

REGULAR MEETING OF THE WEST BRANCH CITY COUNCIL HELD IN THE COUNCIL CHAMBERS OF CITY HALL, 121 NORTH FOURTH STREET ON MONDAY, DECEMBER 3, 2018.

Mayor Denise Lawrence called the meeting to order at 6:00 p.m.

Present: Mayor Denise Lawrence and Council Members Joanne Bennett, Mike Jackson, Tim Schaiberger, Rusty Showalter, Aaron Tuttle, and Dan Weiler.

Absent: None

Other officers present: City Manager Heather Grace, Clerk/Treasurer John Dantzer, DPW Superintendent Mike Killackey, Ogemaw Township supervisor Denis Stephens, and Wastewater Superintendent Dan Robb.

All stood for the Pledge of Allegiance.

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AT 6:02 PM A MOTION WAS MADE BY SCHAIBERGER, SECOND BY JACKSON, TO OPEN THE PUBLIC HEARING TO TAKE COMMENT ON PROPOSED CHANGES TO THE CITY’S WATER ORDINANCE AS WELL AS DISCUSSION OF THE SETTING OF RATES FOR WATER AND THE BUDGETING OF ANNUAL WATER CAPTIAL IMPROVEMENT AMOUNTS. .

Yes — Bennett, Jackson, Lawrence, Schaiberger, Showalter, Tuttle, Weiler

No – None

Absent – None

Motion carried

No one spoke on the subject.

WITH NO ONE WISHING TO BE HEARD, A MOTION WAS MADE BY SCHAIBERGER, SECOND BY JACKSON, TO CLOSE THE PUBLIC HEARING.

Yes — Bennett, Jackson, Lawrence, Schaiberger, Showalter, Tuttle, Weiler

No – None

Absent – None

Motion carried

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Mike Engels of Michigan Rural Water conducted a presentation on a water rate study that he performed for the City. His presentation included discussion of the water rate structure, rate amounts, and capital improvement requirements.

Kara Faching asked questions on the rate tiers and commented on the ability to adjust rates annually.

Ogemaw Township Supervisor Denis Stephens asked about the 1.5 upcharge for Township residents that are connected to the City’s water system.

Member Jackson noted the need to fix problems that weren't accounted for in the past.

Member Showalter noted the need to be more proactive than reactive.

MOTION BY JACKSON, SECOND BY SCHAIBERGER, TO APPROVE RESOLUTION 18-24 AND 18-25

Resolution 18-24

Resolution to set Water Rates

Whereas The City of West Branch is required by the Michigan Department of Environmental Quality (MDEQ) to have a AMP (asset management plan) and CIP (capital improvement plan) related to water assets, and

Whereas the City is aware that it will be required to establish adequate revenues through water rates to fund the management and capital improvement of its water assets, and

Whereas the City has the authority to set water rates via state law as well as City ordinance 52.34 through 52.48, and 52.35 proscribes rates set via Resolution of Council, and

Whereas the City has completed a water rate study that has recommended rates necessary to adequately fund its water operations as well as fulfill its obligations related to asset management planning and capital improving planning, and

Now therefore, be it resolved, that The City of West Branch hereby resolves to set water rates as follows, in addition to existing rates related to debt service payments:

Ready to Serve Fees:	0.75	\$ 9.95
	1	\$ 17.69
	1.25	\$ 27.64
	1.5	\$ 39.80
	2	\$ 70.76
	3	\$ 159.20
	4	\$ 283.02

Gallons Used Charges:

0 to 10,000 gallons	\$5.23 per 1,000 gallons
10,001 to 100,000 gallons	\$5.75 per 1,000 gallons
100,001 + gallons	\$6.28 per 1,000 gallons

Township Customers – Would pay 1.5 times City rates for both ready to serve fees and gallons used.

