



STATE OF MICHIGAN
DEPARTMENT OF TREASURY

RICK SNYDER
GOVERNOR

R. KEVIN CLINTON
STATE TREASURER

DATE: January 24, 2014

TO: Governor Snyder

FROM: Charter Township of Royal Oak Financial Review Team:
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SUBJECT: Report of the Charter Township of Royal Oak Financial Review Team

On December 4th, 9th, 10th, and 18th, 2013, and January 16th, 2014, members of the Charter Township of Royal Oak Financial Review Team met and reviewed information relevant to the financial condition of the Township. Based upon that review, the Review Team concludes, in accordance with Section 5(4)(b) of Public Act 436 of 2012, the Local Financial Stability and Choice Act, that a financial emergency exists within the Charter Township of Royal Oak.

I. Background

A. Preliminary Review

On September 9th through October 9th, 2013, the Department of Treasury conducted a preliminary review of the finances of the Charter Township of Royal Oak to determine whether or not probable financial stress existed. The preliminary review of the Township resulted from the conditions enumerated in subdivisions (h), (j), (k), (p), and (s) of Section 4(1) having occurred within the Township.¹ The preliminary review found, or confirmed, the following:

¹ Subdivision (h) provides that “[t]he local government has violated a requirement of, or a condition of an order issued pursuant to, former 1943 PA 202, the revenue bond act of 1933, 1933 PA 94, MCL 141.101 to 141.140, the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, or any other law governing the issuance of bonds or notes.” Subdivision (j) provides that “[t]he local government has violated a requirement of sections 17 to 20 of the uniform budgeting and accounting act, 1968 PA 2, MCL 141.437 to 141.440.” Subdivision (k) provides that “[t]he local government fails to timely file an annual financial report or audit that conforms with the minimum procedures and standards of the state financial authority and is required for local governments under the uniform budgeting and accounting act, 1968 PA 2, MCL 141.421 to 141.440a, or 1919 PA 71, MCL 21.41 to 21.55.” Subdivision (p) provides that “[t]he municipal government has ended a fiscal year in a deficit condition as defined in section 21 of the Glenn Steil state revenue sharing act of 1971, 1971 PA 140, MCL 141.921, or has failed to comply with the requirements of that section for filing or instituting a financial plan to correct the deficit condition.” Subdivision (s) provides that “[t]he existence of other facts or circumstances that, in the state treasurer’s sole discretion for a municipal government, are indicative of probable financial stress or that, in the state treasurer’s or superintendent of public instruction’s sole discretion for a school district, are indicative of probable financial stress.”

- Township officials procured a \$300,000 loan from a financial institution in violation of Public Act 34 of 2001, the Revised Municipal Finance Act, and without the approval of the Michigan Department of Treasury. The subsequent repayment of the unauthorized loan precipitated cash flow issues for the Township.
- Township officials engaged in expenditures in violation of Sections 17 through 20 of Public Act 2 of 1968, the Uniform Budgeting and Accounting Act.² For the Township's 2012 fiscal year, the General Fund had unbudgeted expenditures of \$205,216, of which notably were tax refunds of \$125,785 and inspection wages of \$21,975. In addition, the Fire Fund and the Police Fund had \$215,050 and \$281,934 respectively, in unbudgeted expenditures.
- As reflected in **Table 1**, during the past five fiscal years, the Police Fund had unbudgeted expenditures (losses) averaging approximately \$95,000 annually. Unbudgeted expenditures were particularly high in 2012 (\$395,699), which Township officials attributed to a delinquent property tax chargeback that they allocated across various funds including the Police Fund.

Table 1

**Police Fund Revenues, Expenditures,
 and Change in Fund Balance**

	2008	2009	2010	2011	2012
Revenues	\$544,568	\$545,141	\$658,587	\$658,363	\$574,889
Expenditures	<u>\$654,413</u>	<u>\$593,337</u>	<u>\$586,691</u>	<u>\$625,150</u>	<u>\$970,588</u>
Operating Income (Loss)	(\$109,845)	(\$48,196)	\$71,896	\$3,213	(\$395,699)
Transfers In (Out)	-	-		\$87,000	\$95,159
Change in Position	(\$109,845)	(\$48,196)	\$71,896	\$90,213	(\$300,540)
Beginning Balance	(\$796)	(\$110,641)	(\$158,837)	(\$185,570)	(\$95,357)
Ending Balance	<u>(\$110,641)</u>	<u>(\$158,837)</u>	<u>(\$86,941)</u>	<u>(\$95,357)</u>	<u>(\$395,897)</u>

Source: Annual Financial Audits, 2008 through 2012. The fiscal year 2011 beginning fund balance did not equal fiscal year 2010 ending fund balance due to prior period adjustment or error.

