

From: Charles Kotz  
Sent: Monday, May 2, 2022 5:14 PM  
To: Board <[Board@meridian.mi.us](mailto:Board@meridian.mi.us)>  
Subject: Cornell Elementary

Dear Board:

Please include this letter in the packet for the May 3, 2022 meeting. I am writing to express my strong opposition to the scheme underway by the Okemos School Board to abandon Cornell Elementary, in favor of new construction, to be placed on Powell Road. The Township Board needs to weigh in on this, as this project violates several of the tenets put forward in the Meridian Township Master Plan.

- 1). This blatantly contradicts any notion of Meridian Townships claiming to be a "walkable and bicycle friendly" community. A Powell Road location, NORTH of Grand River Avenue is just ludicrous. How long before a small child is killed attempting to cross this high speed, high traffic volume highway.
- 2). Powell Road is one of the last vestiges of rural Meridian Township remaining. Building a school on Powell will forever destroy any semblance of its current character.
- 3). Meridian Township claims to be a "Sustainable Community". Abandoning a building that can be rehabilitated, in favor of razing a natural area, is something that blatantly contradicts the righteous claim of "Sustainability".
- 4). Several years ago, when Okemos school student numbers were in decline, the School Board made desperate pleas for more family housing, to "fill up" the schools. The result was the high density housing located North of Jolly Rd., extending up to Bennet Road. The developers had a field day, and we lost more green space. Now we are in another supposed crisis, and the schools are "over-full". So hat in hand, they are coming back, asking for money to build a new school, and put another on moth balls. I'm confident that the developers are salivating at the prospect of doing the same to Powell Road, that they did to the area across from the high school. Irreplaceable green space lost, all due to a lack of a true and clear eyed approach to a transient problem.

Sincerely,

Charles Kotz  
1282 Silverwood Dr.

**Lansing**  
313 S. Washington Square  
Lansing MI 48933

**Detroit**  
333 W. Fort Street – Suite 1400  
Detroit MI 48226

Walter S. Foster  
1878-1961  
Richard B. Foster  
1908-1996  
Theodore W. Swift  
1928-2000  
John L. Collins  
1926-2001

Webb A. Smith  
Scott A. Storey  
Charles A. Janssen  
Charles E. Barbieri  
Scott L. Mandel  
Michael D. Sanders  
Brent A. Titus

Brian G. Goodenough  
Matt G. Hrebec  
Deanna Swisher  
Thomas R. Meagher  
Douglas A. Mielock  
Scott A. Chernich  
Paul J. Millenbach  
Dirk H. Beckwith  
Brian J. Renaud  
Lynwood P. VandenBosch  
Lawrence Korolewicz  
James B. Doezema  
Anne M. Seurnyck  
Michael D. Homier  
Scott H. Hogan  
Richard C. Kraus

**Southfield**  
28411 Northwestern Highway – Suite 500  
Southfield MI 48034

**Holland**  
151 Central Avenue – Suite 260  
Holland MI 49423

Benjamin J. Price  
Michael R. Blum  
Jonathan J. David  
Andrew C. Vredenburg  
Julie I. Fershtman  
Todd W. Hoppe  
Jennifer B. Van Regenmorter  
Thomas R. TerMaat  
Frederick D. Dilley  
David R. Russell  
Joel C. Farrar  
Laura J. Genovich  
Karl W. Butterer, Jr.  
Mindi M. Johnson  
Ray H. Littleton, II  
Jack L. Van Coevering

Anna K. Gibson  
Patricia J. Scott  
Nicholas M. Oertel  
Alicia W. Birach  
Adam A. Fadly  
Michael J. Liddane  
Ryan E. Lamb  
Clifford L. Hammond  
Matthew S. Fedor  
Andrea Badalucco  
John W. Mashni  
Stefania Gismondi  
Leslie A. Abdo  
Julie L. Hamlet  
Michael C. Zahrt  
Gilbert M. Frimet

Stephen W. Smith  
Mark T. Koerner  
Warren H. Krueger, III  
Sarah J. Gabis  
Amanda Afton Martin  
Steven J. Tjapkes  
Jacquelyn A. Dupler  
Daniel S. Zick  
Scott R. Forbush  
Taylor A. Gast  
Rachel G. Olney  
Tyler J. Olney  
Mark J. DeLuca  
Thomas K. Dillon  
Robert A. Hamor  
Michael A. Cassar

