the Forest Conservation Easement or the Property to its original state, and Town and Grantor each agrees to pay for Court costs and reasonable attorneys' fees if the Town or the Grantor respectively, prevails in any judicial proceedings.

23. LEGAL REFERENCES: Grantor agrees to make specific reference to this Agreement in a separate paragraph of any sales contract, mortgage, subsequent deed, lease or

other legal instrument by which any possessory or equitable interest in the Property is conveyed, provided, however, that Grantor's failure to do so shall not constitute a default by Grantor hereunder as this Agreement will be recorded among the Frederick County Land Records.

24. ENFORCEMENT/INSPECTION FAILURE: Failure on the part of the Town or the Grantor to enforce any covenant or provision herein shall not constitute a waiver of the Town's or the Grantor's right to later enforce any covenant or provision within this Agreement. Failure on the part of the Town to perform periodic inspection of the Forest Conservation Easement Area shall not constitute a breach by the Town, nor shall any failure to inspect nullify or terminate the Forest Conservation Easement granted herein.

25. FORCE MAJEURE: The parties to this Agreement shall be excused from the performance of their obligations under this Agreement to the extent that such performance is prevented by force majeure (defined below), if the nonperforming party promptly provides written notice of such prevention to the other party. The excuse shall be continued so long as the condition constituting force majeure continues. The party affected by the force majeure also shall notify the other party of the anticipated duration of such force majeure, any actions being taken to avoid or minimize its effect after such occurrence, and shall take reasonable efforts to remove the condition constituting such force majeure. For purposes of this Agreement, **force majeure shall include** conditions beyond the control of the parties, including an act of God, acts of terrorism, war, acts of war (whether war be declared or not), labor strike or lock-out, civil commotion, epidemic, failure or default of public utilities or common carriers, and the destruction of new or existing forest by fire, earthquake, storm, or like catastrophe.

26. WRITTEN NOTICES: All notices required or allowed by this Agreement shall be in writing and shall be sent to the Town Manager, 300A South Seton Avenue, Emmitsburg,

Maryland, 21727, and to the Daughters of Charity Ministries, Inc., c/o

_____ 4330 Olive Street, St. Louis, Missouri, 63108.

27. **NON-APPROPRIATION:** Any failure of the Town to perform its obligations under this Agreement or the Revertible Forest Conservation Deed of Easement/Maintenance Covenants and Agreement, which failure resulted from non-appropriation of funds necessary to perform such obligations, shall be excused for a period of time not to exceed one (1) calendar year and shall not constitute a breach of this Agreement by the Town during that period.

28. **MS4 CREDIT:** The Grantor understands and consents that the Town shall receive MS4 credit for the planting and maintaining of trees in the Forest Conservation Easement.

[SIGNATURES BEGIN ON THE FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties hereto set their hands and seals unto this Agreement, which is executed as of the day and year first above mentioned.

Reviewed for Technical Sufficiency:

By: _____
Cathy Willets, Town Manager

Reviewed for Legal Sufficiency:

By: _____
Leslie A. Powell, Town Counsel

Reviewed for Financial Sufficiency:

By: _____
Madeline Shaw, Town Clerk

ATTEST:

By: _____
Cathy Willets, Town Manager

MAYOR, TOWN OF EMMITSBURG
("Town")

By: _____
Donald N. Briggs, Mayor

**DAUGHTERS OF
CHARITY MINISTRIES, INC.**
("Grantor")

By: _____
George Benton,
Title: _____

Witness

4873-2760-6528, v. 1

AGENDA ITEM# 8. Find that 303 West Lincoln Avenue is no longer needed for a public purpose and set the sale price for consideration: Presentation at meeting by staff.



