



REGULAR BOARD MEETING

February 11, 2025 at 7:00 PM

Madison Township Hall – 3804 South Adrian Hwy.

AGENDA

Meeting held in person and electronically through Zoom.

Call to Order (Cell Phone Reminder - Silent Prayer – Pledge)

Roll Call of Township Board

Public Hearings (If Applicable)

Amendments to Regular or Consent Agenda

Petitions and Communications of Township Board

Introduction of Special Guests

Public Comment (any agenda item – 3 minutes)

Department Head Communications

Approval of Consent Agenda

1. Approval of Previous Meeting Minutes
2. Treasurer's Report
3. Presentation of Bills
4. Police Department Report
5. Fire Report
6. Building Official's Report
7. Electrical Inspector's Report
8. Mechanical Inspector's Report
9. Plumbing Inspector's Report
10. DPW Report

[11.](#) Advisory Committee Reports/Minutes

[12.](#) Statutory Board Reports/ Minutes (BOR, Planning, ZBA)

Old Business/ Unfinished Business

1. Water and Sewer Connection Fees

New Business

[1.](#) Township Credit Card Policy

[2.](#) Airport Section Residents Not on Water

[3.](#) ID Printer

[4.](#) Budget Amendments

Elected Official Comment (any topic – 2 minutes)

Public Comment (any topic – 3 minutes)

Announcements

Adjournment/Recess



CHARTER TOWNSHIP OF MADISON

Ryan Rank
Supervisor
Janet Moden
Clerk
Harold Gregg
Treasurer

3804 S. ADRIAN HIGHWAY
ADRIAN, MI 49221
517-263-9313 Fax: 517-263-4569

TRUSTEES
Howard Bales
Ralph Benschoter
Chad Rodgers
Norman Schutte

Madison Township Board Meeting
Held in Person and Electronically (Zoom)
Minutes of January 14, 2025

7:00 p.m. Board Meeting called to order, with a silent prayer, and pledge to the flag said by all.

ROLL CALL:

Present in person: Bales, Benschoter, Gregg, Moden, Rank, Rodgers and Schutte.

APPROVAL OF BOARD MTG MINUTES 12/10/24:

Motion by Bales, supported by Rodgers, to correct the attendance roll call to include Rodgers in the minutes and dispense reading and approve the monthly Board meeting minutes as written for 12/10/2024. Motion was carried 7-0.

AMENDMENTS TO THE AGENDA: None

PETITIONS & COMMUNICATIONS:

Supervisor Rank announced that Lenawee County Road commission will hold their annual meetings separately with each township board on March 3, of this year at 10:30 a.m. at the Lenawee Country Road Commission building. There will also be a public Meet and Greet at the Lenawee County Road Commission on January 28, 2025, at 5:30 to 8:00 at the Raisin Twp. Community Center at 3266 Gady Rd, Adrian, MI for the public.

The planning commission has scheduled the legally required 4 meetings in 2025, any other times that meeting will be required will be scheduled as needed.

INTRODUCTION OF SPECIAL GUESTS: None

LIMITED PUBLIC COMMENT ON AGENDA ITEMS: None

3-MINUTE DEPT. HEAD UPDATES:

Fire: Chief Wilson stated that he currently has a Fire Officer class going on that includes other firefighters from the area as well three people for Madison. One Firefighter from Madison is having to attend the EMT class in Bedford due to his full-time work schedule, and we are working to get a grant to pay for it.



CHARTER TOWNSHIP OF MADISON

Police: Chief Gentner stated their department had 3150 calls in 2024. Currently the new officer in training, Officer Solis, is doing well in her second phase of probationary training.

Water/Sewer: Watterson stated that he is currently working with DJW on the Cadmus Rd hook up and the maps in Greenacres already pre-existing hook up locations, and whether they are individual taps to our system and not shared. Been working on the Asset software, and moving forward on getting a new Water meter for our hookup to Fairfield Twp.

Inspection: Building Official, Rincon is busy with the following projects:

- Cadmus Rd – Two new homes – DJW - currently working on final inspections soon.
- Ross's – Moving forward.
- Michaels's – Grand Opening and Ribbon cutting on 1/18/25.
- GreenAcres – DJW expects to build 38 new homes in this subdivision, already have 4 building permits in the works, working on Zoning and building plans.

Legal: None

APPROVAL OF CONSENT AGENDA: A monthly report has been added to the consent agenda from A. LaCelle, our auditor of her monthly activities. Motion by Rodgers, supported by Gregg to approve the consent agenda. Roll call vote: : Bales, Yes; Benschoter, Yes; Gregg, Yes; Moden, Yes; Rank, Yes; Rodgers, Yes; and Schutte, Yes. Motion carried 7-0.

Board of Review Meeting Minutes 12/10/24:

Minutes of the Board of Review meeting minutes were presented, motion to approve by Bales, supported by Rodgers. Motion carried 7-0. No action taken.

Planning Commission Meeting Minutes 12-19-24:

Minutes of the Planning Commission Meeting minutes were presented and motion to approve by Rodgers and seconded by Schutte. Motion carried 7-0. No action taken.

Water/Sewer Committee Meeting Minutes 1/3/2025:

The minutes of the meeting were presented for approval by Bales and supported by Rodgers. Motion carried 7-0.

The first agenda item was discussed by the board regarding the possibility of giving developers that are looking to do multiple buildings in the township a discount rate on the cost of tap fees and sewer hookups. This topic was broached by the DJW builders looking to build up to 38 houses in the Green Acres subdivision that they just purchased and on Cadmus Rd. lots. Currently it costs \$5229.00 for Sewer hookups, and \$5700.00 for water taps. It was discussed that we are one of the highest in the county for these two fees. Tecumseh is currently at



CHARTER TOWNSHIP OF MADISON

\$2500.00. In 2020 our fees were \$3300.00 for sewer and \$4400.00 for water taps, then after the rate study was done, the fees were raised to what they are today. It was discussed that we only have two ways of increasing our revenue stream, adding taxable values (new homes or commercial/industrial) of increasing everyone's taxes by adding additional millages. Many questions came up about how it would be administered and monitored, at that point it was decided that we need to do a lot more research on the subject before the board makes any decisions regarding this idea.

Agenda item #2 was regarding the replacement of the water meter between Madison Twp and Fairfield Twp. The quote came in at \$10502.19 for a new Neptune 8-inch water flow meter from Ferguson Meter. Bales made a motion to approve the purchase of the meter and recommended that the total amount of \$16000.00 not be exceeded, which would allow room for installation services if needed, supported by Schutte. Motion carried, 7-0.

OLD BUSINESS/UNFINISHED BUSINESS: None

NEW BUSINESS:

Annual Public Act 152 Resolution:

A resolution to Opt-Out of the PA-152 act for Publicly Funded Health Insurance contributions was submitted for 2025. Motion by Bales, supported by Benschoter to approve this resolution. Roll call vote: : Bales, Yes; Benschoter, Yes; Gregg, Yes; Moden, Yes; Rank, Yes; Rodgers, Yes; and Schutte, Yes. Motion carried 7-0.

Township Policy And Procedures Manual:

A resolution was presented for approval by Supervisor Rank to the board with updated information for the 1.) Rules and Procedures are presented to the board, 2.) Township Clerk is authorized and directed to communicate the provisions to the stakeholders, and 3.) The township board has the right to review and amend the Rules and Procedures as the township needs evolve, in accordance with Michigan Law and Township governing documents. Motion to approve by Benschoter, supported by Gregg. Roll call vote: : Bales, Yes; Benschoter, Yes; Gregg, Yes; Moden, Yes; Rank, Yes; Rodgers, Yes; and Schutte, Yes. Motion carried 7-0.

Annual Township Meeting Dates:

Supervisor Rank submitted to the board a calendar of 2025 meeting dates to be scheduled and posted as required for the Open Meetings Act of 1976, and the ADA Act.

Motion to approve was made by Rodgers, supported by Benschoter. Roll call vote: : Bales, Yes; Benschoter, Yes; Gregg, Yes; Moden, Yes; Rank, Yes; Rodgers, Yes; and Schutte, Yes. Motion carried 7-0.



CHARTER TOWNSHIP OF MADISON

2025 Committee, Boards and Bank Depository List:

Supervisor Rank submitted a 2025 list of Committees, Boards and Bank Depositors for the board to approve. He stated that there was currently an opening for an alternate on the ZBA board. If anyone is interested, please contact him. Motion to approve the list as submitted was made by Bales, supported by Benschoter. Roll call vote: : Bales, Yes; Benschoter, Yes; Gregg, Yes; Moden, Yes; Rank, Yes; Rodgers, Yes; and Schutte, No. Motion carried 6-1.

2025 Budget Amendments

Capital Outlay	592-537-971-000	\$875,000.00	Water Project
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Gregg stated that the grand total for 2025 will be around one million dollars with around \$500,000 coming in between now and August from the bonds.

Gregg made a motion to approve the above allocation as stated, supported by Schutte. Roll Call Vote: Rank, Yes; Gregg, Yes; Moden, Yes; Schutte, Yes; Rodgers, Yes; Benschoter, Yes; and Bales, Yes. Motion carried 7-0.

ELECTED OFFICIALS' COMMENTS:

Moden: Reported that there had been some type of vehicle damage done in the Hunt Cemetery in Oct 2024, waiting on a quote to get damaged tombstones fixed. She also reported that both of the townships marijuana growers, East Eden and 2GrowIt have both renewed their separate permits for 2025.

Rank: Reported that the township was granted an A+ stable Standard and Poor's credit rating, the bond interest rate will be at 4.02% and it should close next week and we should see the money by the 28th of January. The new Civicplus website should go live next week, depending on when we get the DNS data from our old host Shumacher.

Schutte: None

Rodgers: None

Benschoter: None

Gregg: None .

Bales: He asked if we had heard any more about getting quarterly reports from the auditors. Rank said he had spoken with the auditors and that they would work with us about that. He also asked about us having policies/procedures for investing the water project bond money.



CHARTER TOWNSHIP OF MADISON

AUDIENCE COMMENTS: Resident Thielen asked what the status of the building permit for the marijuana place (2GrowIt) was. Rincon stated that they met with the township and were told that they were to come up with a timeline for finishing their open issues and that he would go back to inspect their progress. They have deleted the dispensary and will finish off the front of the building, fix the driveway to code for fire and finish the road front by 2/13/25 or the township will notify the state that they are not in compliance and pull their permit.

Resident Gira asked about the marijuana smell from Flurish in the City, who handles that? Per Attorney Castleberry he suggested that anyone can contact the state EGLE to report it.