² Those provisions, in the main, require local officials annually to adopt a balanced budget which sets forth a statement of estimated revenues, by source, in each fund maintained by the local government for the ensuing fiscal year; to monitor actual revenues and expenditures during the course of a fiscal year; to amend an adopted budget as necessary to ensure that expenditures do not exceed available revenues; and to refrain from incurring expenditures in excess of amounts appropriated by the local legislative body.

- In addition to the Police Fund, the Township experienced unbudgeted expenditures in several other governmental funds during the past five fiscal years, as reflected in **Table 2**. As of December 31, 2012, the last fiscal year for which audited financial data is available, the Township's overall deficit increased by \$101,220, from a deficit of \$200,324 in fiscal year 2011 to \$301,544 in fiscal year 2012.

Table 2

Balances In Selected Governmental funds

Governmental Fund	2008	2009	2010	2011	2012
General	\$28,506	\$179,348	(\$286,416)	(\$34,821)	\$58,254
Police	(\$110,641)	(\$158,837)	(\$86,941)	(\$95,357)	(\$395,867)
Fire	\$95,974	\$115,776	\$271,849	\$51,004	(\$85,614)
Recreation	\$64,416	\$96,166	\$118,778	\$79,364	\$14,894
Non Major	<u>\$176,362</u>	<u>\$175,316</u>	<u>\$173,127</u>	<u>\$200,134</u>	<u>\$106,789</u>
Total Fund Balance	\$254,617	\$49,073	\$190,397	\$200,324	(\$301,544)

Source: Annual Financial Audits, 2008 through 2012

- At the conclusion of its 2012 fiscal year, the governmental activities of the Township as reflected in its government-wide based statements had an unrestricted net assets deficit of \$477,663 and total net assets deficit of \$540,870.
- Township officials submitted to the Michigan Department of Treasury a deficit elimination plan which the Department deemed unacceptable. For example, while actual General Fund expenditures for fiscal year 2012 totaled \$908,608, the deficit elimination plan projected future expenditures ranging from \$636,759 and \$691,252 without any explanation of how such significant decreases in expenditures would be realized. Subsequently, Township officials submitted a revised plan that proposed to eliminate road patrols provided by the Oakland County Sheriff's Department and to rely solely on the Michigan State Police, thereby eliminating virtually all expenditures in the Police Fund. The Township would continue to levy a special assessment for police services and apply future revenues to the deficit. This revised plan also was deemed unacceptable due to questionable assumptions and proposed transfers from restricted funds.
- Township officials had not complied fully with monthly reporting requirements of which they were notified by the Michigan Department of Treasury on April 30, 2013. Compliance with the reporting requirements was a condition of any ongoing certification of the Township's deficit elimination plan. None of the first three monthly reports were filed timely. Township officials submitted some, but not all, of the reports at the beginning of September.

- Since fiscal year 2008, Township officials failed to timely file with the Michigan Department of Treasury annual financial audit reports as required by Public Act 2 of 1968, the Uniform Budgeting and Accounting Act.
- Oakland County officials notified Township officials that the Sheriff's Department would terminate road patrols effective November 11, 2013, due to nonpayment for services. In the September 13, 2013, revised deficit elimination plan submitted to the Michigan Department of Treasury, Township officials noted that arrearages to the County were \$182,000 and might reach \$300,000 by the November 11, 2013, service termination date.
- City of Ferndale officials notified Township officials that the City would terminate fire protection services if the September payment was not received by October 18, 2013. The letter also indicated that the City was providing fire services to the Township without a contract and needed to reevaluate contract costs as they related to future services.

On October 9, 2013, the State Treasurer submitted the foregoing preliminary review to the Local Emergency Financial Assistance Loan Board. On October 23, 2013, the Local Emergency Financial Assistance Loan Board determined that probable financial stress existed for the Township.³

B. Review Team Findings

On December 2, 2013, the Governor appointed a five-member Financial Review Team. The Review Team convened on December 4th, 9th, 10th, and 18th, 2013, and January 16th, 2014.

1. Conditions Indicative of a Financial Emergency

The Review Team found, or confirmed, the existence of the following conditions based upon information provided by Township officials or other relevant sources:

- According to the Township's 2012 fiscal year financial audit, the combined ending balance in its governmental funds (i.e., General, Police, Fire, Recreation, and Non-Major Governmental) decreased from \$200,324 as of December 30, 2011 to a negative \$298,983 as of December 30, 2012. This one-year negative net change in fund balance of \$499,307 resulted from an operating deficit (i.e., expenditures in excess of revenues) of the same amount.

³ Under the prior emergency management statutes (Public Act 101 of 1988; Public Act 72 of 1990, the Local Government Fiscal Responsibility Act; and Public Act 4 of 2011, the Local Government and School District Fiscal Accountability Act), a preliminary review reached a conclusion regarding whether a serious financial problem or probable financial stress existed in the unit of local government that was subject to the review. However, under the current Act, a preliminary review reaches no such conclusion. Instead, pursuant to Section 4(2) of the Act, "[t]he state financial authority [the State Treasurer or Superintendent of Public Instruction] shall prepare and provide a final report detailing its preliminary review to the local emergency financial assistance loan board... Within 20 days after receiving the final report from the state financial authority, the local emergency financial assistance loan board shall determine if probable financial stress exists for the local government."