Resolution 18-25

Resolution to set Sewer Rates

Whereas The City of West Branch will be required by the Michigan Department of Environmental Quality (MDEQ) to have a AMP (asset management plan) and CIP (capital improvement plan) related to sewer assets, and

Whereas the City is aware that it will be required to establish adequate revenues through sewer rates to fund the management and capital improvement of its sewer assets, and

Whereas the City has the authority to set sewer rates via state law as well as City ordinance 51.090 through 51.101, which proscribes rates set via Resolution of Council, and

Whereas the City has completed a rate study that has recommended rates necessary to adequately fund its sewer operations as well as fulfill its obligations related to asset management planning and capital improving planning, and

Now therefore, be it resolved, that The City of West Branch hereby resolves to set sewer rates as follows, in addition to existing rates related to debt service payments:

Gallons Used Charges sewer collection:

0 to 10,000 gallons	\$ 1.52 per 1,000 gallons
10,001 to 100,000 gallons	\$ 1.67 per 1,000 gallons
100,001 + gallons	\$ 1.82 per 1,000 gallons

Gallons used Sewer Treatment rates:

Ready to Serve Fees:	0.75	\$ 4.80
	1	\$ 8.54
	1.25	\$ 13.34
	1.5	\$ 19.20
	2	\$ 34.14
	3	\$ 76.82
	4	\$ 136.56

Gallons Used Charges:

0 to 10,000 gallons	\$ 4.98 per 1,000 gallons
10,001 to 100,000 gallons	\$ 5.47 per 1,000 gallons
100,001 + gallons	\$ 5.97 per 1,000 gallons

Yes — Bennett, Jackson, Lawrence, Schaiberger, Showalter, Tuttle, Weiler

No – None

Absent – None

Motion carried

It was noted that the new rates would go into effect January 1.

Member Bennett noted the need to continue to supply residents with educational opportunities to update them on all of the changes.

Member Showalter noted the need to include in the educational opportunities, information on the new meters and their ability to allow residents to monitor their own usage live and set alerts to notify them of potential issues with their usage.

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MOTION BY LAWRENCE, SECOND BY BENNETT, TO GO INTO CLOSED SESSION AS PER SECTION 15.268 (d) OF THE OPEN MEETINGS ACT, TO CONSIDER THE PURCHASE OR LEASE OF REAL PROPERTY UP TO THE TIME AN OPTION TO PURCHASE OR LEASE THE PROPERTY IS OBTAINED

Yes — Bennett, Jackson, Lawrence, Schaiberger, Showalter, Tuttle, Weiler

No – None

Absent – None

Motion carried

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MOTION BY BENNETT, SECOND BY SCHAIBERGER, TO RETURN TO OPEN SESSION.

Yes — Bennett, Jackson, Lawrence, Schaiberger, Showalter, Tuttle, Weiler

No – None

Absent – None

Motion carried

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MOTION BY SHOWALTER, SECOND BY SCHAIBERGER, TO PAY BILLS IN THE AMOUNT OF \$80,755.77.

Yes — Bennett, Jackson, Lawrence, Schaiberger, Showalter, Tuttle, Weiler

No – None

Absent – None

Motion carried

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MOTION BY SCHAIBERGER, SECOND BY JACKSON, TO APPROVE THE SECOND READING (ENACTMENT) OF ORDINANCE 18-05

ORDINANCE 18-05

AN ORDINANCE TO AMEND CHAPTER 32 OF THE CITY OF WEST BRANCH CODE OF ORDINANCES ENTITLED: “DEPARTMENTS, COMMISSIONS AND BOARDS.”

THE CITY OF WEST BRANCH ORDAINS:

§ 32.032 COMPOSITION/MEMBERSHIP.

(A) Membership of the planning commission shall be as set forth in the City Charter, and as required pursuant to the Michigan Planning Enabling Act 33 of 2008- with the caveat that the provision in § 4.20 of the City Charter indicating that the City Manager shall serve as a member of the City Planning Commission is hereby found to be invalid by operation of law, due to the interpretation that the City Manager ' s simultaneous service as the both a City Planning Commissioner and the City's Zoning Administrator is prohibited by the Incompatible Public Offices Act, 1978 PA 566, MCL 15.181, et seq.