ANNOUNCEMENTS: None

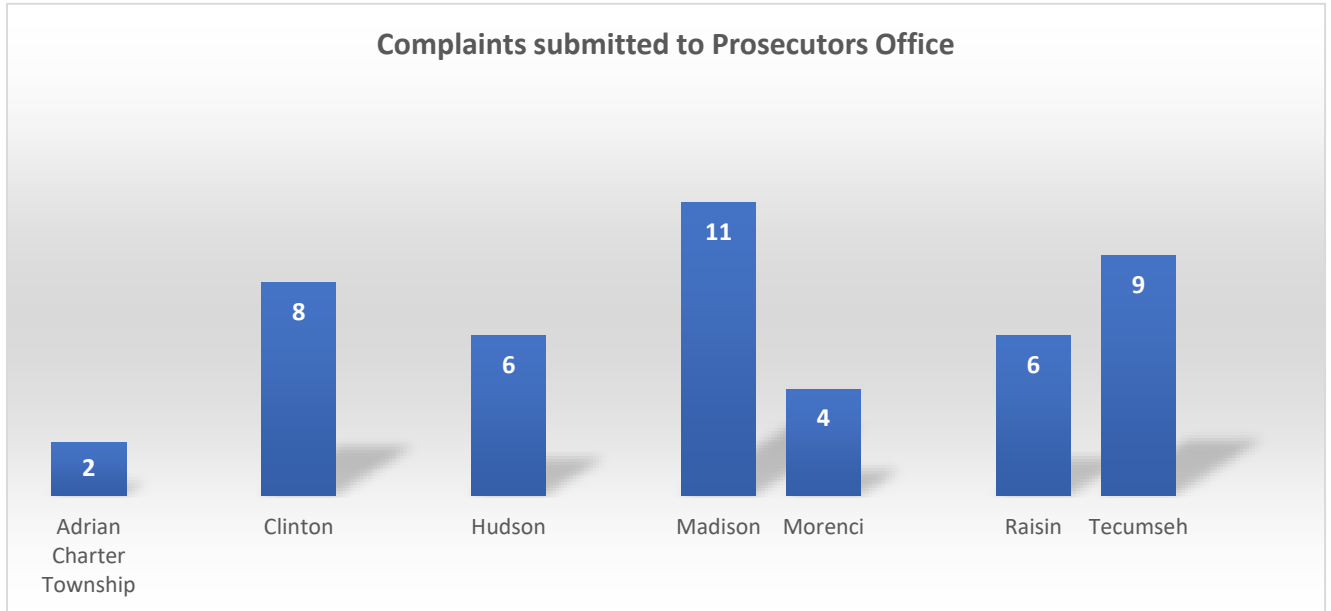
ADJOURNMENT/RECESS: Motion by Benschoter, seconded by Rodgers, to adjourn the meeting. Motion carried 7-Yes; 0-No. Meeting adjourned at 7:47 p.m.

Typed and Submitted by:

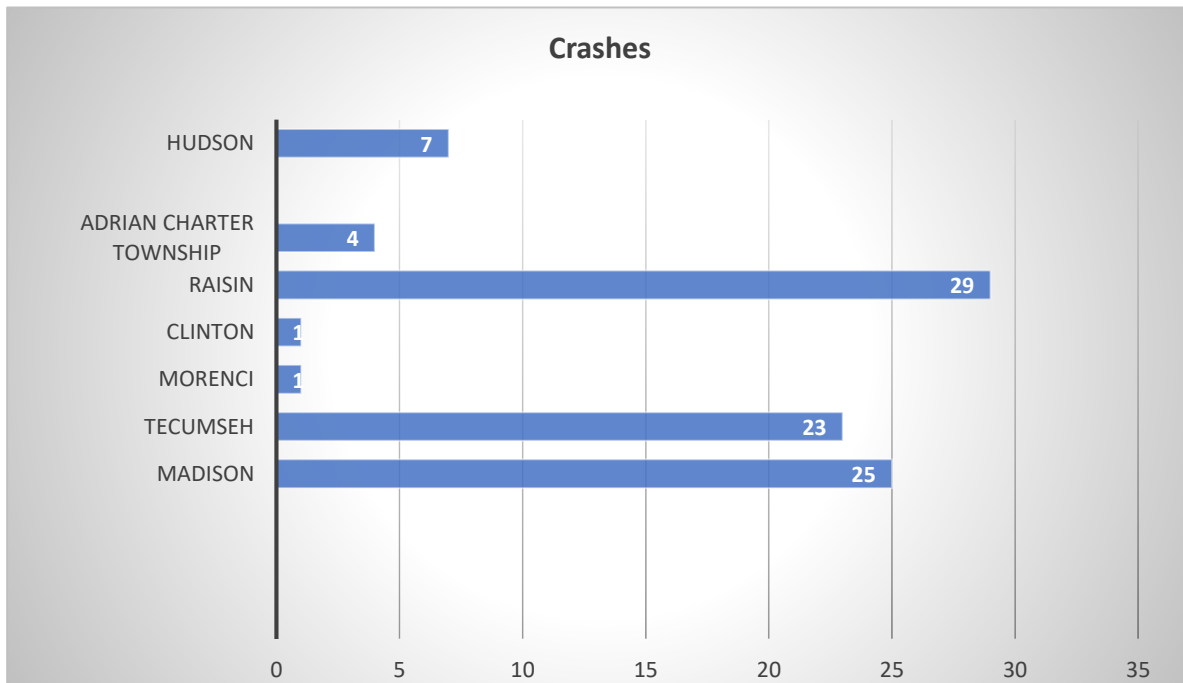
Janet Moden
Township Clerk



January 2025 Board Report



Adrian Police Department	82
LCSO	53
MSP	54



Adrian Police Department	57
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Township of Madis
Police



POLICE DEPARTMENT

Item 4.