- As summarized in **Table 3**, financial audit reports for the Township for its last three fiscal years reflect differing degrees of variance between General Fund revenues and expenditures, as initially budgeted and as amended, versus General Fund revenues and expenditures actually realized. For example, actual General Fund revenues were less than had been budgeted for two of the three fiscal years in question (2010 and 2011). However, in neither fiscal year did Township officials amend the budget then in place to reflect the fact that less revenue was being realized than had been estimated. Similarly, General Fund expenditures exceeded what had been budgeted for two fiscal years (2010 and 2012). Again, however, Township officials failed to amend the budget then in effect to reflect this new reality.⁴

Table 3

General Fund Revenues as Initially Budgeted, Amended, and Actual

	<u>2009-10</u>	<u>%</u>	<u>2010-11</u>	<u>%</u>	<u>2011-12</u>	<u>%</u>
<u>Revenues</u>						
Budgeted	\$1,198,622		\$1,046,388		\$965,419	
Amended	\$1,198,622		\$1,046,388		\$913,859	
Actual	<u>\$1,100,075</u>		<u>\$941,981</u>		<u>\$989,475</u>	
Variance	(\$98,547)	(8.22)	(\$104,407)	(9.98)	\$75,616	8.27
<u>Expenditures</u>						
Budgeted	\$1,198,794		\$1,127,543		\$849,792	
Amended	\$1,198,794		\$1,127,543		\$849,792	
Actual	<u>\$1,231,444</u>		<u>\$1,074,339</u>		<u>\$908,607</u>	
Variance	(\$32,650)	(2.72)	\$53,204	4.72	(\$58,815)	(6.92)

Source: Annual Financial Audits

⁴ We noted above at Footnote 2, that various provisions of Public Act 2 of 1968, the Uniform Budgeting and Accounting Act, require local officials annually to adopt a balanced budget which sets forth a statement of estimated revenues, by source, in each fund maintained by the local government for the ensuing fiscal year; to monitor actual revenues and expenditures during the course of a fiscal year; to amend an adopted budget as necessary to ensure that expenditures do not exceed available revenues; and to refrain from incurring expenditures in excess of amounts appropriated by the local legislative body. One purpose of these statutory requirements is to prevent, or at least to minimize to the extent practicable, deficit spending by local governments. However, the efficacy of these provisions is greatly reduced when local officials fail to accurately estimate revenues and expenditures for budget adoption purposes, to monitor revenues and expenditures throughout a given fiscal year, and to properly amend budgets accordingly.

- As of December 10, 2013, Township officials had not adopted a budget for the 2014 fiscal year which began on January 1, 2014. Indeed, Review Team members were advised that Township officials had until December 11, 2103, to submit budget proposals. By that date, Township officials had only two regularly scheduled meetings remaining during calendar year 2013 during which to consider and adopt the 2014 fiscal year budget.

While Public Act 2 of 1968, the Uniform Budgeting and Accounting Act, does not specify a date by which local officials must commence the budget adoption process for an ensuing fiscal year, prudence suggests that the process commence far enough in advance to permit an orderly and thorough consideration of financial information relevant to the formulation and adoption of the budget. Furthermore, Public Act 359 of 1947, the Charter Township Act, which applies to the Charter Township of Royal Oak, does contain several provisions governing the budget formulation and adoption process, provisions with which Township officials failed to comply.⁵ While primary responsibility for compliance with these statutory requirements rests with Township officials, there is no indication that the Township's Financial Consultant either advised Township officials of these statutory provisions or of the necessity to comply with them.

⁵ For example, Section 24 of the Act requires as follows:

On or before 150 days prior to the commencement of the fiscal year [i.e., prior to August 4th for the Charter Township of Royal Oak], each township officer shall submit to the supervisor, or to the township superintendent if such officer has been appointed, an itemized estimate of the anticipated expenditures of the township for the next fiscal year for the township activities under his or her charge. The supervisor, or township superintendent, as the case may be, shall prepare a complete itemized budget proposal for the next fiscal year and shall submit it to the township board not later than 120 days prior to the commencement of the fiscal year. [i.e., prior to September 3rd for the Charter Township of Royal Oak]

Section 26 of the Act provides as follows:

A public hearing on the budget shall be held before its final adoption, at such time and place as the township board shall direct, and notice of such public hearing shall be published at least 1 week in advance by the township clerk. A copy of the proposed budget shall be on file and available to the public for inspection during office hours at the office of the township clerk for a period of not less than 1 week prior to such public hearing.

Section 27(1) of the Act provides, in part, as follows:

If a township operates on a calendar year budget cycle [as does the Charter Township of Royal Oak], a public hearing on the proposed budget shall be held not later than December 15 and adopted not later than December 31, in the year preceding the calendar year covered by the budget.