(B) The Commission shall consist of a total of seven members, each of whom must be individually appointed by the Mayor and subject to approval by a majority vote of the members of the City Council.

(C) The membership of the Commission shall consist of qualified electors of the City of West Branch, except that no greater than two Commission members may be individuals who are not qualified electors of the City of West Branch but are qualified electors of another local unit of government

(D) Commission members shall not hold any elected office or employment with the City of West Branch, unless such member is an ex-officio member as contemplated in section (E) below.

(E) The Mayor or a Council Member appointed by the Mayor to serve on their behalf shall serve as an ex-officio member

(F) Ex-Officio members shall have the same rights, duties, powers, and responsibilities as non-ex-officio members- with the only difference being that the term of service for ex-officio members shall be the length of their corresponding term of office, as opposed to the three-year terms of office that shall generally apply to all other non-ex-officio Commission members.

(G) After an individual's appointment and before reappointment, each Commission member shall attend training for Commission members, pursuant to Section 32.034 of this Ordinance.

(H) Members shall be appointed for three-year terms. However, when first appointed a number of members shall be appointed to one-year, two-year, or three-year terms such that, as nearly as possible, the terms of 1/3 of all Commission members will expire each year. If a vacancy occurs, the vacancy shall be filled for the unexpired term in the same manner as provided for an original

appointment such that, as nearly as possible, the terms of 1/3 of all commission members continue to expire each year.

(I) The membership of this Commission shall be representative of the important segments of the community, such as the economic, governmental, educational, and social development of the City of West Branch, in accordance with the major interests as they exist in the City of West Branch, as follows:

1. one member representing the "Recreation" segment of the community;
2. one member representing the "Education" segment of the community;
3. one members representing the "Public Health" segment of the community;
- 4.-one members representing the "Government" segment of the community;
5. one member representing the "Transportation" segment of the community;;
6. one member representing the "Commerce/Industry" segment of the community; and
7. one member representing the "Residential" segment of the community; for a total of seven members in all.

(J) When appointing members to this Commission, the Mayor and City Council shall attempt,

whenever possible, to make the membership of this Commission proportionally representative of the important geographic and interest segments of the City of West Branch, which may consist of, for example, the various different types of zoned districts in the community.

(K) The membership of this Commission shall also be, to the extent practicable, representative of the entire geography of the City of West Branch, as a secondary consideration to the representation considerations set forth in sections 32.032(1) and (K) of this Ordinance.

(L) Commission members are required to meet the conditions provided for each individual member throughout Section 32.032 of this Ordinance, except that the geographical location considerations described in § 32.032(K) of this Ordinance may be considered optional. As such, the representation requirements and considerations set forth in this Ordinance shall be considered by Council in the following order of priority: first, § 32.032(1); second, § 32.032(J), and third, § 32.032(K).

(M) Neither the Mayor nor a representative member from the City Council shall serve as the chair of the Commission

Yes — Bennett, Jackson, Lawrence, Schaiberger, Showalter, Tuttle, Weiler

No – None

Absent – None

Motion carried

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MOTION BY SHOWALTER, SECOND BY TUTTLE, TO APPROVE THE UPDATES TO SECTION 3.1 OF THE PLANNING COMMISSION BYLAWS.

BYLAWS OF PLANNING COMMISSION

Article III: Members

3.1 Appointment. Members of the Commission are appointed by the Mayor and subject to approval by a majority vote of the members of the City Council, and hold office for a three year term, pursuant to the Planning Commission Ordinance 17-04, as amended.

3.1.1.1 First priority, each member shall represent and advocate what is best for the City of West Branch as a whole, putting aside personal or special interests.