David M. Gentner II, *Chief of*

LCSO	109
MSP	X

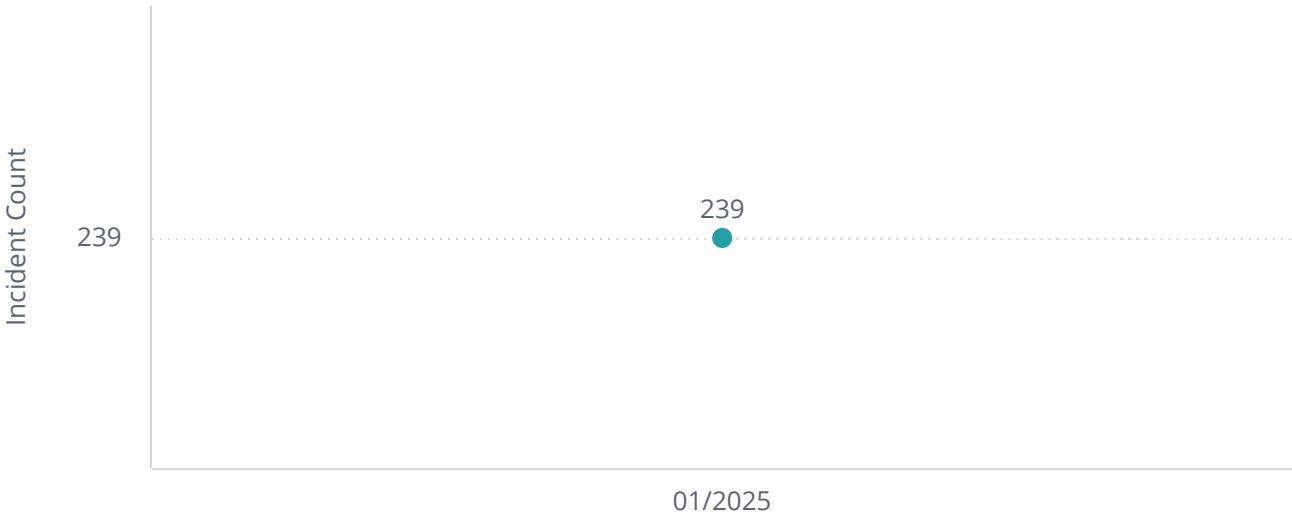
Total Number of Incidents



Average Time on Scene

Average Time On Scene
38m:33s

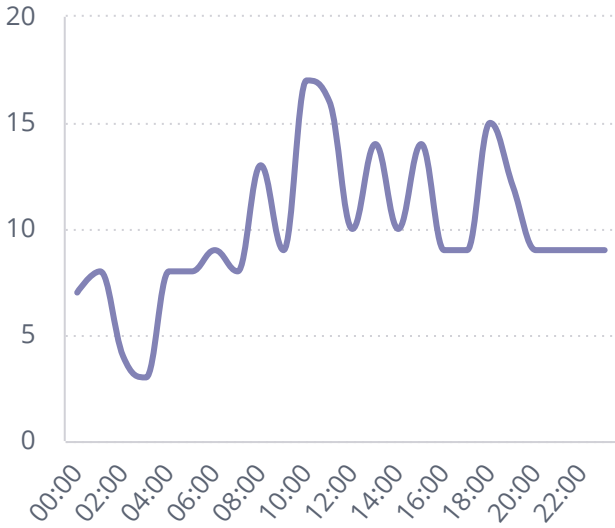
Incident Trend



Incident Month

■ Count of Incidents

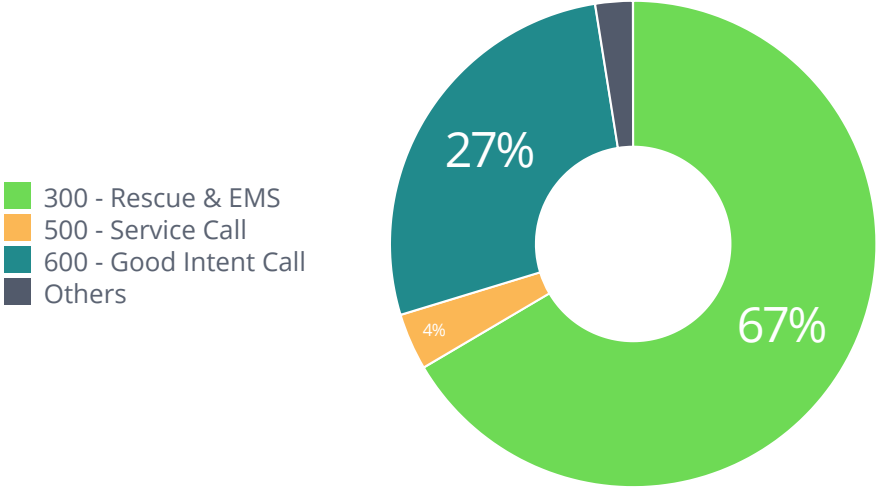
Time of Incidents



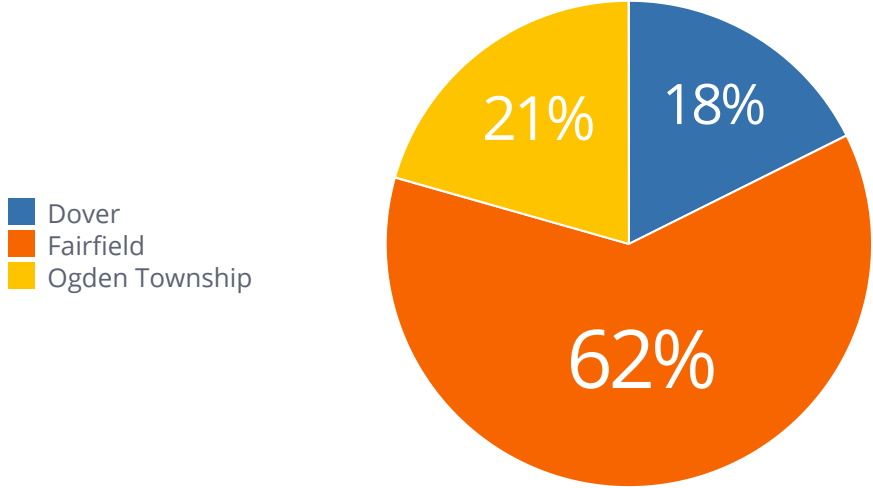
Hours in Alarm DateTime

■ Count of Incidents

Percent of Incident Responses by Incident Type



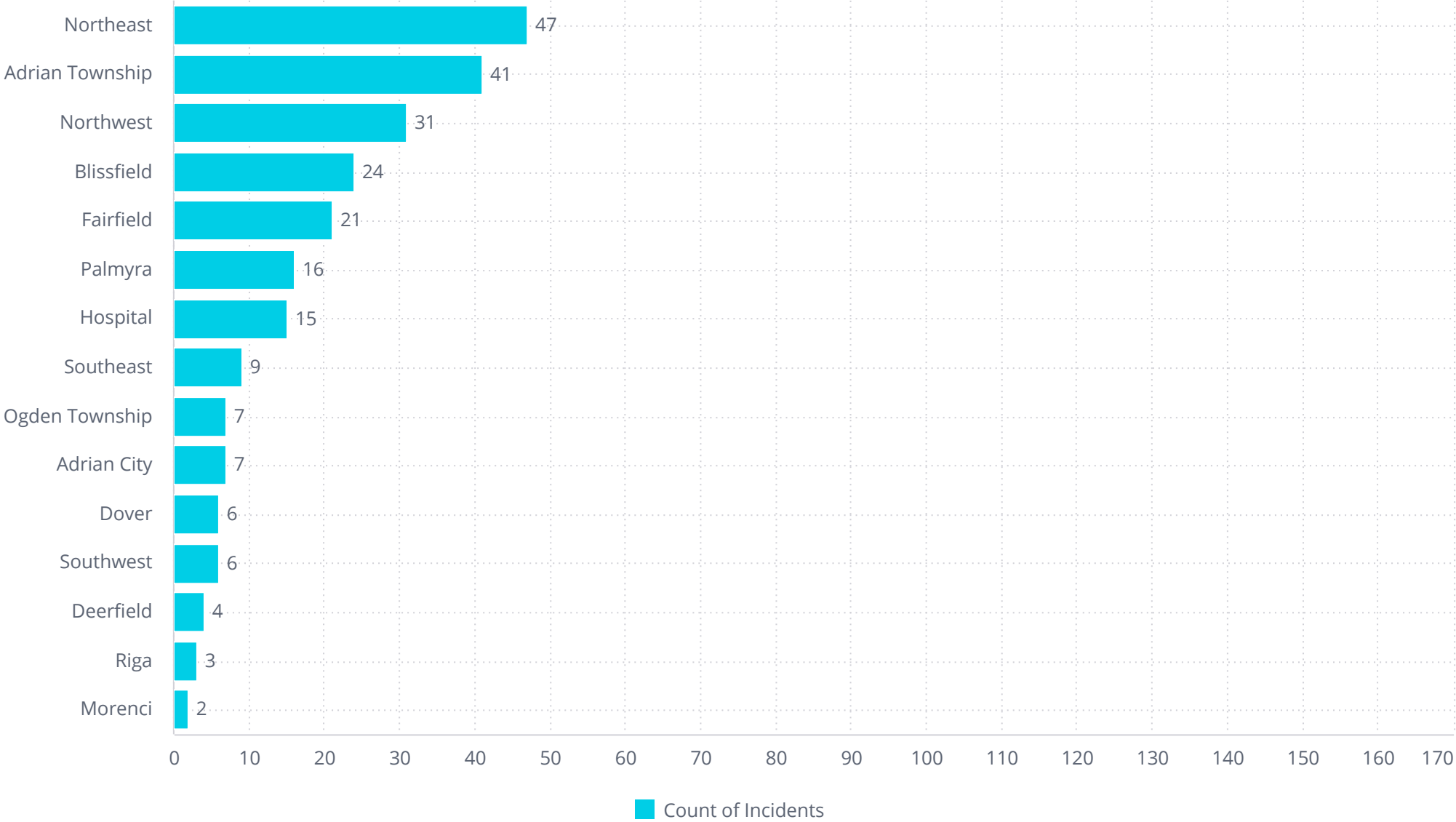
Contract Area Count



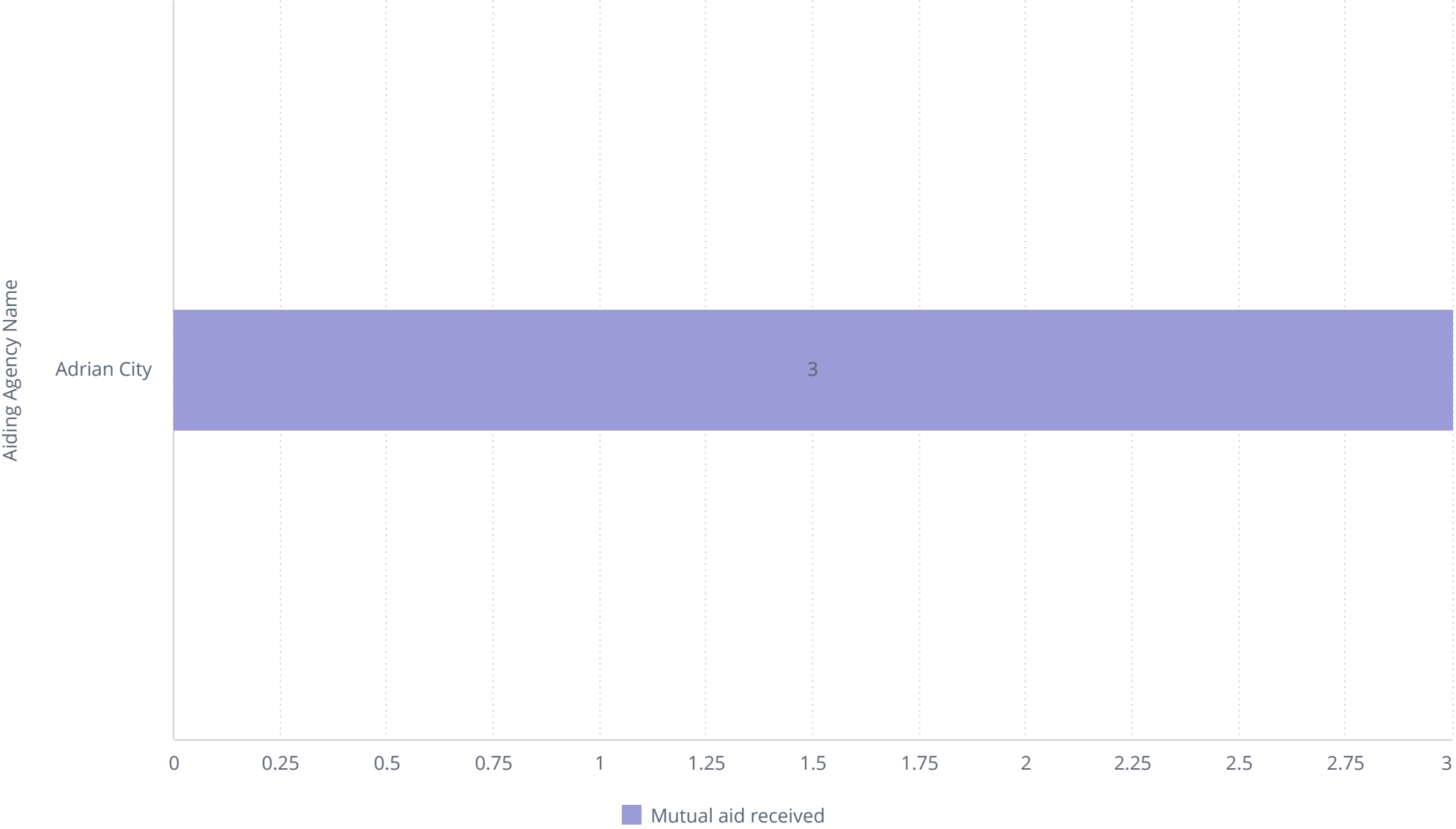
Incident Type

Incident Type	Incident Count
ALS Transfer	1
BLS Transfer	3
Citizen Assist	7
EMS call, excluding vehicle accident with injury	95
Madison transport for BLS agency	2
Medical Alarm	2
Motor vehicle accident with injuries	6
Motor vehicle accident with no injuries.	2
Paramedic Assessment- BLS agency	21
Paramedic transport- BLS agency	20