SUBJECT PROPERTY PHOTOGRAPHS



SUBJECT PROPERTY NORTH AND WEST FAÇADES



EAST FAÇADE



BUILDING REAR – SOUTH FACADE



PARKING AREA

Pugh Real Estate Group, LLC
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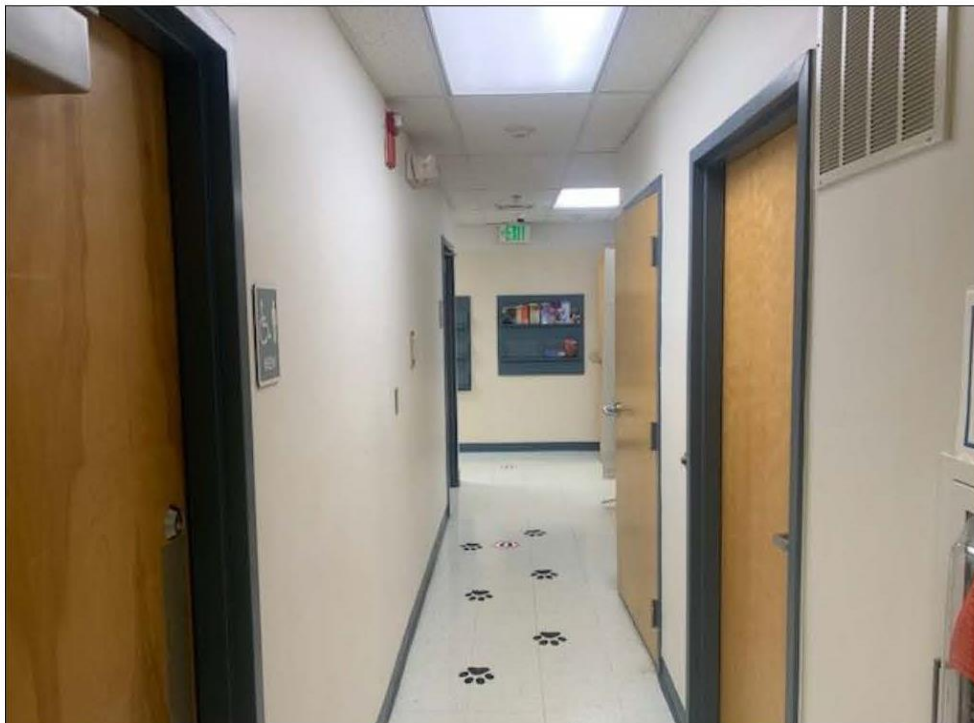
EAST FACADE