3.1.1.2 Second Priority, each member shall represent a separate important segment of the community, as appointed by the City Council:

3.1.1.3 One member representing Recreation interests: attend and/or be familiar with the desires and needs of the recreation associations, civil and social organizations, the arts, snowmobile and other recreation clubs, Michigan Department of Natural Resources Parks Division, Recreations Division and Waterways Division.

- 3.1.1.4 One member representing Education interests: attend and/or be familiar with the desires and needs of the local school districts, intermediate school district, College, University and other educations institutions.
- 3.1.1.5 One member representing Public Health interests: attend and/or be familiar with the desires and needs of public utility providers, water/sewer providers, County Health Department, councils on aging, and human services collaborative bodies.
- 3.1.1.6 One member representing Government interests: attend and/or be familiar with the desires and needs of the county chapter of the Michigan Townships Associations, cities and villages, and county government.
- 3.1.1.7 One member representing Transportation interests: attend and/or be familiar with the desires and needs of the County Road Commission, and village and city road agencies.
- 3.1.1.8 One member representing Commerce/Industry interests: attend and/or be familiar with the desires and needs of the tourist division of the Chamber of Commerce, visitor/convention bureau, hotel/motel tourist business owners, economic development corporations, and labor and trade associations.
- 3.1.1.9 One member representing Residential interests: attend and/or be familiar with the desires and needs of the residential associations, interest groups or bodies.

MOTION BY JACKSON, SECOND BY SHOWALTER, TO APPROVE THE SECOND READING (ENACTMENT) OF ORDINANCE 18-04

ORDINANCE 18-04

AN ORDINANCE TO AMEND SECTION 51 ENTITLED "SEWER" OF THE CITY OF WEST BRANCH CODE OF ORDINANCES.

The City of West Branch ordains:

§ 51.092 RATES CHARGED TO USER.

A) Charges for sewer service to each premise within the City connected to the system shall be as prescribed by the most recent Resolution passed by the West Branch City Council that addresses sewer rates. The structure of how charges for sewer services are calculated shall also be set by Resolution of Council, and said pricing structure may contain a ready-to-serve fee, fees related to debt service payments, tiered pricing based on meter size and/or gallons used, and any other price-setting mechanism that Council deems fair and viable.

(B) In September of each year, the City Council shall review current sewer rates and compare

anticipated sewer revenues for the following fiscal year to anticipated sewer expenditures for the following fiscal year. Capital improvement set aside amounts for sewer shall also be considered at that time. Within 90 days of said annual review, the City Council shall vote to set the amount for capital improvement set asides for the sewer budget for the following fiscal year, with the Public Works Supervisor and City Manager providing recommendations regarding the same. The amount for sewer capital improvement set asides approved by Council shall be utilized by the City Manager when creating the sewer budget for the following fiscal year. The sewer capital improvement set aside amounts shall also be used by the Public Works Supervisor, the City Manager, and the Council to analyze whether current sewer rates are anticipated to generate enough revenue to cover all sewer expenditures for the following fiscal year, and if such an analysis indicates that revenues are not anticipated to cover expenditures for the following fiscal year, the City Council shall be required to have a vote within 30 days of such a determination to decide whether rates need to be adjusted, and if so, what the new rates should be set at.

(C) Prior to a Council vote to adjust sewer rates, a public hearing must be held on the matter with such public hearing being noticed at least 60 days prior to Council voting on the subject.