Count of Incidents by District



Mutual Aid Recieved

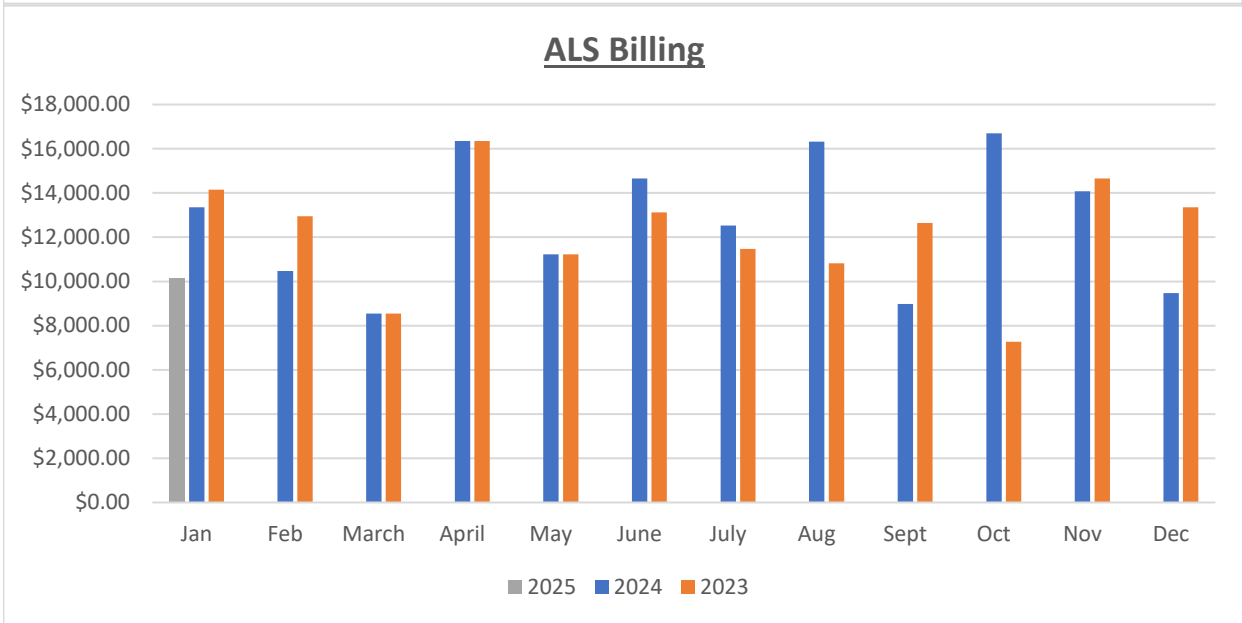
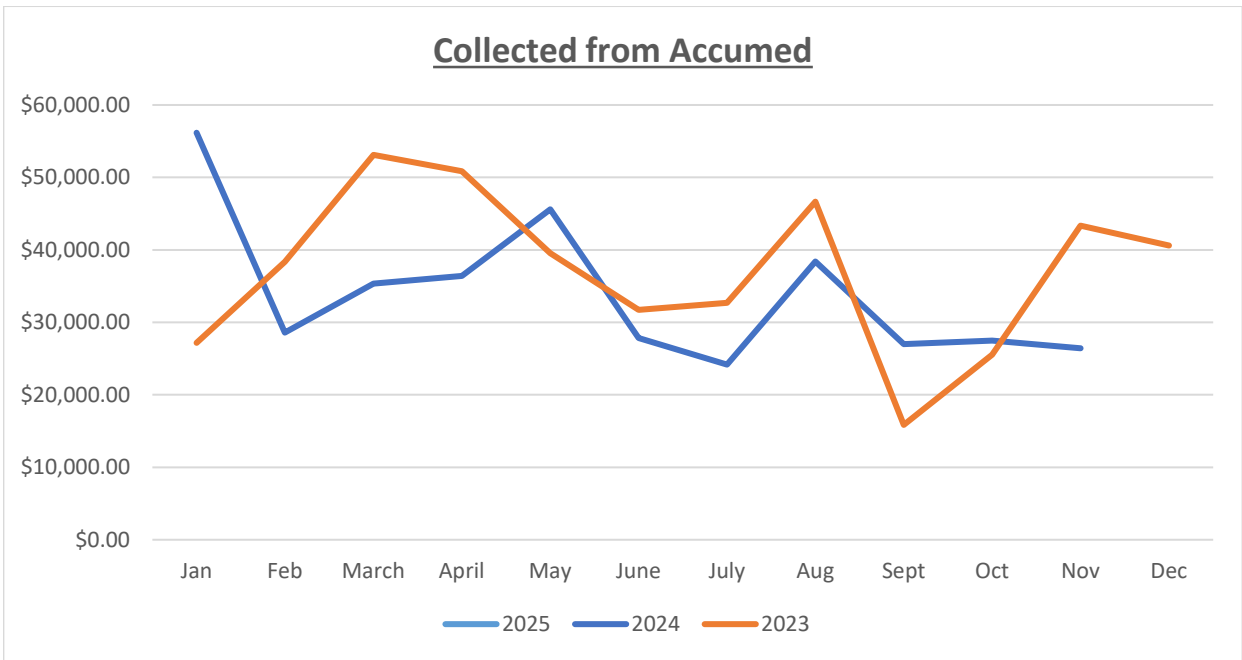


Mutual Aid

Aid Given Or Received	Incident Type	Incident Count
Automatic aid given	Dispatched and Cancelled- No response	1
	Engine Assist	2
	Full Assist	1
	Motor vehicle accident with no injuries.	1
	Tower Assist	2
Mutual aid given	Ambulance Assist	2
	Engine Assist	1

Calls By Unit

Unit Name	Percentage of Calls ↓	AVG Time on Scene
E88	42.92%	32m:32s
M6	28.31%	45m:02s
M7	27.40%	40m:54s
M4	7.31%	48m:04s
E1	5.94%	55m:11s
T5	1.83%	14m:40s
Echo 1	1.37%	106m:00s
B9	0.91%	22m:30s
E2	0.46%	222m:00s
B8	0.46%	41m:00s



<u>Type of Write Off</u>	<u>Amount</u>	<u>Revenue</u>	<u>Month</u>	<u>YTD</u>
Insurance Write-Offs		Billed for Ambulance/Fire	\$119,839.00	\$119,839.00
Medicaid Write-Offs		Collected from Accumed	\$11,606.81	\$11,606.81
Resident Write-Offs		Billed to BLS Agency	\$10,150.00	\$10,150.00
Sent to Collections		EMS Training Billed	\$0.00	\$0.00
TOTAL	\$0.00	TOTAL	\$141,595.81	\$141,595.81

CHARTER TOWNSHIP OF MADISON

Ryan Rank
Supervisor

3804 S. Adrian Highway
Adrian, MI 49221

TRUSTEES

Chad Rodgers
Howard Bales
Norm Schutte
Ralph R. Benschoter

Janet Moden
Clerk

517-263-9313 Fax 517-263-4569

Harold Gregg
Treasurer

Monthly Building Inspector Report For the Month of January, 2024

25	Inspections Completed
5	Plan Reviews Finalized
7	Plan Reviews in Progress
\$8,507.50	Amount of Fees Collected
\$4,896.96	Adrian Twp. - Payment for Inspections
21	Adrian Twp. - Number of Inspections

Violations and Complaint Types Handled

	Township ordinance #
	Nuisance ordinance #
1	Life Safety inspections
	Zoning Issues 35
\$455.00	Zoning fee collected
\$13,859.46	Total Income Madison / Adrian Twp

Activitie

Other Activities

- Numerous Building Code Questions from Residents
- Meetings with the Residents and Contractors On-Site
- Written Correspondence and Follow-Up
- Research on Issues and Laws
- Coordination of Tasks with Other Departments

Permit Revenue by Type

02/04/2025

Permit	Entry Type	Entries	Amount
	Building	28	8,507.50
	Electrical	10	430.00
	Mechanical	16	740.00
	PLUMBING	26	816.00
	Zoning	7	455.00
	Totals For Permit:	87	10,948.50
Grand Totals		87	10,948.50

Population: All Records

Transaction.DateToPostOn Between 1/9/2025
00:00 AM AND 1/31/2025 11:59:59 PM

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Item 9.

Charter Township of Madison

Department of Public works

January 2025

- Water usage for the month of January was 9.4 million gallons.
- Sewer usage for the month of January was 10.2 million gallons.
- Water usage for Fairfield Twp. for the month of January was 1.8 million gallons.

Operations

- Work orders for the month of January were (36).
- Miss Digs for the month of January was (84). All Miss Digs were reviewed and serviced as needed.
- Water meters were read, and all work orders were completed.
- All sewer reads for the month of January were submitted to the City of Adrian.
- Lift stations and generators were inspected for the month of January.
- Monthly operating report submitted to EGLE.
- Backwashing of iron filter as necessary.
- Monthly Drinking water sampling has been completed.
- Wastewater discharge sampling at water treatment plant.
- The Annual Drinking Water Sampling has been completed.

Communications

- The replacement water meter for Fairfield Township has been ordered, we should receive it by the end of February.
- Ferguson meter will be giving the public works water meter pricing for changing out old water meters throughout the entire water distribution system. some of the meters in our system are more than 30 years old and are due to be replaced.
- The Public works department is in the process of updating its capital improvement plan for infrastructure projects ranging from 5-20 years out.
- The public works employees attended the 2025 operators' day and the joint expo in Lansing. Half of the day was spent in training learning about various topics. We also heard speakers from the EGLE and other speakers from water systems throughout the state.

**Submitted by Tim Watterson
Department of public works Superintendent**



CHARTER TOWNSHIP OF MADISON

Ryan Rank
Supervisor
 Janet Moden
Clerk
 Harold Gregg
Treasurer

3804 S. ADRIAN HIGHWAY
 ADRIAN, MI 49221
 517-263-9313 Fax: 517-263-4569

TRUSTEES

Howard Bales
 Ralph Benschoter
 Chad Rodgers
 Norman Schutte

Madison Township Informational Meeting Held in Person Minutes of February 5, 2025

11:00 a.m. Informational Board Meeting called.

Present in person: Gregg, Moden, Rank, and Schutte. Also present Watterson, Rincon, and Wilson.

Supervisor Rank stated that this meeting and any future meetings of this nature are for informational and discussion purposes only. No voting or decisions on any topic will be made.

Supervisor Rank informed everyone that our auditors had contacted us that the township needed to have a "Credit Card Policy" adopted, so Rank presented those who were present with a copy of a policy that he had researched and was making everyone aware of and if they had any questions before it was presented at the monthly board meeting.

A lengthy discussion was held by the group present regarding our current and past Water and Sewer Connection fees. Information was provided, questions were asked.

A discussion was held about those people who did not hook to the water at the time it was put into the Airport section, and it is documented that they did pay the \$3500.00 special assessment fee, but not the hookup tap fee. It was discussed if we needed to correct the resolution from 2023 with a new resolution possibly.

Supervisor Rank brought up the need for an ID printer and camera system, stating "that way everyone who represents the Charter Twp of Madison could be properly identified." Clerk Moden stated that it could be funded by money received in a grant for security, since the election workers would be using the system also, if it was purchased.

Supervisor Rank stated that he felt it would be a good thing to have the Planning Commission at least review the township Master Plan as some point.

Treasurer Gregg explained that he would be presenting some 2025 budget adjustments at the next board meeting with regards to the Water Debt service and capital improvement since the bonds were settled on. Also, he explained the millage for roads had new language added to it with regards to the use of these monies for parking lots.



CHARTER TOWNSHIP OF MADISON

No other discussions were held. Meeting dismissed and closed at 12:08

Typed and Submitted by:

Janet Moden
Township Clerk

CHARTER TOWNSHIP OF MADISON
MADISON TOWNSHIP HALL
3804 S. ADRIAN HIGHWAY
PLANNING COMMISSION REGULAR MEETING
January 23, 2025
7:00 p.m.

7:01 p.m. Chairperson Johnson called the meeting to order and led the Pledge of Allegiance.