Finally, Section 28 of the Act provides, in part, as follows:

No money shall be drawn from the treasury of the township nor shall any obligation for the expenditure of money be incurred, except pursuant to the budget appropriation, or pursuant to any supplemental appropriation which may be made from surplus received.

- In addition to general property taxes levied for operating purposes, the Township historically has relied heavily upon unit-wide ad valorem special assessments to fund many services, including police and fire. For example, as shown in **Table 4**, the Township levied 31.5000 mills to fund police and fire services in 2013. However, despite the substantial number of mills legally dedicated specifically for police and fire services, both the Police Fund and Fire Fund of the Township are projected to end in a deficit condition for the 2013 fiscal year and did end in a deficit condition for the 2012 fiscal year.

Furthermore, Township officials have been unable on a consistent basis to timely meet its contractual obligations for fire services provided by the City of Ferndale or for police services provided by the Oakland County Sheriff's Department. As noted earlier, the Oakland County Sheriff's Department terminated services to the Township during November of 2013, due to nonpayment for services rendered. Township officials were unable to provide the Review Team with any cogent explanation as to why, despite levying dedicated millage for police and fire services, the Township has been unable to reliably pay for police and fire services provided by other governmental units while simultaneously incurring deficits in those governmental programs.

On December 10, 2013, the Review Team requested from the Supervisor and Financial Consultant a financial reconciliation of funds generated by the special assessment for police services. The purpose of requesting the information was to specifically determine the amount of such funds and the use to which they were put by Township officials. As of the date of this report, the requested information had not been provided.

Table 4

Ad Valorem Special Assessments During 2013

<u>Purpose</u>	<u>Number of Mills</u>
Police Services	21.2500
Fire Services	10.2500
Garbage Disposal	3.0000
Street Lighting	1.5000
Parks and Recreation	<u>1.2500</u>
Total	37.2500

Source: Michigan Department of Treasury

- As shown in **Table 5**, for the past five fiscal years, Township officials have not filed annual financial audits with the Michigan Department of Treasury within the six-month statutory time-frame required by Public Act 2 of 1968, the Uniform Budgeting and Accounting Act:⁶

Table 5

Financial Audit Report Due Dates and Date Received

<u>Fiscal Year Ending</u>	<u>Date Due</u>	<u>Date Received</u>
December 30, 2008	June 30, 2009	August 24, 2009
December 30, 2009	June 30, 2010	October 19, 2010
December 30, 2010	June 30, 2011	July 14, 2011
December 30, 2011	June 30, 2012	August 6, 2012
December 30, 2012	June 30, 2013	August 5, 2013

Source: Michigan Department of Treasury

2. Review Team Meetings

On December 2, 2013, Review Team members Dennis Cowan, Frederick Headen, Doug Ringler, Suzanne Schafer, and Mark Wollenweber met with Cary Vaughn, Audit Manager, Local Audit and Finance Division, Bureau of Local Government Services; and with Richard C. Jones, of the certified public accounting firm RC Jones, PLLC.

On December 9, 2013, Review Team members Dennis Cowan, Frederick Headen, Doug Ringler, Suzanne Schafer, and Mark Wollenweber met with Donna J. Squalls, Township Supervisor; Janice Brinkley, Township Clerk; Bill Cunningham, Financial Consultant; David Ford, Patrick Harbin, and Francine Thurman, Township Trustees; and Kimberly Reeves, Township Treasurer. Also on December 9, 2013, Review Team members Frederick Headen, Doug Ringler, Suzanne Schafer, and Mark Wollenweber met with Michael Dunlap and James Owens, Department of Public Works; and Carlos Cross, AFSCME Council 25.

On December 10, 2013, Review Team members Dennis Cowan, Frederick Headen, Doug Ringler,

⁶ The recurring inability of a local government to timely file annual financial audits generally is reflective of underlying operational deficiencies, or internal control deficiencies, or both, such as a failure by local officials to maintain an accurate and timely general ledger or to perform timely (preferably monthly) reconciliations of bank balances to the general ledger. Because of such deficiencies, the financial records of the local government may not be in the proper condition necessary to permit an audit of them to be promptly commenced. As a result, the certified public accountant hired to conduct the financial audit faces a Hobson's choice of either assisting with preparation of the financial records (to the extent permitted by professional standards) or delaying commencement of the financial audit until staff of the local government make the necessary preparations. In either case, the outcome may be delay in commencing, and in completing, the financial audit.

Suzanne Schafer, and Mark Wollenweber met with Michael G. McCabe, Undersheriff and Chief Deputy, Oakland County Sheriff's Department; Douglas Molinar, Captain and Commander, Patrol Services Division, Oakland County Sheriff's Department; Chad Allen, Detective Sergeant, Oakland County Sheriff's Department; Nathaniel McQueen III, Lieutenant, Michigan State Police; Kevin Sullivan, City of Ferndale Fire Chief; Brian Batten, City of Ferndale Fire Marshall; Hiram Harris, Parks and Recreation Director; Donna J. Squalls, Township Supervisor; and Bill Cunningham, Financial Consultant.