(D) Following the holding of such a duly noticed public hearing, the City Council may vote to set sewer rates via Resolution of Council. Sewer rates set in this manner shall remain in effect until modified by a subsequent Resolution approved by Council, except that at the beginning of each fiscal year the sewer rates in effect at that time shall automatically be adjusted by the City Treasurer either up or down to reflect the increase or decrease of inflation calculated as "Consumer Price Index (CPI) Inflation" by the United States Department of Labor's 'Bureau of Labor Statistics.' An example of how this automatic adjustment will occur is as follows: effective July 1st of each year, without needing an additional vote of Council, sewer rates will be automatically adjusted by the percentage of CPI inflation for the period of January 1st of the preceding year compared to January 1st of the current year. For instance, if inflation for the most recent year showed an increase of 1.8%, the City Treasurer would automatically increase sewer rates by 1.8% on July 1st of that year, with no need for Council to vote on the matter. However, the City Treasurer shall calculate whether sewer rates are going to be adjusted in such a manner during the preparation of each year's annual budget, and shall include a presentation of such anticipated adjustment to Council during the formulation of each year's budget, and the City Treasurer shall likewise ensure that a public hearing on the subject is noticed at least 60 days prior to such automatic adjustment taking effect so that the public is afforded an opportunity to be heard on the matter, and so that Council has an opportunity to request that such matter be placed on the agenda prior to it automatically taking effect in the event that the City Council should desire to set the sewer rates at some other amount via formal Council Resolution.

D) All premises served by the sewer system shall have installed an approved meter as determined by the Superintendent of Public Works or the City Manager. Other users of the system shall be charged in accordance with a schedule to be set by the City Council.

(Ord. 160, passed 5-18-81; Am. Ord. 196, passed 5-15-89; Am. Ord. 232, passed 3-20-95; Am. Ord. 148, passed 6-16-97; Am. Ord. 01-03, passed 6-18-01; Am. Ord. 05-02, passed 5-25-05; Am. Ord. 07-04, passed 6-18-2007; Am. Ord. 08-03, passed 12-15-2008; Am. Ord. 09-01, passed 5-18-2009; Am. Ord. 09-06, passed 10-5-2009; Am. Ord. 11-02, passed 2-21-2011)

§ 51.094 BILLING PROCEDURE.

Effective January 1, 2019, or as soon thereafter as may be practicable, sewer bills shall be rendered monthly during each operating year and shall represent charges for the period immediately preceding

the date of rendering the bill. The bills shall be due and payable within 30 days from the date thereof and all bills not paid when due shall be deemed delinquent and a penalty shall be added thereto and become due and owing as a part thereof. The amount of the penalty for late payments shall be set at the rate of 10% of the amount of such late billing for the year 2019, and may be modified thereafter by Resolution of Council.

(Ord. 160, passed 5-18-81; Am. Ord. 10-01, passed 2-1-2010)

§ 51.095 DELINQUENT PAYMENT; LIENS, SECURITY DEPOSIT.

Connection charges and charges for sewage disposal services are made a lien on all premises served thereby, unless notice is given that a tenant is responsible, whenever any such charge against any property shall be delinquent for six months, the City official or officials in charge of the collection thereof shall certify annually, not later than May 1 of each year, to the tax assessing officer, the fact of such delinquency, whereupon such charge shall be by him entered upon the next tax roll as a charge against such premises and shall be collected and the lien thereof enforced in the same manner as general taxes against such premises are collected and the lien thereof enforced. Where notice is given that a tenant is responsible for such charges and service as provided, no further service shall be rendered such premises until a cash deposit of not less than \$25 shall have been made as security for payment of such charges and service. The cash deposit required of tenants shall equal twice that amount typically charged to a similar customer for six months of service.

(Ord. 160, passed 5-18-81; Am. Ord. 02-04, passed 12-16-2002)

Yes — Bennett, Jackson, Lawrence, Schaiberger, Showalter, Tuttle, Weiler

No – None

Absent – None

Motion carried

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MOTION BY SCHAIBERGER, SECOND BY JACKSON, TO APPROVE RESOLUTION 18-22

RESOLUTION #18-22

WHEREAS, City staff compares the year to date actual with the budgeted amount of all revenue and expenditures monthly; and

WHEREAS, during the review it was determined that the revenues and expenditures in Fund 101, General Fund will exceed their budget, and