ROLL CALL

Planning commission members present: Chairperson Michelle Johnson, Vice Chairperson Rodney Meeks, Secretary Amy Hepker-Wilson, Chad Rodgers, Joyce Holtz, Dale Thielan, Richard June and Reid Moden (Alt.). A quorum was established.

Planning Commission members absent: None

Also in attendance: David Rincon (Building/Zoning official), Ryan Rank (Township Supervisor), Nic Wilson (Fire Chief), William Gira

APPROVAL OF December 19, 2024 Regular meeting minutes:

Motion was made by Chairperson Johnson, seconded by Vice Chairperson Meeks, to approve the minutes from 12/19/24. Motion carried 7-0

PUBLIC COMMENT – agenda items only: None

NEW BUSINESS

Election of Officers

Motion to elect Michelle Johnson as Chairperson was made by Secretary Hepker-Wilson and seconded by Thielan. Motion passed 7-0.

The motion to elect Rodney Meeks as vice chairperson was made by Secretary Hepker-Wilson and seconded by Johnson. Motion passed 7-0.

The motion to elect Amy Hepker-Wilson as secretary was made by Chairperson Johnson and seconded by Thielan. Motion passed 7-0.

2024 Annual Report to Madison Township Board

Motion Made by Thielan to submit the report as is to Clerk Moden and Supervisor Rank, Seconded by June. Motion Passed 7-0

PUBLIC COMMENT: Items Not on the Agenda:

PLANNING COMMISSION REPORTS:

Thielan-Suggested more zoning enforcement.

Thielan- Inquired about Airport subdivision builds off Cadmus and Taylor Dr. Rincon says that homes are being built on Cadmus Rd. and there is a possibility for planned unit development to be built on Taylor Dr. directly behind the houses on Cadmus Rd. He will present more information for approval of the

planned unit development at a future meeting.

Rodgers asked about swamp land in the area of the project on Cadmus Rd., and Taylor Dr. Rincon stated they are meeting code standards, and fill dirt was brought in.

Chairperson Johnson- Reappointments to the Planning Commission will be on December 31st in the year in which the appointment expires. Johnson is also working on making a spreadsheet with all the agenda information from planning commission meetings going back to 1999. This will allow the commission to reference past items quickly if needed and have a better view of historical data. Johnson also questioned Supervisor Rank about what is being done about drones in the area of Carelton Rd. and Treat Hwy and if I.C.E. is in township doing raids.

Zoning Official Rincon- Updated the commission on new building projects in the township, including the 1st home being built in Sunnyside, because the overlay the planning commission considered and passed in 2023 allowed for that house and another to come in the Sunnyside neighborhood. This will be the first house built in that neighborhood in many years. Green Acres, which currently has many vacant lots, will have homes starting to be constructed shortly as a DJW has purchased the vacant lots and intends to build houses through 2026.

Township Official-Supervisor Rank says the website is up and running; Planning Commission meeting minutes and agenda can now be found there.

ADJOURNMENT: Motion by Thielan, seconded by June, to adjourn. Motion passed 7-0. The meeting officially adjourned at 7:32m.

Respectfully submitted

Amy Hepker-Wilson, Planning Commission Secretary



Effective 2/11/2025	Policy	2/11/2025 Item 1.
Township Credit Card Usage Policy		

PURPOSE:

This policy is adopted in accordance with Michigan Public Act 266 of 1995 which requires that all municipalities have a written policy when authorizing the use of credit cards to purchase goods and services for the official business of the municipality.

GUIDELINES FOR CREDIT CARD USE:

- A. Issuance of Credit Cards: Credit cards are issued to employees at the discretion of the Township Treasurer.
- B. Card Use: The use of credit cards for Township business shall be honored by any merchant or vendor who accepts said credit card. Any credit card shall have an authorized spending limit as approved by the Township Treasurer.

If a cardholder should experience a transaction denial when using a credit card, he/she is to contact the Township Treasurer, or their designee, with specific information concerning the date, vendor or merchant's name, dollar amount, and approximate time of transaction of attempted purchase. The Township Treasurer, or their designee, shall investigate the reason for such denial.

The Township Credit Cards shall be used only for the purchase of goods and services that are for the official business of the Charter Township of Madison, when the normal accounting procedures cannot be utilized (i.e. travel expenses (fuel, lodging, meals, conference registrations, etc.).

The preferred method of payment for Township business is check or ACH transactions through the establishment of an account with the merchant. Credit cards should only be used when there is a compelling reason to do so, such as time or if the vendor does not accept payments by check or ACH.

Credit cards shall not be used for any personal expenses, cash advances, or other merchant category exclusions (i.e. tobacco products or liquor).

All Charter Township of Madison employees issued a credit card shall sign an agreement to abide by the adopted credit card policies and procedures.

- C. Transaction Procedures: Credit card transactions may be performed in person, over the telephone, through the mail, or via secure online computer connections. When using a Township credit card, authorized employees are required to follow the below listed

procedures, in addition to procedures for management approval and payment of the charge(s):

1. If the transaction is in person, present the card to the vendor or merchant and advise that the item(s) is being purchased with a Township credit card. If the transaction is via telephone or mail order, the vendor or merchant shall be provided with the credit card account number and expiration date. If the transaction is performed via computer online service, please ensure the use of a secure website transmission. Do not provide credit card information on an unsecured website.
 2. Cardholders shall sign all purchase receipts for validation purposes. The cardholder shall be required to obtain the detailed register receipt for over-the-counter purchases. When ordering over the phone, the cardholder shall request that a detailed purchase receipt be emailed or post-mailed with the item shipped to the ordering cardholder's attention. When ordering via the internet, a printed copy of the completed order showing details of the item(s) purchased, shall serve as the purchase receipt.
 3. Normal internal control procedures established for approval, documentation and payment of accounts shall be followed at all times.
- D. Tax exemption. Notify the vendor or merchant that the credit card transaction is tax exempt for goods and services purchased in the State of Michigan (use appropriate Tax Exemption Certificate letter to verify Township's tax-exempt status).
- E. Credit Card and Transaction Limits. The standard card limit is \$5,000/month. Exceptions to this limit require more detail. The individual transaction limit is \$5,000. A request for a temporary increase in the individual transaction limit must be approved by the Treasurer. The splitting of a transaction into multiple smaller transactions in order to remain within the established maximum dollar limit per transaction is prohibited without approval from the Treasurer.
- F. Credit Card Security. The Township credit card should always be treated with a level of care that will secure the card and account number.
1. Storage of the credit card. Keep the credit card in an accessible but secure location.
 2. Credit card account number. Guard the credit card account number carefully. Do not write or post the number.
 3. Lost, stolen or misplaced cards. If the credit card is lost, stolen, or misplaced, immediately notify the Treasurer or issuing bank.
 4. Personal liability. The credit card will not impact the cardholder's personal credit reference. The Township issued credit card is a corporate liability card, not a personal liability card. The cardholder does have a responsibility to use the credit card properly and in accordance with these policies in an approved manner.
 5. Upon termination of employment or a job reclassification no longer requiring a credit card, the card shall be returned to the Township Treasurer.
- G. Procedures for Credit Card Payment: The Treasurer shall issue to each Department a credit card statement for all charges made in that department in the preceding month. The statement shall be reconciled and submitted for

approval using our standard accounts payable guidelines. The Department Head shall review and approve all charges made prior to their submission to the Township Treasurer for approval. The balance due on any credit card account shall always be paid in full by the date due listed on the credit card statement.

- H. Disputed Transactions: An incorrect, unrecognized, or questioned transaction may be disputed. The transaction should be disputed immediately and no more than thirty (30) days after the charge has been made. If a transaction needs to be placed in dispute, the Cardholder should notify the Treasurer.
- I. Lost or Non-Itemized Receipts: If the cardholder has lost receipts and a duplicate cannot be obtained from the merchant, or the cardholder cannot obtain an itemized receipt from the merchant, the cardholder must submit a written justification for not having a receipt or itemized receipt to be included with the monthly credit card statement. N.B., excessive lost receipts may result in suspension or loss of credit card privileges.
- J. Records of Warranty: The cardholder must submit any warranty record(s) for goods or services which are obtained and paid for with their credit card to the Treasurer.
- K. Penalty for Wrongful Use: Any employee of the Charter Township of Madison who violates the provision of this policy shall be subject to disciplinary action, up to and possibly including discharge, civil and/or criminal prosecution.

**Fahey Schultz
Burzych Rhodes**

April 30, 2018
Category: Uncategorized

Current Township Water & Sewer Issues

Townships frequently contract with cities and villages for water and sewer service. In some cases, cities and villages demand township residents pay substantially more for the same sewer and water service than city and village residents pay. Sometimes, cities and villages charge township residents twice as much as city or village residents. Discriminatory and excessive water and sewer rates violate Michigan law, and in some cases may violate federal law. These occurrences result in rate disputes. This E-Letter discusses available options for townships to obtain water and sewer service, some of the pressures that public water and sewer utilities are currently facing, and Michigan legal requirements for water and sewer rates that are reasonably based on the actual costs of service.

TOWNSHIP CONTRACTS FOR WATER/SEWER SERVICE

Townships frequently contract with cities and villages for water and sewer service. In some cases, cities and villages demand township residents pay substantially more for the same sewer and water service than city and village residents pay. Sometimes, cities and villages even charge township residents twice as much as city or village residents. Discriminatory and excessive water and sewer rates violate Michigan law, and in some cases may violate federal law. These occurrences result in rate disputes township officials should understand their available options for obtaining water and sewer service, some of the pressures that public water and sewer utilities face, and Michigan legal requirements for water and sewer rates reasonably based on actual costs of service.

FEDERAL FUNDING AND GROWTH ESTABLISH NEW WATER AND SEWER SERVICE CONTRACTS

Regulation of Public Water/Sewer Utilities

Michigan is known for abundant fresh water. The wide availability of water minimizes disputes common in the western states, where water is often scarce. Even with ample availability of water, fresh water from the Great Lakes and from ground water is not drinkable without treatment. The use of water also creates wastewater, which must be treated before being released back into Michigan's fresh water sources; otherwise further pollution of Michigan's fresh water will occur. According to the MDEQ, withdrawal of water for the public water supply is approximately 10% of the total recorded withdrawal.

Michigan's public water supply, withdrawal and treatment is largely operated by public entities. Unlike other public utilities, such as gas and electric operated by private companies, municipal water and sewer systems are not subject to oversight by the Michigan Public Service Commission ("MPSC"). The MPSC's role is to review and oversee private utilities and ensure fair and reasonable rates are being charged to customers. The MPSC addresses rate changes and policy adjustments through an administrative hearing system where experienced MPSC staff, consultants, and interested parties provide input.