Also, on December 10, 2013, Review Team members Dennis Cowan, Frederick Headen, Doug Ringler, Suzanne Schafer, and Mark Wollenweber conducted a public information meeting in the Charter Township of Royal Oak pursuant to Section 5(2) of the Act. Review Team members discussed with approximately 75 Township residents in attendance the statutory process, indicated that Review Team members had met with various Township, union, and other officials, and received comments from approximately 20 Township residents.

3. Other Considerations

There was substantial, if not unanimous, agreement among the officials with whom the Review Team met that a financial emergency exists within the Charter Township of Royal Oak. In addition, a number of the residents who offered comments as the December 10, 2013, public information meeting expressed the view that the Township was in a financial emergency. Notably, those Township officials who were reluctant to characterize the financial condition of the Township as a financial emergency were unable to articulate with precision and persuasiveness how that financial condition, however characterized, might be effectively addressed.

We think it fair to observe that the circumstances which have resulted in the financial emergency have been neither precipitous nor unforeseeable by Township officials. Indeed, the financial and operational deficiencies of the Township have been longstanding, as a result of which the Township and its officials have been subject to varying degrees of State oversight since at least 1978. The Township and its officials also were subject to judicial oversight for much of the same period of time. A chronology of the more significant aspects of that oversight is set out in Appendix A.

No doubt some of the financial and operational deficiencies which we observed resulted from the reduction in size of the Township over time and the attendant reduction in tax base and population. As with other townships in Michigan, the Charter Township of Royal Oak initially consisted of 36 square miles. However, beginning in 1921, various municipalities began to incorporate within its boundaries. As a result, within the geographic area that once comprised the Township now exists all, or a portion of, the cities of Berkley, Clawson, Ferndale, Hazel Park, Huntington Woods, Madison Heights, Pleasant Ridge, Oak Park, and Royal Oak. Because of the foregoing incorporations, and two subsequent annexations of Township property to the City of Oak Park, as of the 2010 federal decennial census, the Township consisted of a mere 0.55 square miles.

However, the geographic challenges that have confronted the Township over many decades offer but a partial explanation for its longstanding financial problems. The process by which Township officials have made (or not made) decisions, the officials involved in those decisions, and the aftermath of certain significant decisions that have been made also have contributed to the financial emergency in the Township. We offer several examples.

a. Dysfunctional Decision Making

Auditing Services. The decision making process utilized by current Township officials has proven problematic. For example, as of December 10, 2013, Township officials had yet to secure the services of a certified public accountant to perform the Township's financial audit for its 2013 fiscal year.

Township officials had been aware of the need to secure such services since the summer of 2013, when by mutual agreement or otherwise, they and their now former certified public accountant severed their contractual relationship. Furthermore, Township officials and their former certified public accountant had consistently exhibited an inability to complete and file Township financial audits in the timely manner required by law. Both of these considerations should have suggested to Township officials the necessity of promptly beginning the process to select a successor certified public accountant and of proceeding with the utmost diligence.

However, Township officials acted neither promptly, nor diligently. For example, they did not develop and issue any requests for proposal. Such an approach would have afforded Township officials an opportunity to ascertain what accounting firms might be willing to perform financial audits for the Township, what such services might cost, and the experience level of such firms in conducting financial audits for units of local government. Instead, Township officials indicated that they identified a *potential* certified public accountant based solely upon an informal recommendation from a previous Township official.

Police Services Special Assessment. A key aspect of how Township officials propose to address the financial emergency within the Township concerns the special assessment for police services. As noted earlier, the Township levies 21.2500 mills for that purpose, but with the departure of the Oakland County Sheriff's Department in November of 2013, the Michigan State Police is providing such services at no direct charge to the Township.

Township officials have proposed to continue levying the special assessment for three purposes: first, to pay arrearages to the Oakland County Sheriff's Department for services already rendered; second, to repay the Township's General Fund for moneys supposedly transferred from it to the Township's Police Fund; and third, to accumulate a sum of money sufficient to again contract with the Oakland County Sheriff's Department beginning in 2015, or to reestablish a Township police department.

Whether Township officials may legally continue to levy the special assessment for the foregoing purposes is unclear. A September 12, 2013, letter from legal counsel for the Township concluded that Township officials could continue to levy the special assessment for those purposes, but the letter was manifestly lacking in both detail and legal analysis. Of concern to the Review Team was the fact that Township officials appeared to have given no consideration to any alternatives if the continued levying of the special assessment was challenged and determined to be unauthorized.