WHEREAS, the revenues were exceeded due to a one time additional personal property tax reimbursement payment from the State as well as an underestimation of the liquor license revenue, and the expenditures were exceeded due to the installation of LED lights in several municipal buildings, and

NOW, THEREFORE, BE IT RESOLVED, that the West Branch City Council hereby adopts the following budget amendments:

FUND 101 – General Fund

BUDGET

AMENDED

ANTICIPATED CARRY OVER	890,296	895,376
REVENUE		
Dept. 000.000		
403.400 Current Property Tax Gen Op	935,505	935,505
404.400 Current Property Tax Refuse	186,458	186,458
446.400 Penalties and Interest Current Tax	11,000	11,000
448.400 Administrative Fees on Current Tax	31,000	31,000
540.400 MDOT Federal Revenue	2,000	2,000
564.400 Industrial Park	2,000	2,000
573.400 Local Community Stabilization Share	0	14,800
574.400 Sales (Statutory)	26,544	26,544
575.400 Revenue Sharing (Constitutional)	179,350	179,350
577.400 Liquor License	3,600	3,880
580.400 Franchise Fee Revenue	39,500	39,500
590.400 Sewer Fund Admin	60,000	60,000
590.401 Sewer Collection Admin	32,000	32,000
591.400 Water Fund Admin	20,000	20,000
592.400 Local Street Admin	4,400	4,400
Major Street Admin	9,500	9,500
594.400 Cemetery Admin	1,000	1,000
597.400 DDA Admin	9,000	2,500
634.400 Grant	30,000	30,000
634.401 Grant – Economic Advancement	0	0
638.400 Project Income	0	0
642.400 Sale of Lots	10,000	10,000
661.400 Motor Vehicle Fund	12,000	12,000
664.400 Interest Income	2,800	2,800
671.400 Contributions	500	500
695.400 Miscellaneous	10,000	10,000
695.405 Refuse Recycling Donations	5,200	5,200
Total	1,623,357	1,638,437
TOTAL REVENUES	1,728,417	1,743,497

EXPENDITURES

Dept. 265.00 Municipal Properties		
703.700 Salaries and wages	5,000	5,000
710.700 Overtime	225	225
714.700 Mandatory Medicare	75	75
715.700 Social Security (employer)	310	310
716.700 BC/BS Health Insurance Premium	865	865
718.700 MERS Retirement (employer)	75	75
720.700 Workers Compensation Premium	190	190
724.700 Unemployment Insurance Benefit	30	30
727.700 Operating Supplies	5,000	5,000
801.700 Contractual Services	500	10,500

850.701 Grants – cameras	0	0
853.700 Telephone/Radio Communications	2,000	2,000
922.700 Public Utilities	21,300	21,300
941.700 Equipment Rental	1,500	1,500
956.700 Expenses	1,500	1,500
977.700 Capital Acquisitions	0	0
Total	38,570	48,570
 TOTAL EXPENDITURES	 1,638,808	 1,648,808

Yes — Bennett, Jackson, Lawrence, Schaiberger, Showalter, Tuttle, Weiler

No – None

Absent – None

Motion carried

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MOTION BY SCHAIBERGER, SECOND BY BENNETT, TO APPROVE RESOLUTION 18-23

Resolution 18-23

Waive Collection of Penalties for failure to file Property Transfer Affidavits

Whereas The City of West Branch is aware that Michigan statues *MCL 211.27b* requires that the buyer, grantee or transferee of a property notify within 45 days the local assessing office when a transfer of ownership occurs. The state’s form Property Transfer Affidavit, form 2766 should be used to fulfill this requirement, and

Whereas the City is aware that there are penalty fees that must be collected for failure to file the Property Transfer Affidavit. Michigan statues *MCL 211.27b (5)* allows that the governing body of a local tax collecting unit may waive, by resolution, the penalty levied under subsection (1) (c) or (d), and