**Grand Rapids**  
1700 E. Bellline NE – Suite 200  
Grand Rapids MI 49525

**St. Joseph**  
800 Ship Street – Suite 105  
St. Joseph MI 49085

Hilary J. McDaniel Stafford  
Emily R. Wisniewski  
Amanda J. Dernovshek  
Lydia H. Kessler  
Brandon M. H. Schumacher  
Alexander J. Thibodeau  
Cody A. Mott  
Alaina M. Nelson  
Caroline N. Renner  
Joseph B. Gale  
Sydney T. Steele  
Kaitlyn E. Manley  
Kathrine A. Ruttkofsky  
Anthony M. Dalimonte  
Jim W. Scales  
Benjamin C. Dilley

Writer's Direct Phone: 517.371.8155

Fax: 517.367.7155

Reply To: Lansing

Email: [CBarbieri@fosterswift.com](mailto:CBarbieri@fosterswift.com)

May 2, 2022

*Email  
First Class Mail*

Township Board Members  
Charter Township of Meridian  
5151 Marsh Road  
Okemos, MI 48864

To Whom It May Concern:

Re: Objection to Final Proposed Assessment Roll for the Daniels

As you know, we represent The Ponds Cooperative Homes, Inc. ("The Ponds"), which owns two Parcels of property within the Daniels Drain Drainage District, Parcel No.: 33-02-02-22-248-002 ("Parcel 1") and Parcel No.: 33-02-02-23-351-005 ("Parcel 2"). We previously wrote to you on November 11, 2021, February 22, 2022, and April 15, 2022 to raise objections to the Township's proposed assessments on those Parcels for funding the ongoing improvements to the Daniels Drain. We also met with representatives of the Township on Friday, April 29, 2022, and orally expressed our objection. Please let this serve as an additional objection for the record, which should include all of our past communications as well. As discussed below, the final proposed assessment roll for the Daniels Drain, which is set for approval at your board meeting on Tuesday, May 3, 2022, is unfair and improper. We will appear at that meeting to renew this additional objection.

During the meeting on Friday, April 29, the Township indicated to us that the new proposed assessment for The Ponds' Parcels for the Daniels drain was "fair." To the contrary, both the method by which the roll was calculated and the process by which it was established are both patently unfair and in violation of the law. The Township conducted two public hearings on this matter, at which time The Ponds was notified that its assessment for Parcel 1 would be \$214,560.37, and then raised at the second hearing to \$227,532.70. The Ponds was further notified that Parcel 2 would be assessed at \$193,022.73 during the

Township Board Members

May 2, 2022

Page 2

first hearing, which was raised to \$201,679.07 at the second hearing. Subsequent to the second public hearing, the Township held closed meetings whereby The Ponds' assessment on Parcel 1 was increased by 130.67% to \$494,929.54, and the assessment on Parcel 2 was increased by 127.47% to \$439,062.73. This was done without The Ponds having had an opportunity to provide any input whatsoever on this substantial change. This is a violation of the purpose of the special assessment procedure and The Ponds' due process rights under the Fourteenth Amendment to the United States Constitution and the Michigan Constitution, 1963 Const., Art 1, §17.

In addition, while the Township's April 21, 2022 letter purports to detail the method in which The Ponds' assessment was so dramatically altered, the conduct of Township Board members has illuminated the true basis of that increase. Both Treasurer Deschaine and Trustee Hendrickson made comments at the April 12, 2022 public hearing that a "substantial" or "dramatic" increase in The Ponds' assessments subsequent to that meeting should occur based upon The Ponds' refusal to provide public access to its private property, Walden Pond, its docks and the pathways around Walden Pond. Treasurer Deschaine and Trustee Hendrickson made it clear that they both felt that The Ponds should be penalized financially for failing to provide that requested access. The process for modifying the assessment roll in the Township's April 21, 2021 letter appears designed to obscure the Township's true, and unlawful, intention which was to force The Ponds to essentially create a public park, or, be harnessed with an outsized assessment if not.

As we previously indicated to Treasurer Deschaine and the Township, and outlined in our April 15, 2022 objection, The Ponds' Bylaws prohibit public access to its private common features. The Ponds, like any public citizen who owns property, has the right to protect its property and to ensure the safety and security of its residents. The limitation on public access is consistent with that right. This is also in accordance with The Ponds' obligation to limit potential liabilities and to avoid undesired increases in insurance premiums. The Ponds' position of limiting access is equally consistent with the responsibilities that The Ponds has for purposes of complying with the easement that it has agreed to with the drainage district and Drain Commissioner in connection with the drain improvements.

Further, while the Township's April 21, 2022 letter purports to have increased The Ponds' assessment by eliminating the "Proximity" value and having undertaken a "thorough review of all the line items costs for the Daniels Drain," you did not enclose backup detail in that letter. We do acknowledge receipt of the four pages of information via email late this morning which has not been fully reviewed. In addition, at the meeting on Friday April 29, 2022, you attempted to support this new assessment with claims that the observation decks that were being built on Walden Pond were specific to The Ponds' property. However, you fail to acknowledge that the observation decks are not a new feature of Walden Pond. Walden Pond's observation decks were removed during construction and are merely being replaced. In addition, lighting surrounding Walden Pond has been removed but not restored. We can only assume that has not been considered in the new assessment.