However, even if the legality of continuing to levy the special assessment were not in doubt, other issues still would remain. For example, there was no indication that Township officials had reached any understanding with Oakland County officials concerning repayment of arrearages for police services already provided. Likewise, there was no indication that Township officials had given any consideration to the financial and operational complexities of reestablishing a freestanding police department. Among these complexities would be the selection, training, and certification of suitable personnel, attendant liability issues, and the necessity of procedures to ensure no recurrence of the concerns which forced the Township to disband its police department in the first place.

b. Ineffective Communication

There appears to have been, and remains, a lack of effective communication, both within the administrative structure of the Township and between that administrative structure and the Township's Board of Trustees. For example, the principal officials who comprise that administrative structure are the Supervisor, Clerk, and Treasurer. Their primary responsibilities consist of valuing real and tangible personal property (performed largely by the Oakland County Equalization Department); conducting elections and maintaining public and personnel records; and collecting and disbursing various taxes, fees, and other assessments, respectively. Their respective offices are located on the same floor within close physical proximity.

However, the Review Team was advised by various parties that these three officials have exhibited little ability to effectively communicate with one another, to coordinate the activities of their respective offices, or to work cooperatively for the good of the Township and its residents. It was noted that on many occasions, communication occurs only electronically or at the bimonthly meetings of the Township Board. And, during 2013, litigation ensued among various Township officials concerning their duties and the performance of them. While it may be necessary on occasion for officials in a unit of local government to resort to litigation to resolve differences, litigation is no substitute for effective communication.

Furthermore, several Township officials, including Trustees, expressed frustration at their inability to receive timely and accurate information regarding the financial and operational activities of the Township. It was observed that there have been occasions when the Board has been expected to make significant financial or operational decisions without having received relevant information in advance of a meeting or that financial information when received in advance has subsequently been revised without notice or explanation.

Finally, the Review Team was informed by various officials with whom it met that meetings of the Township's Board of Trustees tend to be chaotic, protracted, and produce little in the way of tangible results. Notably, several Township residents who offered comments during the December 10, 2013, public information meeting made similar observations. These observations were confirmed by a review of Board meeting minutes. In such an environment, rational financial management is not likely to be forthcoming.

c. Practical Consequences of Present Service Delivery

As noted earlier, townships in Michigan perform three principle functions: assessing and valuing real and tangible personal property; conducting elections; and collecting property taxes, both for themselves and for other taxing jurisdiction with which they geographically overlap, such as school districts, counties, special authorities, and this State. In addition, charter townships are authorized by law to perform a host of other functions such as police and fire services.

However, in the case of the Charter Township of Royal Oak, other governmental units provide many of the Township's core services. For example, the assessment and valuation of real and tangible personal property is performed by the Oakland County Equalization Department; police services are provided by the Michigan State Police, and previously by the Oakland County Sheriff's Department; fire service is provided by the City of Ferndale; water is provided by the City of Detroit. The Township does provide for the maintenance of its own streets, but modestly so and based upon funds provided by Oakland County. In other words, not only has the geographic area of the Township decreased over time, so too has its practical ability to directly provide municipal services to its residents.

These considerations caused the Review Team to contemplate whether a better alternative might exist to preserve the pride, dedication, and spirit of officials and residents of the Township. One alternative might be a complete outsourcing of the Township's remaining operations to one or more neighboring governmental units. The reality is that the financial and operational condition of the Township has been dire for decades, is dire now, and likely will remain dire into the foreseeable future. Hence, in addressing the current status of the Township, and looking toward the future, any efforts merely to preserve the status quo will not suffice.

d. Postscript

As this report was being finalized for submission, two events transpired in the Charter Township of Royal Oak that deserve comment. Both events further underscored our conclusion of general dysfunction among officials within the Township and of the existence of a financial emergency.

First, Township officials failed to adopt a budget for the current fiscal year as required by law before the fiscal year began on January 1, 2014. Township officials did adopt a budget on January 2, 2014, but because they failed to act by resolution as required by law, questions arose concerning

whether the budget had been lawfully adopted. On January 9, 2014, Township officials adopted a budget resolution, but then discovered that they had failed to satisfy statutory requirements that public notice be published seven days in advance. This misstep led to a new series of questions concerning whether the budget had been lawfully adopted. Because of the haphazard manner in which Township officials handled the budget adoption process, differences of opinion now exist among Township officials as to whether the Township lawfully may incur, or pay, financial obligations.

Second, while it receives fire services from an adjoining community, the Township receives related emergency medical services from a private ambulance company. On January 10, 2014, the Michigan Department of Treasury was informed by the Oakland County Sheriff's Department that the company had cancelled any further service to the Township due to nonpayment by Township officials of invoices for services previously rendered. While 911 calls still were being answered, there was no emergency medical services provider to which such calls could be referred.

This situation left Township residents, many of them elderly in an untenable position in the event that a medical emergency arose. As of late in the day on January 10, 2014, the private ambulance company had agreed to reinstate emergency medical service to the Township on a temporary basis, but only because of the intervention of officials from the Oakland County Sheriff's Department. The matter remains unresolved on a permanent basis.