Whereas the City has procedures in place to notify the buyer, grantee or transferee of a property of any Property Transfer Affidavits not filed within the required 45 days, and

Whereas it has been determined by the assessing office that compliance with filing the Property Transfer Affidavits is greater than 90 percent, and

Whereas the City finds that the collection of the penalties is unnecessary,

Now therefore, be it resolved, that The City of West Branch as provided under statues *MCL 211.27b (5)* waive, the penalty levied under subsection (1) (c) or (d), and

Further be it resolved, that any resolution, resolution section, policy, or directive in conflict with this Resolution is repealed or amended to reflect and achieve the purposes stated herein.

Yes — Bennett, Jackson, Lawrence, Schaiberger, Showalter, Tuttle, Weiler

No – None

Absent – None

Motion carried

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MOTION BY SCHAIBERGER, SECOND BY WEILER, TO APPROVE THE UPDATED CHARITABLE EXEMPTION POLICY AND THE UPDATED APPLICATION FOR EXEMPTION OF REAL AND/OR PERSONAL PROPERTY APPLICATION AS PRESENTED.

Charitable Exemption Policy

MCL 211.7o of the General Property Tax Act provides an exemption for real or personal property owned and occupied by a nonprofit charitable institution while occupied by that . . . institution solely for the purposes for which that . . . institution was incorporated.” In determining whether a taxpayer is qualified for the exemption, the taxpayer must complete and submit an application to the assessor and meet the following three-part test.

1. Is the real estate owned and occupied by the exemption claimant?
2. Is the exemption claimant a nonprofit charitable institution?
3. Are the buildings and other property thereon occupied by the claimant solely for the purposes for which the claimant was incorporated?

If all three prongs of the test are met, then a claimant qualifies for a charitable institution exemption.

To meet the first prong, the mere right to occupy a property is insufficient, as is the mere planning and preparation to occupy a property; rather, a claimant must maintain a regular physical presence on the property to satisfy this requirement. See *Liberty Hill Housing Corp v City of Livonia*, 480 Mich 44 (2008).

To meet the second prong, all six Wexford factors must be met. The Wexford factors are discussed below in Section B.

With regard to the third prong, property may be apportioned for purposes of this exemption. In such instances, the exemption is granted only for that portion of the premises used for the purpose for which the claimant was incorporated. See *McFarlan Home v City of Flint*, 105 Mich App 728 (1981).

Apportionment is only permitted in the case of real property and that the apportionment must be based on an allocation that grants the exempt status only to the portion of the premises which is physically occupied “solely” for the exempt charitable purpose.

B. WEXFORD FACTORS

In *Wexford Medical Group v Cadillac*, 474 Mich 192; 713 NW2d 734 (2006) the Michigan Supreme Court set forth the following six requirements that must be met for a claimant to be a nonprofit charitable institution:

1. The claimant must be a nonprofit institution;
2. The claimant must be organized chiefly, if not solely for charity;

3. The claimant must not offer its charity on a discriminatory basis by choosing who among the group it purports to serve deserves its services, but rather must serve any person who needs the particular type of charity being offered;
4. The claimant must bring people’s minds or hearts under the influence of education or religion; relieve people’s bodies from disease, suffering, or constraint; assist people to establish themselves for life; erect or maintain public buildings or works; or otherwise lessen the burdens of government;
5. The claimant may charge for its services as long as its charges are not more than what is needed for its successful maintenance; and
6. The claimant need not meet any monetary threshold of charity; rather, if the overall nature of the claimant is charitable, it is a charitable institution.