Township Board Members

May 2, 2022

Page 3

The Township's new "formula" for the special assessment was created apparently for the primary purpose of increasing The Ponds' assessment because it refused to provide public access to its pond. This increase is certainly not reasonably proportionate to the benefit derived from the improvement. *Kadzban v City of Grandville*, 442 Mich 495, 505; 502 NW2d 299 (1993). Moreover, as continuously stated by GEI Consultants at Township meetings, Walden Pond is a regional detention basin taking all the water from the surrounding properties within the drainage district. Walden Pond is a 2.6-acre storage basis for stormwater from the Daniels Drain Drainage District. Each and every property within the Daniels Drain Drainage District contributes stormwater to Walden Pond, and, as a result, each and every property within the drainage district receives a benefit. (In some years, including last year, the so-called "benefit" of receiving water from the Drainage District resulted in flooding of one of The Ponds' building unit, which almost occurred again in the last few days.)

Moreover, as the Township knows, The Ponds has executed various easements in 2019, as well as in 2021, over both its Parcels, without receipt of any payment, which provide the Ingham County Drain Commissioner the right to unlimited temporary and permanent access to perform maintenance work needed to expand and maintain Walden Pond. This, again, benefits all property owners in the Daniels Drain Drainage District. In addition, while The Ponds continues to own the property, virtually all of its property on Parcel 1 and Parcel 2 not covered by a building is encumbered by the existence of the easements which amounts to a substantial amount of the combined Parcels. The easements prevent The Ponds from constructing non-movable or permanent structures in the entirety of the easement area. It also is required as part of the easement for The Ponds to assume the obligation to maintain the pathway for future access by the Drainage District. In addition, it is our understanding that the current design is expanding Walden Pond beyond its current boundaries, estimated to be about 1.5 acres in size, limiting the amount of land usable by The Ponds. The plans also include forebay/wetland features which would further restrict the available land for The Ponds' use. As a result, these encumbered areas are not benefited by the Daniels Drain Project, as their use is limited by the project; thus, they should be removed from the assessment area.

At the Township Board meeting, Trustee Hendrickson further indicated that the assessment on The Ponds should be greater as its two Parcels represent "189 units of the total units in the special assessment district." This is inaccurate. The Ponds has only 144 apartments not 189, and these do not equate to parcels in the special assessment district.

Finally, The Ponds is a non-profit cooperative. Each shareholder buys a share, which provides that shareholder with a guaranteed right to use a unit within The Ponds. Those units are either a 980 sq. ft. single bedroom or a 1080 sq. ft. two bedroom unit. Many of The Ponds' shareholders are individuals just starting out, or individuals that are in retirement, that wish to still enjoy the benefits of living in Meridian Township. When the \$933,992.25 assessment is spread among The Ponds' shareholders, many of its low or fixed income residents may find their homes unaffordable. Further, this significant assessment on The Ponds' Parcels carries with it a financial liability, which could have a significant

Township Board Members

May 2, 2022

Page 4

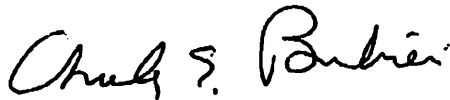
impact on its sustainability. The harm that will be caused to the shareholders of The Ponds far outweighs any perceived benefit they receive.

The Ponds hereby lodges its continuing objection to the proposed assessment for its Parcels as that increase is merely based upon a failure to grant access to Walden Pond. The Ponds further objects to the proposed special assessment based upon the fact that it is not reasonably related to the benefit received by The Ponds. Finally, The Ponds objects to the special assessment on its Parcels as the increase in the assessment subsequent to the public hearings is arbitrary and capricious, is contrary to assessment procedure (which did not provide the type of notice and opportunity for comment required), and is in violation of The Ponds state and federal due process rights. The Ponds, in reserving its rights, requests that the proposed special assessment be rejected, that an additional public hearing be afforded and that all other just and proper relief be granted to assure an assessment proportionate to the benefit received.

Thank you for your attention to this matter.

Sincerely,

FOSTER SWIFT COLLINS & SMITH PC



Charles E. Barbieri

CEB/MTK

cc: William K. Fahey  
Celeste Bennett  
Mark Koerner



May 2, 2022

**Email**  
**First Class Mail**

Township Board Members  
Charter Township of Meridian  
5151 Marsh Road  
Okemos, MI 48864

To Supervisor Jackson and Township Board Members:

Re: Objection to the Ponds Cooperative Homes, Inc. Final Proposed Assessment Roll for the Daniels Drain

I am the Board President for the Ponds Cooperative Homes Inc., commonly referred to as The Ponds. I write to you both that capacity and as a concerned township citizen. With all due respect given to your positions, and in recognition of the difficult task placed before you, I want the record to show that.