Since the MPSC has no role in regulating public water and sewer systems, the construction, operation, and financing of public water and sewer systems is administered by over 1,500 different governmental boards, including city councils, township boards, authority boards, and county commissions.

The decision-makers are generally elected officials of these entities. They have limited knowledge or experience in water and sewer utility operation and finance. They are also influenced by political considerations that may not be in the best interest of all customers served by the utility or in the best interest of the operational and financial health of the utility in the long-term.

There is nothing inherently wrong with this process but achieving the correct results requires consideration by the decision-makers of multiple legal and public policy issues to ensure that all customers of the utility are treated fairly and reasonably. Ultimately, the test of reasonableness is based upon review of the rates paid by customers for water and sewer service.

Federal Construction Grant Funding

During the 1970s and 1980s, the EPA administrated a federally-funded construction grant program. Under that program, more than \$60 billion of federal funds were provided to construct public sewer treatment projects. These projects, which constituted a significant contribution to the nation's sewer

infrastructure, included sewage treatment plants, pumping stations, collection and intercept sewers, rehabilitation of sewage systems, and the control of combined sewer overflows.

During that time, neighboring municipalities were encouraged to share water and sewer services or develop regional water and sewer systems. This provided additional perceived benefit from the use of federal funds. The construction grants brought many neighboring townships and cities to create a relationship for administration of joint water and sewer service. The relationships were typically based upon long-term (30-plus years) contracts.

Disputes over the total rates paid by the customers of a public water or sewer utility are not new. But many contracts from the 1970s and 1980s have expired or are expiring, causing negotiations about the terms of renewal, including rates. Moreover, systems built during that time are becoming old and worn-out, requiring vast amounts of expensive replacement infrastructure. Replacement infrastructure can cost millions of dollars of new capital investment. This forces rate increases, but too often these rate increases are allocated incorrectly among the various customer classes, which causes one customer or group of customers to subsidize another. These increased costs are being paid by the current generation of customers, since the past customers have frequently been charged insufficient rates to replace and repair the systems they have enjoyed for many years. The need for greatly increased funding, without the availability of similar grant funding today, often causes municipal utilities to attempt to foist an unfair portion of the costs on the customers outside the municipality.

CIRCUMSTANCES THAT CREATE CONFLICT

Scope of Service Historically Provided

If the water and sewer utility is owned by your neighboring city or village, decisions were often made by past boards and councils establishing what level of water and sewer service would be available. These decisions directly impact the availability of water and sewer services to townships today. Some cities and villages were cooperative in providing water and sewer services to adjacent townships under contracts that specified the rates that would be charged for such service. In other instances, cities and villages denied water and sewer services to surrounding townships, unless they agreed to annexations or Act 425 agreements. The parameters established long ago between the municipalities typically limit what potential avenues may be taken going forward to address water and sewer service issues and rate issues.

Contracts

Many townships have contracts that allow cities and villages to provide water and sewer service to township residents. Except for some form contracts created by Rural Development (see Form RD 442-30), the terms and conditions of these contracts address similar topics, but the substantive content varies widely among such service contracts. Most contracts address the service territory, the terms for expansion, the scope of water or sewer service provided, capacity limits, rate methodology, and miscellaneous terms under which the service is provided to the receiving township. Some of these contracts also include requirements for Act 425 agreements or annexation.

Retail Service by Adjacent Municipality

Some townships have consented to allow another municipal entity, potentially a city or utility authority, to operate a water and sewer system within the township's boundaries. These agreements are essentially franchise/consent agreements that allow another municipality's public utility to operate and service customers within the township. It is similar to the agreements entered into with gas and electric companies. There are positives and negatives to such an arrangement, but generally it removes the township from the strain of managing its own water and sewer systems. It also allows customers in the township to generally be treated similarly to customers in the other jurisdictions. This can avoid some of the rate issues discussed later.

Authority

Several statutes authorize cities, villages, and townships to establish an authority to provide water and sewer service to a regional area. An authority is a separate governmental entity that operates according to its incorporation documents. Townships typically become involved with authorities in two ways: (i) a township and various other municipal entities agree to become members in an authority; or (ii) a township contracts for water and sewer service from an authority incorporated by other municipal entities. In the first instance, a township that holds a member interest in a regional authority should have representatives appointed to an authority board that make decisions that are fair and equitable for all members. In these situations, the township has fair representation and inequitable treatment is typically minimized. In the second instance, the township has a contract for service. In this arrangement, an Act 425 Agreement or annexation will not be the concern, but proper operation, financial planning, and rate setting remain valid concerns.

Act 425 Agreements

In Michigan, Act 425 authorizes local governments to conditionally transfer property from one jurisdiction to another for the purpose of economic development. Unlike annexation, the conditional transfer of property is subject to the terms and conditions of the agreement negotiated between the communities (commonly referred to as an Act 425 agreement). Although the property may be conditionally transferred to the municipality owning the utility, the agreement allows for the sharing of property taxes and negotiated city services. Thus, the property can receive water and sewer service, but in return, the township maintains a means to generate tax revenue and other benefits from the shared property. The agreements are limited to a period of 50 years and a 50-year renewal. At the conclusion of that term, the agreement must determine whether the property remains within the city or reverts back to the township.

Annexation

Annexation policy is intertwined with water and sewer service. The relationship between the two is dependent upon the owning utility's policies about neighboring governments. Whether water and sewer service is available to a property is the single-greatest consideration as to whether annexation will be granted by the State Boundary Commission. Thus, by providing water and sewer service through one of the means previously discussed, a township may limit future annexations of its territory. But cities and villages with little interest in governmental cooperation will only provide water and sewer service through annexation into its jurisdictional boundary. Many cities have regularly required annexation over the decades, using their water or sewer service as leverage to increase their boundaries (and their tax base) at the expense of surrounding townships.

CURRENT TRENDS AFFECTING RATE INCREASES AND CONSIDERATIONS FOR AGREEMENT RENEWALS

Population Decline/Stagnant Growth

The economic recession in 2008 heavily impacted Michigan. Many communities saw population declines or stagnant growth as jobs disappeared and people moved out of the area to find work. Many public water and sewer utilities were designed in the 1970s and 1980s based on population growth assumptions. Utilities were often overbuilt based on expected demand in the future that never materialized. Utilities with rates established prior to 2008 were based on the current number of customers in the area. The population declines that occurred after the 2008 recession have created an upward pressure on rates. The loss of customers means that the remaining customers must pay a larger part of the fixed costs of the utilities. These are costs that exist to maintain the utility regardless of

whether it operates at 50% capacity or 75% capacity.

Without a rate increase, there is less rate revenue to operate the utilities. If rate increases are not imposed, the operation and maintenance expenses must be sustained. The first area that receives a reduction in spending is replacement and improvement of infrastructure, which compounds potential upward pressure on rates in future years.

The impacts of the 2008 recession and necessary cutbacks are now being realized with substantial rate increases for numerous communities. The rate increases must be allocated fairly and reasonably among the utilities' customer classes, however.

Capital Improvement Plans ("CIP")

Despite the recent asset management program requiring CIP, cities and villages were already required under the Michigan Planning Enabling Act to prepare CIP. See MCL 125.3865. Townships were also required to have a CIP if they operated a water supply or sewage disposal system.

Under the Act, CIP is required to be prepared annually. The Planning Enabling Act requires the community to address its public structures and improvements in a list as to how the community will build and finance such new structures or improvements over the next 6-year period.

Some communities that attempt to create capital improvement funds face difficulty increasing rates as customers often see it as a "slush" fund or fund balance that should be diminished prior to instituting a rate increase. This creates political influence that bears down on the legislative bodies considering rate increases, often making it more difficult to get an appropriate level of rate increase instituted. The shortfall has the potential to cause other issues. As the infrastructure ages, operation and maintenance expenses can increase due to lost water or excessive inflow and infiltration.

A properly administrated CIP that is incorporated into a rate has the potential to cause an upward rate increase. But because the expenses are often viewed as non-mandatory, legislative bodies defer rate increases that would fund CIP. The result over an extended period of time creates artificially low rates that ultimately are unsustainable in light of aging and failing utility systems. The customers of the utility then experience significant upward rate pressure, and such increases can be erroneously shifted to the wrong customer classes.

Asset Management Plans ("AMPs")

Some of the above issues can be addressed by mandatory asset management plans. The requirement for asset management programs was established under Michigan's Safe Drinking Water Act, MCL 325.1005, et seq. According to the rules promulgated thereunder, water supply utilities that serve more than 1,000 people shall implement an asset management program by January 1, 2018. Those water supply utilities serving 1,000 people or fewer are required to prepare a CIP that identifies waterworks systems needs for 5-year and 20-year planning periods. The utility shall begin to prepare a CIP by January 1, 2016.

An asset management program identifies the desired level of service at the lowest life cycle cost for rehabilitating, repairing, or replacing the "assets" associated with the waterworks system. AMPs are necessary to assure sustainability because assets are degrading faster than repairs. AMPs are centered on the current state of the assets; the required sustainable level of service; the assets critical to sustained performance; the minimum life-cycle costs; and the best long-term funding strategy.

The assets that are addressed include intakes/wells; treatment equipment; pumps, pipes and appurtenances; tanks; buildings and land; tools; people; and controls and computer systems.

An AMP must include:

- Inventory of assets
- Criticality assessment (likelihood of asset failure and consequences thereof)
- Level of service goals
- Capital improvement plan (identifying 5 and 20 year needs, prioritizing assets, projecting costs)
- Funding structure and rate methodology

The impact on rates depends on the individual AMP's "funding structure and rate methodology," which determines if there is enough funding available to maintain assets in a degree that meets level of service goals. If the costs identified in the capital improvement plan (plus the system's operating budget) exceed available funding, some of the expenses related to capital improvements may be funded out of the system's revenues, meaning the rate structure will be restructured or raised.

There is no "one size fits all" answer to how AMPs increase rates, it all depends on the system in question – how many assets are within that system, the condition of those assets, the level at which the system wishes to provide service, the timeframe within which repairs must take place, and the funding currently available to that system.

These requirements are also being placed in conditions in newly issued discharge permits. This increases the stakes for an owning municipality as failure to properly raise rates consistent with the AMP could pose implications with revocation or non-renewal of the discharge permit.

Financing New Improvements/Extensions

A hotly contested issue with all of the infrastructure improvements caused by aging infrastructure or extensions to serve growing areas in townships is who should pay? Some rates charged to townships already include a capital component that was earmarked for aging infrastructure. Requiring the township to pay additional capital costs through rates or one-time assessments results in double charging the township—a result typically caused by poor management of the utility. On the other hand, owner municipalities are often unwilling to take on the capital costs and debt to build new extensions or improvements solely caused by township growth and development. In these instances, the parties need to determine whether the township buys into the asset and becomes part owner or continues to pay through rates.