C. BARUCH SUPREME COURT DECISION

Wexford factor three was recently defined by the Michigan Supreme Court in *Baruch SLS, Inc v Tittabawassee Twp*, 500 Mich 345; 901 NW2d 843 (2017). The Supreme Court created a new “reasonable relationship” test to be applied when evaluating factor three; “whether the restrictions or conditions the institution imposes on its charity bear a reasonable relationship to a permissible charitable goal.” The Supreme Court instructed that this “reasonable relationship” test is to be construed “quite broadly to prevent unnecessarily limiting the restrictions a charity may choose to place on its services” noting that other states have employed similar tests. The Supreme Court further advised “the relationship between the institution’s restriction and its charitable goal need not be the most direct or obvious. Any reasonable restriction that is implemented to further a charitable goal that passes factor four is acceptable.” The Supreme Court also stated that the analysis of a charitable institution’s fees should be considered under factor five, not factor three.

Following the Baruch decision, the Court of Appeals issued a decision in *Chelsea Health & Wellness Foundation v Scio Twp, et al* finding that the facility under appeal was entitled to the charitable exemption and remanding to the Tribunal for entry of the order granting the exemption for the 2014-2015 tax years. The Court of Appeals, in granting the exemption, found that the evidence satisfied Wexford factor three as recently interpreted in the Baruch decision. The Court also found Chelsea Health lessened a burden of government “by undertaking measures designed to improve the health of the population within its service area.”

Yes — Bennett, Jackson, Lawrence, Schaiberger, Showalter, Tuttle, Weiler

No – None

Absent – None

Motion carried

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MOTION BY SCHAIBERGER, SECOND BY JACKSON, TO APPROVE THE ACCEPTANCE OF THE UNCLAIMED FORECLOSED LAND, PROPERTY ID #'S 052-650-013-00 AND 052-520-014-00

Yes — Bennett, Jackson, Lawrence, Schaiberger, Showalter, Tuttle, Weiler

No – None

Absent – None

Motion carried

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MOTION BY BENNETT, SECOND BY JACKSON, TO APPROVE THE MINUTES AND SUMMARY OF MINUTES FROM THE MEETING HELD NOVEMBER 19, 2018

Yes — Bennett, Jackson, Lawrence, Schaiberger, Showalter, Tuttle, Weiler

No – None

Absent – None

Motion carried

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MOTION BY SHOWALTER, SECOND BY SCHAIBERGER, TO RECEIVE AND FILE THE TREASURER’S REPORT AND INVESTMENT SUMMARY; LINE ITEM BUDGET AMENDMENTS; THE MINUTES FROM THE WELLHEAD PROTECTION COMMITTEE MEETING HELD OCTOBER 9, 2018; THE MINUTES FROM THE EMS MEETING HELD OCTOBER 18, 2018, THE MINUTES FROM THE AIRPORT BOARD MEETING HELD OCTOBER 17, 2018; THE MINUTES FROM THE DDA MEETING HELD OCTOBER 23, 2018; AND THE MINUTES FROM THE PLANNING COMMISSION MEETING HELD OCTOBER 23, 2018.

Yes — Bennett, Jackson, Lawrence, Schaiberger, Showalter, Tuttle, Weiler

No – None

Absent – None

Motion carried

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An Ogemaw Herald Happy Holiday Flier was shared and it was discussed that it may be nice to have something similar done to thank the outgoing Board Members and welcome in the new ones.

A Santa letter publication opportunity was shared.

The West Branch City of Lights flier was shared.

A communication on the fiscal health of Michigan local governments from the Michigan Department of Treasury was shared.

The final results of the childcare survey conducted by Project Rising Tide was shared.

The updated airport layout plan was shared.

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Manager Grace thanked Mike Engels of Michigan Rural Water for all of his work that came at no cost to the City on the water rate study. In addition, she thanked the staff and Council for their help in the water rate study as well.

Mayor Lawrence read an outgoing letter and encouraged the new Council to put personal feelings aside and work together to better the City.

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Mark White, on behalf of the Iron Bandogs, presented Council with plans for a suicide awareness program that they will be starting.

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Mayor Lawrence adjourned the meeting at 7:15 pm.

Denise Lawrence, Mayor

John Dantzer, Clerk