C. Conclusion

Based upon the foregoing information, meetings, and review, the Review Team confirms the findings of the preliminary review, the determination of the Local Emergency Financial Assistance Loan Board, and concludes that a financial emergency exists within the Charter Township of Royal Oak.

II. Section 5(3) Requirements

Section 5(3) of the Act requires that this report include the existence or an indication of the likely occurrence of any of the conditions set forth in subdivisions (a) through (m).⁷ The conditions in subdivisions (d), (e), (h), (k), and (j) of Section 5(3) exist or are likely to occur, as follows:

- For the 2013 fiscal year, the Township had accounts payable of \$367,088 which exceeded 10 percent of total expenditures of \$3.3 million. (Section 5(3)(d).)
- The Township had a Police Fund deficit of \$395,867 and a Fire Fund deficit of \$85,614 as of December 30, 2013, which were not eliminated within the two-year period preceding the end of the fiscal year of the Township during which this Review Team report is received. (Section 5(3)(e).)

⁷ Subdivisions (a) through (m) of Section 5(3) of the Act provide as follows:

(a) A default in the payment of principal or interest upon bonded obligations, notes, or other municipal securities for which no funds or insufficient funds are on hand and, if required, segregated in a special trust fund.

(b) Failure for a period of 30 days or more beyond the due date to transfer 1 or more of the following to the appropriate agency:

(i) Taxes withheld on the income of employees.

(ii) For a municipal government, taxes collected by the municipal government as agent for another governmental unit, school district, or other entity or taxing authority.

(iii) Any contribution required by a pension, retirement, or benefit plan.

(c) Failure for a period of 7 days or more after the scheduled date of payment to pay wages and salaries or other compensation owed to employees or benefits owed to retirees.

(d) The total amount of accounts payable for the current fiscal year, as determined by the state financial authority's uniform chart of accounts, is in excess of 10% of the total expenditures of the local government in that fiscal year.

(e) Failure to eliminate an existing deficit in any fund of the local government within the 2-year period preceding the end of the local government's fiscal year during which the review team report is received.

(f) Projection of a deficit in the general fund of the local government for the current fiscal year in excess of 5% of the budgeted revenues for the general fund.

(g) Failure to comply in all material respects with the terms of an approved deficit elimination plan or an agreement entered into pursuant to a deficit elimination plan.

- Financial statements for the 2013 fiscal year of the Township indicated that 41 percent of General Fund assets (\$438,704 of \$1.06 million) were comprised of amounts from other funds. (Section 5(3)(h).)
- During fiscal years 2011 and 2012, Township officials transferred from the Fire Fund monies legally restricted for fire services to support other funds. (Section 5(3)(k).)
- A structural operating deficit has existed in the Police Fund during the 2008, 2009, and 2012 fiscal years. Over the last five fiscal years, annual revenues averaged \$590,310, while annual expenditures averaged \$686,036. (Section 5(3)(j).)

III. Review Team Report Transmittal Requirements

Section 5(3) of the Act also requires that a copy of this report be transmitted to Charter Township of Royal Oak Supervisor Donna J. Squalls, Charter Township of Royal Oak Trustees, the Speaker of the House of Representatives, the Senate Majority Leader, and each State Senator and Representative who represents the Charter Township of Royal Oak.

cc: Donna J. Squalls, Supervisor
Charter Township of Royal Oak Board of Trustees
James Bolger, Speaker of the House of Representatives
Randy Richardville, Senate Majority Leader
Vincent Gregory, Michigan Senator
Ellen Cogen Lipton, Michigan Representative

(h) Existence of material loans to the general fund from other local government funds that are not regularly settled between the funds or that are increasing in scope.

(i) Existence after the close of the fiscal year of material recurring unbudgeted subsidies from the general fund to other major funds as defined under government accounting standards board principles.

(j) Existence of a structural operating deficit.

(k) Use of restricted revenues for purposes not authorized by law.

(l) The likelihood that the local government is or will be unable to pay its obligations within 60 days after the date of the review team's reporting its findings to the governor.

(m) Any other facts and circumstances indicative of local government financial emergency.

Appendix A

Chronology of Oversight of the Charter Township of Royal Oak

1972

January Oakland County Prosecutor requests Michigan Department of Treasury perform an investigative audit of the Township because of alleged impropriety in its management of financial records.

July

Township checks are returned because of insufficient funds. Included are checks to four vendors, a payroll transfer check, and a tax collection fund check to the Oakland County Treasurer.

August

Circuit Court order is entered requiring Township officials to perform duties required by law.

1974

August

Oakland County Drain Commissioner requests State intervention because of excessive amounts owed by Township; Circuit Court judgment orders that indebtedness be remitted on a scheduled basis and that monthly billings be kept current. Township officials do not follow court order.

December

Township is eight months delinquent in paying its contributions to Municipal Employees Retirement System of Michigan.