Significantly, if capital reserves were not properly maintained, there are multiple options for the owning municipality that does not pose harm to a township receiving service. The owning municipality would be able to secure grants or issue bonds to finance the improvements. There are also loans available through state agencies. The rates would only be required to then pay the debt service on those financing instruments.

A township could also contribute directly through development or capital contribution fees. This allows the township to essentially purchase capacity in the system. The township could similarly pay for these costs through grants, loans, or bonds. The township could also initiate a special assessment for those customers that benefit from the water/sewer service.

Rate Increases

Rates are charged on a per unit basis. A rate includes certain fixed components and certain variable components. This is typically discussed as the rate design. The fixed components are charged to each customer within the same customer class at the same rate. The fixed components do not change based on usage of water/sewer. Variable components are often referred to as the commodity component of the rate. Typically, the commodity component of the rate is established per 1,000 gallons or per 1,000 cubic feet. This portion of the rate changes based on the volume of usage.

Regardless of the individual component parts of the rate charged, townships can simplify their concerns by looking at the total result of a rate. For instance, a quarterly bill may show a \$16.00 ready to serve charge and \$34.00 commodity charge based on use of 10,000 gallons. The total bill of \$50.00 can be expressed in a per 1,000 gallon charge as \$5.00. The cost to the township of \$5.00 per 1,000 gallons should be compared against the cost to serve the township. This measurement will show whether the township's cost for water service exceeds the actual cost for the utility to provide the service to the township.

Actual Cost of Service

Actual cost of service can be calculated by the owner/operator of the utility and its staff. Other times consultants use the methodology outlined by the American Water Works Association (AWWA) and the Water Environment Federation (WEF) to calculate actual cost of service and then design a rate for the utility. The important point for any township evaluating the rates being charged by another water/sewer utility is the differential between the actual cost of service and the rate charged. This can be an excellent indicator as to whether the township is paying a fair and reasonable rate.

1.5 or 2 Times In-City Rates

Some contracts require township customers to pay double the in-city rates; many other contracts allow extraterritorial multiples of 1.5 or 1.25, and still other contracts charge the same rates both within and outside the city.

This lack of uniformity in water and sewer rates across the state causes confusion and uncertainty for many township officials who are trying to properly represent their constituents in negotiating water and sewer contracts with cities and villages. Cities and villages often incorrectly claim that the few existing contracts with double water rates are a precedent for charging double rates in their own communities. Such an argument misinterprets the history of double water rates in Michigan. It also overlooks the effect of various provisions of the Michigan Constitution, which prohibit water and sewer rates that are unreasonable, discriminatory, and not based on the actual costs of providing water and sewer service.

The original authority for water contracts with double rates was an old statute repealed in 1981. MCL 123.141, which allows one municipality to contract for the sale of water to residents of a second municipality, formerly authorized the selling municipalities to charge double rates to extraterritorial customers. In 1981, the Legislature amended MCL 123.141 to remove the authorization for double

water rates. Instead, the Legislature required municipal water sellers to charge all water customers—both inside and outside the municipality—rates based upon the selling municipality’s cost of service. Although the statute was amended more than 30 years ago, there are still some water contracts executed under the old law that impose double water rates (since water contracts frequently have 30-plus year terms).

Headlee Amendment’s Limitation on Excessive Rates

The Headlee Amendment, among other constitutional provisions, requires that any tax increases must be approved by the voters. In a 1998 case involving the City of Lansing, the Supreme Court held that Headlee also prohibits municipal utility charges that are really “disguised taxes.” In the Lansing case, the Court held that the city’s “storm water service fee” added to the city’s sewer rates was invalid because it was actually a “tax” that violated the Headlee Amendment. The Court in the Lansing case explained that rates, charges or fees may violate Headlee when they are (1) not proportionate to the necessary costs of providing the service; or (2) imposed to raise revenue rather than for a regulatory purpose; or (3) they are not voluntary.

Similarly, excessive water and sewer rates are disguised “taxes” because (1) the rates are not proportional to the costs of water and sewer service, and (2) they serve a revenue-raising purpose, rather than a regulatory purpose. Arbitrary or excessive water and sewer rates for township customers violate Headlee when they are not based on any differences in the costs to serve city water and sewer customers as compared to township water and sewer customers. Rather, they serve only to increase the city’s revenues. As a result, rates exceeding the actual cost of service are disguised “taxes” that violate the Headlee Amendment.

Due Process and Equal Protection Limitations on Excessive Rates

The constitutional guarantees of Due Process and Equal Protection also preclude cities and villages from setting unreasonable, discriminatory, and arbitrary water and sewer rates. A municipality is constitutionally prohibited from arbitrary discrimination among its water and sewer customers.

According to a 1997 Court of Appeals case involving the *Village of Goodrich*, a municipality may not charge extraterritorial utility customers higher rates than customers within the municipality unless it can demonstrate that the higher rates are based on costs of service and the rates do not subsidize the municipality’s water and sewer customers. Although the *Goodrich* case involved sewer service, rather than water service, the same constitutional principles apply to both services.

Excessive water and sewer rates for township customers constitute rate discrimination. A city may not discriminate against nonresidents. Such discrimination is especially egregious when nonresidents (and non-voters) of the City have no political access or control at the ballot box over the city government that is discriminating against them.

Federal/State Water and Sewer Grant/Loan Requirements

It is rare to see cities and villages charging township residents double rates for sewer service. This is because a substantial portion of the city and village sewer systems in this state were funded by federal grants under the Federal Water Pollution Control Act. That Act required “user charge systems,” mandating that “each recipient of waste treatment services” must “pay its proportionate share ... of the costs of operation and maintenance (including replacement) of any waste treatment services.” Thus, such a city or village’s sewer rates must be computed on the same terms both within and outside the city or village.

Up-Front Connection or Tap Fees

The same rules described above apply to connection fees or other up-front fees charged to access a water or sewer system. The proper purpose of these fees is to defray a portion of the capital cost of the utility system or the cost of connecting service to the new customer. If the fees are set at levels far in excess of those costs, they will likely be found to be unlawful “taxes” or discriminatory fees. For example, in a 2002 Court of Appeals case involving *Frankenmuth Township*, the Court set aside a \$7,500 “connection fee” charged to new customers of the township water system. The water system itself was already paid for, and did not need to be expanded to serve the new customers. Instead, the township planned to hold the “connection fee” revenues for future repairs and maintenance of the system. The *Frankenmuth* case held that, since the “connection fees” were not proportional to the township’s cost of extending service to the new customers, they were unlawful “taxes.” Similarly, there are many city and village water and sewer systems that were paid for with state and federal funds. Those municipalities sometimes attempt to charge new customers for water or sewer service based on the original cost of the system, even though it was paid for largely by state or federal funds. When those fees exceed the actual cost of serving the additional customers, just as in *Frankenmuth*, the fees are unlawful “taxes.”

Rate Analyst

A rate analyst is an individual or corporation with background training in finance, business, or accounting. The individual uses skills learned from their degrees coupled with special expertise in valuing the costs to operate a water or sewer utility for various customer classes. For any prospective consultants in Michigan, a township should ensure that the consultant ascribes to the methodologies used by the AWWA and WEF. A rate analyst is typically an individual with extensive experience in pricing and marketing utility services, including water, sewer, electric and telecommunications.

A rate analyst can be hired and brought into a contentious situation to educate the utility owner and operator and explain the concept of cost of service. A recognized rate analyst can often help to negotiate disputes between municipalities involved in water and sewer service contracts. The rate analyst will also be able to provide input on rate design and financial projections ensuring the health of the utility moving forward.

In a community that does not use outside rate consultants, rates are typically 10% to 20% lower than necessary to meet revenue requirements and future CIP. With that in mind, there is the potential an outside rate consultant will recommend some form of rate increase for all customers of the utility. Significantly, however, the rate consultant will be able to allocate the increases appropriately. Outside municipal customers should not be subsidizing inside customers. Both customer classes should pay their fair share based on the cost of service of each customer class.

There is a cost to hiring a rate consultant. Depending on the scope of the work requested, costs can range from \$5,000 to \$30,000 for small to moderate sized systems. Larger systems, such as Detroit, may cost much more. If the community has multiple municipalities, those municipalities may decide to share the costs of the consultant. Otherwise, the consultant's fees can be paid through rate revenue. Often, the benefit to the utility and its customers received from a rate consultant far outweighs the cost of the rate consultant.

Rate analysis can help avoid inaccurate or misallocated rates and rate disputes from large wholesale or retail customers, such as townships. Rate calculations offered by an expert in the industry also allow the decision-makers to make sound decisions based on calculations. Further, it provides a basis to explain to complaining customers the need for any rate increases and the areas funded by such increases.

— Christopher Patterson

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STATE OF MICHIGAN
COURT OF APPEALS

ROBERT E. GRUNOW and TAMIE L.
GRUNOW,

UNPUBLISHED
October 22, 2002

Plaintiffs-Appellees,

v

No. 226094
Saginaw Circuit Court
LC No. 98-023482-CZ

TOWNSHIP OF FRANKENMUTH,

Defendant-Appellant.

Before: Markey, P.J., and Cavanagh and R. P. Griffin*, JJ.

PER CURIAM.

Defendant appeals as of right from the trial court's grant of summary disposition in plaintiffs' favor after holding that defendant's water connection charge of \$7,500 was a tax in violation of the Headlee Amendment, Const 1963, art 9, § 31, in this declaratory action. We affirm.

On appeal defendant argues that it had the authority to impose the \$7,500 connection fee on new users of the Frankenmuth Township Water System. Defendant claims that the fee is not a disguised tax because, consistent with *Graham v Kochville Twp*, 236 Mich App 141; 599 NW2d 793 (1999), it serves a regulatory purpose, is proportional to the cost of the service, and is voluntary. We disagree.

This Court reviews the grant or denial of a motion for summary disposition de novo. *Spiek v Dep't of Transportation*, 456 Mich 331, 337; 572 NW2d 201 (1998). Here, although plaintiffs mislabeled their motion as brought pursuant to MCR 2.116(C)(7), the parties and the trial court treated the motion as brought under MCR 2.116(C)(10); therefore, we will consider the motion granted under MCR 2.116(C)(10). See *Ottaco, Inc v Gauze*, 226 Mich App 646, 650; 574 NW2d 393 (1997); *Blair v Checker Cab Co*, 219 Mich App 667, 670-671; 558 NW2d 439 (1996). A motion under MCR 2.116(C)(10) tests the factual sufficiency of the complaint. *Maiden v Rozwood*, 461 Mich 109, 120; 597 NW2d 817 (1999). If the documentary evidence, considered in a light most favorable to the nonmoving party, fails to establish a genuine issue of material fact, the movant is entitled to a judgment as a matter of law. *Id.* Further, whether a charge is a permissible fee or an illegal tax is a question of law considered de novo on appeal. See *Bolt v Lansing*, 459 Mich 152, 158; 587 NW2d 264 (1998).