1. **The work done on the Cooperatives property benefits the entire district.** This has been conveyed to you numerous times and as recently as the April 12, 2022 meeting by GEI Consultants. The Cooperatives' property houses the physical retention receptacle for all stormwater runoff in the 219-acre district. That Drainage system removes the burden of individual property owners and neighborhoods from having to store this water. It also takes their risk of flooding and places at the point of lowest elevation, which is Walden Pond. The stormwater flowing into the pond carries the chemical fertilizers, sediments, and road salts flowing from the higher elevations fouling the water, killing the wildlife and vegetation. You were made aware of this at the April 12 meeting by GEI consultants and in previous correspondence from Mr. Barbieri, the Ponds' attorney for the Daniels Drain project.
2. **Establishing a "Ponds Special Benefit" based on finished esthetics is arbitrary, capricious, and prejudicial.** As is customary for the ICDC when a property owner grants them unlimited access to the property, the ICDC made plans to replace all of the existing plants, trees, soil, and existing structures that were going to be ripped out of the ground or destroyed as a result of the construction work. Going line by line to determine the costs of

restoration of existing structures, soil, trees, and plantings is ludicrous, especially as the work done was not under the control or direction of the Ponds and was all related to the need for restoring and maintaining the catch basin, complying with wetland preservation requirement and reestablishing the wildlife habits destroyed during construction.

3. **The board changed the formula used for assessments without notice or due process after the two public review periods had already been held.** In the open meeting held on April 12, 2022, board members commented that they were going to meet the next day to re-evaluate the Proximity factor assigned to the Ponds for the stated purpose of significantly increasing our assessment. At that closed meeting, you discarded the P-factor and established a "Ponds Benefit Factor."
4. **Two of the main functions of American Governance are to do for its citizens what they can't do for themselves and to ensure that all citizens are treated fairly and equitably.** The ICDC faithfully discharged its duty by performing maintenance and upgrades to the Daniels Drain. Through the work of its contractors, who worked diligently and efficiently, the ICDC handed the township a smaller bill than was initially projected. The township was charged with finding a way to pay that bill. They chose to pay half of it utilizing general fund, general-purpose funds, for which the Ponds still expresses gratitude. Of the remainder of what was needed, you assessed a substantial portion of that amount to one property owner—the Ponds. Unlike traditional housing, the Ponds does not operate for profit. By Cooperative Housing laws, we distribute only the essential cost of operation to our residents. This provides affordable housing to our shareholders. About  $\frac{3}{4}$  of our residents are seniors on fixed incomes or young people with modest incomes who gravitate to the Ponds because they can't afford higher housing costs elsewhere in Meridian Township. The Ponds board must now, by cooperative housing law, take that \$933,992.20 that you have ascribed to us and apportion that out to our residents. Asking families and individuals who live in our 144 small one and 2-bedroom apartments to be responsible for \$5,958.40 to \$6,566.40 is not fair to them. The Ponds has been a part of Meridian Charter Township since the mid-80s, and our residents deserve to be treated with the same respect and fairness afforded to any other property owner in the district.

Before the April 12 meeting, the Ponds had already advised the township board that we would accept the current disproportionate share of the assessment assigned under the formula established by the Spicer Group. We did this because we recognized that lowering our amount would have to raise the amounts that our neighbors paid, and we didn't want to increase the amount of contention that already existed. All we asked was that the mathematical error that showed that we had more property benefiting than the amount of property we physically owned be corrected and that our rights as property owners be respected.

The township made disparaging remarks on April 12 that characterized the Ponds as uncooperative, wealthy condo property owners with a bad attitude knowing full well that even if we wanted to, we are under restrictions that do not allow our property to become a quasi-public park. Aside from the amount of litter and debris left behind, we had no problem with anyone walking peacefully around the pond until our property was repeatedly vandalized, our residents began to feel unsafe with the kinds of activities that were occurring on the property by non-residents, and one of our resident's pets was viciously attacked by a non-resident's dog. When the public safety officers who responded to residents' trespassing complaints thought the pond was

public property and nothing could be done with their complaint; we placed signage advising that we were private property to avoid any confusion that might exist.

It is very disconcerting that a local government can take a proposed \$429,211.77 assessment amount, and last-minute jury rigs the numbers to increase that amount to \$933,992.20. To protect ours and other property owners rights the Ponds Cooperative Homes, Inc. must oppose this action and have asking our legal counsel to assist.

Celeste Bennett, Board President

The Ponds Cooperative Homes, Inc.