1976

January

Michigan Department of Treasury conducts financial audit of the Township as of December 31, 1974. Apparently, the audit is the first for the Township since Public Act 2 of 1968, the Uniform Budgeting and Accounting Act, took effect and reveals that Township operating funds have aggregate deficit of \$251,811.

May

Oakland County Prosecutor requests an audit of the Disposal Fund to complete investigation of alleged unauthorized use of Township funds.

1978

April

Oakland County Drain Commissioner requests intervention by the State because of excessive amounts owed by Township.

October

Michigan Department of Treasury Several files suit in Oakland County Circuit Court to force officials of the Township to manage its financial affairs properly and to provide its residents with services necessary for adequate public health and safety.

1980

June

Former Township Deputy Treasurer is bound over to Circuit Court on embezzlement charges from 1976-1977 activities.

1982

May

Former Township Deputy Treasurer pleads guilty to the charge of misappropriation of public funds.

Appendix A (Continued)

Chronology of Oversight of the Charter Township of Royal Oak

1983

January Michigan Department of Treasury staff is appointed acting Township Supervisor and institutes procedures that result in large reduction of existing deficit.

March Elected Township Supervisor is charged with felonious assault.

October Township Clerk charged with election fraud, as a result of which police and fire millage cannot take effect until another election is held.

December Michigan Employment Relations Commission awards approximately \$312,500 to public safety officers.

1984

March Auditor hired by Township officials is unable to complete fiscal year 1983 financial audit; Michigan Department of Treasury completes financial audit and performs fiscal year 1984 financial audit.

Township Supervisor charged with extortion and is found guilty in July 1984.

Oakland County Circuit Court considers appointing Governor as receiver for the Township.

July Oakland County Circuit Court appoints two task forces, a Technical Task Force and a Citizens Task Force.

1985

May Final Task Force reports are issued, the recommendations of both of which essentially are the same; although Township officials adopt the Citizens Task Force provisions, the recommendations are never implemented.

1987

September Oakland County Prosecutor demands that Township disband its police department due to alleged corruption; charges are brought against several officers.

1988

August Oakland County Prosecutor investigates allegations of voting irregularities in the August primary.

November Officials from Michigan Department of Treasury, Attorney General, and Oakland County Circuit Court meet with newly elected Township officials emphasize serious financial condition of Township, the need for an acceptable deficit elimination plan, and the requirements of existing court orders.

December Newly elected Township officials indicate an inability to work together.

Appendix A (Continued)

Chronology of Oversight of the Charter Township of Royal Oak

1989

March Michigan Department of Treasury commences preliminary review under Public Act 101 of 1988, the Local Government Fiscal Responsibility Act.

July Governor appoints Financial Review Team.

September Financial Review Team and Township officials execute a consent agreement pursuant to Act 101 which requires, among other things, appointment of a Financial Manager with authority similar to that of an Emergency Financial Manager under the Act.

October-December Michigan Department of Treasury staff approves issuance of checks and monitors activities of the Township pursuant to Oakland County Circuit Court order.

1990

January Financial Manager is appointed.

May Financial Manager resigns.

May-June Michigan Department of Treasury staff approves issuance of checks and monitors activities of the Township pursuant to Oakland County Circuit Court order.

July Successor Financial Manager is appointed.

October Township Supervisor requests Oakland County Circuit Court hearing to challenge authority of Financial Manager. An order is entered delineating the authority of the Financial Manager and Township officials.

1992

April-June Michigan Department of Treasury selects new Financial Manager pursuant to consent agreement and court orders; however, Township officials refuse to execute contract.

August Township officials issue \$344,000 in tax-anticipation and revenue-anticipation notes.

October Township officials file lawsuit in Federal District Court against the State and named State officials over the implementation of Public Act 101 and successor Public Act 72 of 1990, the Local Government Fiscal Responsibility Act.

November Newly elected Township officials take office; Township Supervisor dies within a week of taking office.

Appendix A (Continued)

Chronology of Oversight of the Charter Township of Royal Oak

December	Township Board refuses to ratify consent agreement.
<u>1993</u>	
February	Township officials hire Financial Manager selected by Michigan Department of Treasury; contract with Financial Manager is signed prior to Treasury approval and is inconsistent with consent agreement.
<u>1995</u>	
August	Township no longer has Financial Manager and Township officials are not complying with the consent Agreement or Oakland County Circuit Court orders.
<u>2007</u>	
April	State Treasurer informs Township officials that consent agreement was deemed to have been satisfied and therefore had expired.
May	Oakland County Circuit Court enters order dismissing Michigan Department of Treasury suit initiated in 1978.
<u>2013</u>	
September	State Treasurer commences preliminary review of Township's financial condition pursuant to Public Act 436 of 2012, the Local Financial Stability and Choice Act.
October	Local Emergency Financial Assistance Loan Board determines probable financial stress to exist.
December	Governor appoints Financial Review Team.