* Former Supreme Court justice, sitting on the Court of Appeals by assignment.

The Headlee Amendment, Const 1963, art 9, § 31, prohibits the levying of a tax by a unit of local government without voter approval. However, a user fee may be instituted without violating the Headlee Amendment because, rather than being an exercise of the municipal's power to tax, it is an exercise of the municipal's police power to regulate the public health, safety, and welfare. See MCL 41.181; *Merrelli v St Clair Shores*, 355 Mich 575, 583; 96 NW2d 144 (1959). Consequently, one primary factor to consider in determining if a charge is a permissible user fee or an illegal tax is whether the charge is imposed to serve or support a regulatory purpose. *Bolt, supra* at 161; *Graham, supra* at 151. The second factor is whether the charge is proportionate to the necessary costs of the regulatory service and benefits the particular person on whom the charge is imposed. *Bolt, supra* at 161-162; *Graham, supra* at 151, 153-154. Finally, the charge must be voluntary which, in this case, is uncontested. See *Bolt, supra* at 162. To the contrary, a tax is designed to raise revenue that will benefit the general public and is compulsory. *Bolt, supra* at 161-162.

In this case, defendant apparently adopted a resolution in December 1995 that required new users of the Frankenmuth Township Water System—which is comprised of special assessment districts with paid-off water main systems that had been installed in the 1970s—to pay a \$7,500 connection “fee” to access city water. The asserted purpose of the charge is to “establish a reserve fund to provide for the maintenance and repair of the Frankenmuth Township Water System” when the eventual need arises. Defendant also claims, without explanation, that the user charge is regulatory in nature because it regulates connections to its water systems. The trial court disagreed, holding that the purpose of the connection “fee” was to raise revenue, that the charge, although voluntary, was not proportionate to the cost of a regulatory service because the cost of tapping into the water system was \$800, and the charge was designed to benefit the general public. We agree with the trial court.

First, the connection “fee” does not serve or support a regulatory purpose instituted for the protection of the health, safety, and general welfare of the community. Defendant admits that the revenue collected from imposing the charge is placed in a “reserve fund to provide for the maintenance and repair of the Frankenmuth Township Water System. This fund would minimize the need to levy any additional assessments from the users within the Water System for any future maintenance and repair work,” considering the pipe used in the construction of the water system has a useful service life of fifty years. Consequently, the principal purpose of the charge is not regulatory, e.g., to control access to the System, to prevent overburdening the System, to expand use of the System, or to change the System, although it may incidentally have a regulatory effect.

Defendant's reliance on *Graham, supra*, is misplaced. In that case, the charge was instituted to pay for an extension of the defendant's water pipeline system to permit the distribution of water to communities not being served by the system that was in place, i.e., a new use; hence, the charge served to defray the cost of a regulatory activity. Similarly, the amicus curiae's reliance on *Contractors & Builders Ass'n of Pinellas Co v Dunedin*, 329 So2d 314 (Fla, 1976) is misplaced because, there, the purpose of the disputed charge was also to expand the water and sewerage systems. *Id.* at 318.

The facts of the instant case are more similar to those of *Bolt, supra*, where the defendant instituted a storm water service charge for the purpose of funding an investment in infrastructure, a sewer overflow control program, by an ordinance that lacked a “significant element of

regulation.” Here, the connection “fee” was instituted to fund maintenance and repairs projected to be necessary at some time in the future with regard to the existing Water System that was constructed in the 1970s—clearly a revenue-raising, not regulatory, purpose.

Second, the connection “fee” is not proportionate to the costs of a regulatory service provided. “[W]here revenue generated by a ‘regulatory’ fee exceeds the cost of regulation, the ‘fee’ is actually a tax in disguise.” *Gorney v Madison Heights*, 211 Mich App 265, 268; 535 NW2d 263 (1995). Here, defendant claims that the “fee” is proportional because it is “based on apportioned costs of constructing the Water System.” However, defendant fails to explain how the connection “fee” is proportionate to the cost of any purported regulatory purpose or service. If a regulatory purpose is allegedly controlling access to city water, what is the cost of that regulation, or regulatory program? How does it comport with the fact that defendant also charged a fee of \$800 for the tap-in line to plaintiffs’ home, presumably the cost of the actual service rendered? See *Bolt, supra* at 164.

In *Graham, supra*, the connection fee was imposed to pay the actual cost, in part, of the extension of a water pipeline into a community that was not serviced by the existing water system. Further, the benefits conferred by the fee flowed only to “those citizens in the community newly serviced by the water extension who connect to the water line.” *Id.* at 153. In the instant case, the revenue collected does not confer a benefit on anyone because it is not used but, rather, is placed in a reserve fund that may eventually be spent on repairing any of the existing water mains within the Water System. Further, the Water System was constructed in the early 1970s and the resolution to impose the \$7,500 charge on new users was adopted in 1995. Consequently, the possible future benefits conferred by the imposition of the charge on new users of the System will eventually, and impermissibly, flow to users of the Water System who were not required to pay the charge. See *Bolt, supra* at 164-165. In sum, the charge is not proportionate to the necessary costs of a regulatory service and it confers benefits on users of the System who were not required to pay the charge.

We conclude that, although the charge was voluntary, it was not a valid user fee but a tax in violation of the Headlee Amendment. Accordingly, we affirm the trial court’s grant of summary disposition in favor of plaintiffs.

Affirmed.

/s/ Jane E. Markey
/s/ Mark J. Cavanagh
/s/ Robert P. Griffin

Ryan Rank

From: rhardenberg@idville.com
Sent: Friday, February 7, 2025 9:57 AM
To: Ryan Rank
Subject: IDville Quote
Attachments: Q4004616 - ID Quote.pdf

Ryan Rank,

Attached is the quote you requested.

Quote #: Q4004616- Apex Dual System

Quote Includes: Apex Dual Printer, 3.0 Enterprise Software, (1) 300 print ribbon YMCKO,300 High Grade PVC cards, Webcam, Backdrop, Printer Kit, Lifetime Tech support, 3-year warranty, Badge hole punch.

Notes:

The Apex is a great quality printer with 10 generic holokotes and 1 FREE custom holokote.

Card hopper of 100 Load and 70 output.

In-Houe Customer Service and Tech Support right here in Grand Rapids.

You will be able to run proximity cards on this printer.

If you would like to proceed with this quote and you intend to pay for this order with a purchase order, or be invoiced, please make sure that you have completed our credit application within the last year to establish terms.

[Credit Application](#)

If you have any questions, please reply to this email or call me at 616.282.6188.

Talk to you soon,

Rick


<https://www.idville.com/>



IDville
 4345 44th St. SE STE A
 Grand Rapids, MI 49512
 P: (616) 333-4599

QUOTE

QUOTE # Q4004616

Page 1/1

BILL TO:

Madison Township
Ryan Rank Michigan P: (517) 280-0886

SHIP TO:

Madison Township
Ryan Rank Michigan P: (517) 280-0886

Customer ID	Ship Via	Sales Rep	Terms	Date
3003591	UPS GROUND	RTH	CREDIT CARD	2/7/2025

Quantity	UOM	Item #	Description	Unit Price	Extended Price
1	EA	10046	Systems - ID Maker Apex 2-Sided	\$3,799.00	\$3,799.00
1	EA	47000	Slot Punch - 3-in-1	\$80.00	\$80.00

Subtotal	\$3,879.00
Misc	\$0.00
Tax	\$0.00
Freight	\$54.39
Discount	\$0.00
Total	\$3,933.39

Quote valid for 30-Days from date of receipt

Printed On: 2/7/2025 9:57 AM

Ryan Rank

From: rhardenberg@idville.com
Sent: Friday, February 7, 2025 10:22 AM
To: Ryan Rank
Subject: IDville Quote
Attachments: Q4004618 - ID Quote.pdf

Ryan Rank,

Attached is the quote you requested.

Quote #: Q4004618- Infinity Dual System with true Hologram

Quote Includes: Infinity Dual Printer, 3.0 Pro software, (1) 200 Print Ribbon, 200 PVC cards, Webcam, Backdrop, Cleaning Kit, (1) 600 print Hologram ribbon, Primacy lamination unit, Lifetime Tech Support, 4-year warranty.

NOTES:

The Infinity is our most popular printer due to its great color and quality print.

This package has a true holograph.

Lamination unit adds 10 years to card lifespan.

Out of all of our units, this gives the most options for your money.

SPECIAL:

I am able to give a 5% discount on this package.

If you would like to proceed with this quote and you intend to pay for this order with a purchase order, or be invoiced, please make sure that you have completed our credit application within the last year to establish terms.

[Credit Application](#)

If you have any questions, please reply to this email or call me at 616.282.6188.

Talk to you soon,

Rick



<https://www.idville.com/>



IDville
 4345 44th St. SE STE A
 Grand Rapids, MI 49512
 P: (616) 333-4599

QUOTE

QUOTE # Q4004618

Page 1/1

BILL TO:

Madison Township
 Ryan Rank
 Michigan
 P: (517) 280-0886

SHIP TO:

Madison Township
 Ryan Rank
 Michigan
 P: (517) 280-0886

Customer ID	Ship Via	Sales Rep	Terms	Date
3003591	UPS GROUND	RTH	CREDIT CARD	2/7/2025

Quantity	UOM	Item #	Description	Unit Price	Extended Price
1	EA	14231	Systems - ID Maker Infinity Dual Sided w/LCD	\$3,199.00	\$3,199.00
1	EA	46901	Evolis Primacy Card Lamination Module No Touchscreen	\$2,350.00	\$2,350.00
1	EA	46909	Evolis Lamination Generic Hologram Patch .6 Mil 600 Print	\$200.00	\$200.00

Subtotal	\$5,749.00
Misc	\$0.00
Tax	\$0.00
Freight	\$54.39
Discount	\$0.00
Total	\$5,803.39

Quote valid for 30-Days from date of receipt

Printed On: 2/7/2025 10:22 AM

CHARTER TOWNSHIP OF MADISON

Ryan Rank
Supervisor
Janet Moden
Clerk
Harold Gregg
Treasurer

3804 S. ADRIAN HIGHWAY
ADRIAN, MI 49221
517-263-9313 Fax: 517-263-4569

TRUSTEES
Howard Bales
Chad Rodgers
Norm Schutte
Rusty Benschoter

Budget Amendments 2-11-2025

Road Fund

204-448-921-000	\$45,000.	Street Lights
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Water Capital Improvements

592-537-973-000	1,000,000.	Capital Outlay
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Water Debt Service

592-537-993-000	135,600.	Interest
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