RECEPTION AREA



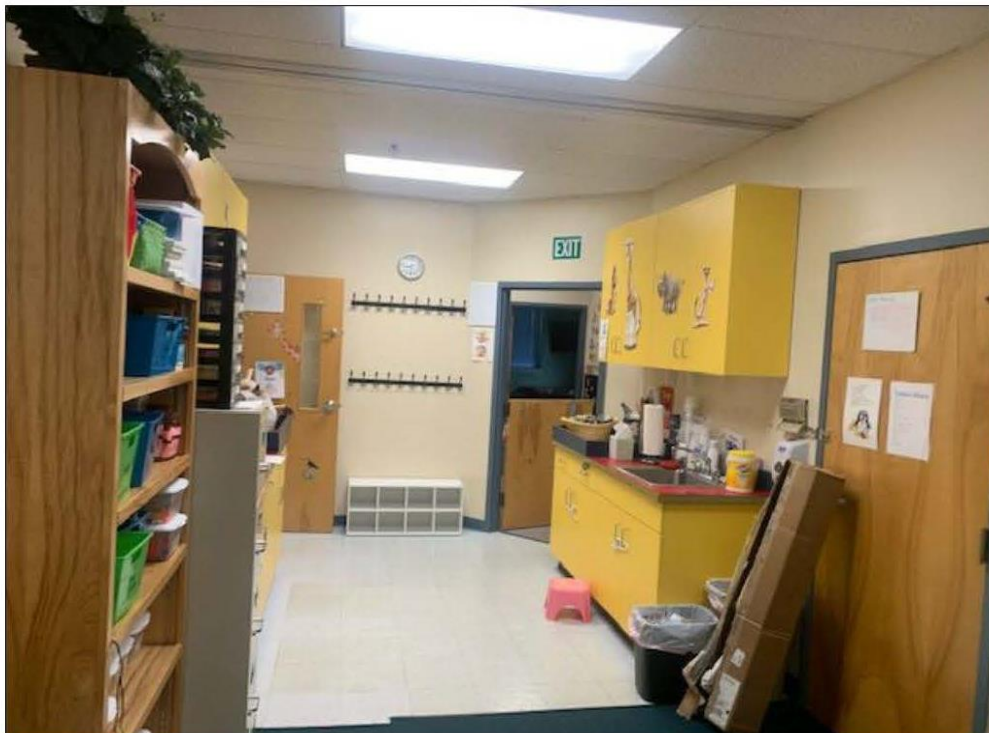
WORSHIP AREA



TYPICAL HALLWAY



TYPICAL CLASSROOM



FRONT ROOM



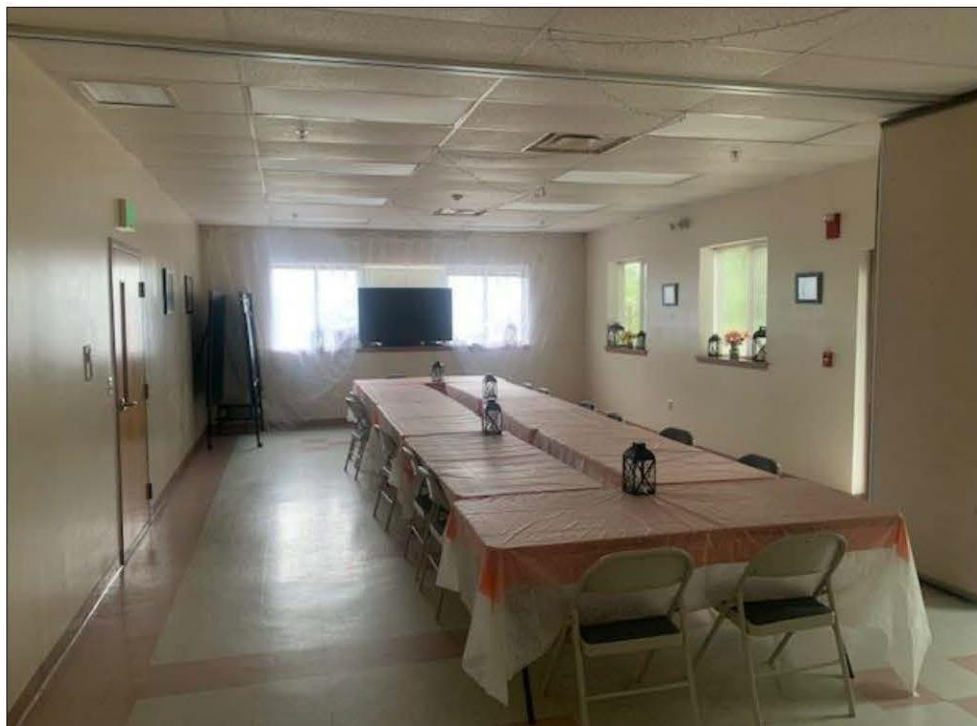
KITCHEN



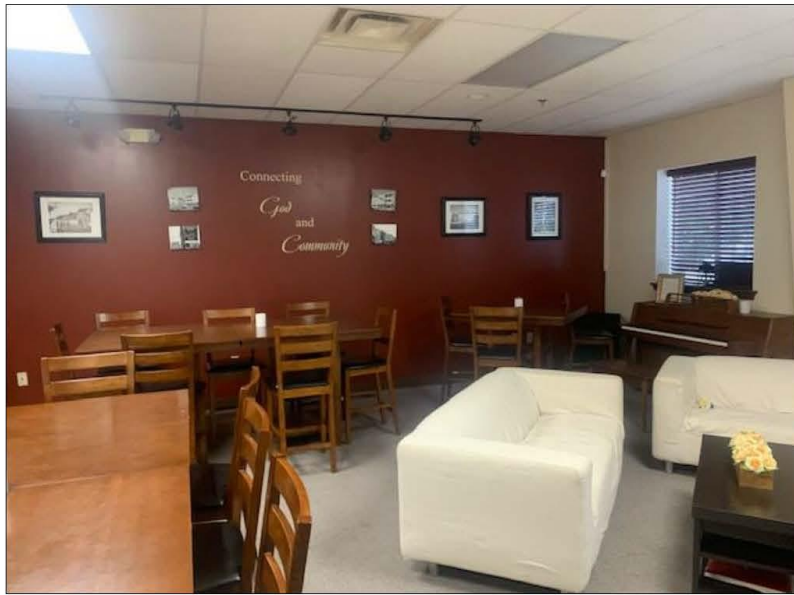
KITCHEN



NURSERY




COMMUNITY/DINING AREA




SOCIAL ROOM

AGENDA ITEM# 9. Find that 3 acres at the 16715 Creamery Road, waste water treatment plant property, is no longer needed for a public purpose and set the sale price for consideration: Presentation at meeting by staff.

EXCESS LAND AREA



EXCESS LAND PHOTO



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M. SET AGENDA FOR NEXT MEETING: TUESDAY, DECEMBER 7, 2021 AT 7:30 PM

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

Administrative Business:

- A.
- B.
- C.