

**SPECIAL BOARD OF SELECTMEN, BOARD OF FINANCE AND RTM
JOINT INFORMATIONAL MEETING**

Tuesday, January 18, 2022

**6:00 pm
Via Webex**

MINUTES

A special joint informational meeting of the Board of Selectmen, Board of Finance and RTM was held at 6:00 p.m. on Tuesday, January 18, 2022, via Webex in Fairfield, Connecticut.

A recording of this meeting can be found here: <https://www.youtube.com/watch?v=jjufjeKmRmI>.

MEMBERS PRESENT: **BOS:** First Selectwoman Brenda L. Kupchick, Selectman Thomas Flynn, Selectwoman Nancy Lefkowitz; **BOF:** Craig Curley, Christopher DeWitt, Mary LeClerc, Sheila Marmion, John Mitola, Kevin Starke, Jack Testani, James Walsh; **RTM:** D1: Ed Bateson, Melissa Longo, Veronica Monahan, Amy Ruggiero, D2: Cynthia Perham, D3: Alex Durrell, Jeff Galdenzi, Tom Lambert, Sharon Pistilli, D4: Laura Karson, Marcy Spolyar, Elizabeth Zezima, D5: Joe Siebert, D6: Steve Berecz, Andrew Graceffa, Lisa Havey, D7: John Kuhn, Mark McDermott, Jill Vergara, Karen Wackerman, D8: Hank Ference, Pamela Iacono, Peter Tallman, D10: Peter Britton, Frank Petise

OTHERS PRESENT: Town Attorney James Baldwin, Wiggin and Dana Attorney Mike Miller, Parks and Recreation Director Anthony Calabrese, FairTV, members of the public.

I. Call to Order

First Selectwoman Kupchick called the meeting to order at 6:00 pm.

II. Pledge of Allegiance

First Selectwoman Kupchick led the Pledge of Allegiance.

III. To Hear an Update on the Ongoing Fill Pile Remediation

First Selectwoman Kupchick said she convened this joint meeting to give board members and the public a status on the fill pile and affiliated sites as well as an overview of work that has been done and where the Town is headed so everyone can have a better understanding of what the Town is facing. She said the Town is working to clean this up and making significant process. She said that Wiggin and Dana Environmental Attorney Mike Miller will join her in making a presentation at this meeting. She said there has been a tremendous amount of oversight and time commitment to the remediation. First Selectwoman Kupchick said the presentation will be available on the Town's website and in her newsletter.

First Selectwoman Kupchick said tonight's presentation will focus on the fill pile, the Julian fill sites, Penfield Pavilion and Water Pollution Control Authority. She gave background on the fill pile.

Attorney Miller said he's been working with the Town for a little over two years to negotiate and coordinate regulatory issues with the US EPA and CT DEEP. He discussed some of the regulatory overlay related to the fill pile also known as the reclamation yard and the "Julian Fill" sites. He said the Town has been pursuant to DEEP and EPA oversight sampling and investigating and performing remediation at those sites that received "Julian Fill" and has been creating a plan to remedy or close the fill pile as it is today.

Attorney Miller discussed PCBs and how they are regulated. He noted other contaminants were found. He said there are divisions at the EPA and DEEP which sent the Town three Notices of Violation (NOV) - (1) PCB concentrations identified at the fill pile, (2) altering the solid waste disposal area (e.g. the file pile) without the required permit, and (3) depositing dredge spoils from another site without a permit at the fill pile.

Attorney Miller said the Town's LEP (Licensed Environmental Professional), Weston & Sampson, coordinated with DEEP and the EPA to investigate and sample the fill pile. He said the investigation of the fill pile is substantially complete. He said the Town, DEEP and EPA staff continue to work together to develop the DEEP- and EPA-approved remedy to address the fill pile. Attorney Miller said the approved remedy requires concurrence from the EPA and several DEEP divisions. He noted this has been a very complicated effort and a very complex undertaking. He said remedial alternatives have been presented to the EPA and DEEP and are now under consideration. He said he can't say at this time what will be approved for a remedy or when. He said, in concept, it's expected that there will be some excavation of materials, some capping and ongoing ground water and other monitoring going forward to ensure it's safe.

Attorney Miller said transparency of the selection of a remedy is of paramount importance. He said the First Selectwoman wants to have a public hearing for the Town to weigh in.

Attorney Miller discussed how a list of "Julian Fill" sites were put together and noted how it's been a struggle for the Town, EPA and DEEP in addressing such a complicated network of sites. He said Tighe & Bond the LEP are written into the Consent Order and approved by DEEP to investigate locations where "Julian Fill" was reported.

First Selectwoman Kupchick gave background on Penfield Pavilion's building history. She said residents will have an option to weigh in on future options of the Pavilion.

First Selectwoman Kupchick said that in September 2020, a NOV was received on the Wastewater Treatment Plant due to multiple PCB findings during the hardening project. She said the site is not "Julian Fill", but there are historical contaminants as this was the former Nike missile site. She said an investigation proposal is being prepared by the LEP to submit to the regulatory agencies.

First Selectwoman Kupchick discussed funding and expenditures to date that includes stating what was appropriated, expended, encumbered and what is available. She also reviewed projected costs. She then concluded the presentation with a timeline and noted that the safety of residents is paramount; all work on “Julian Fill” sites require approvals from DEEP and the EPA every step of the way; and this is a fluid and ongoing process.

First Selectwoman Kupchick opened up the meeting to questions from Board members:

Sharon Pistilli, RTM D3 asked about the curb project that had been performed on Ronald Drive and if fill was used there. First Selectwoman Kupchick said that extensive research had been done at those sites, but she would look into this and follow up with Ms. Pistilli. Ms. Pistilli also asked if the Federal Government might help the Town with the Nike site. Attorney Miller said research is being performed to find out the source of the contamination at the NIKE site which would determine responsibility.

John Kuhn, RTM D7 thanked the First Selectwoman for giving this presentation. He asked about legal fees. First Selectwoman Kupchick said there are a number of attorneys working to negotiate the NOV's that are very complicated and once they are signed off by the EPA and DEEP, those costs will far exceed legal fees. Attorney Miller said there is ongoing civil litigation. He said there was federal action that was favorably settled on behalf of the Town and the Town received the award. Town Attorney James Baldwin said the Town looked into its insurance companies for coverage, but there were exclusions which prevented the Town to make any claims. He said there is a possibility the Town can recover under a crime policy, but Attorney Baldwin said he is unable to comment on that at this time due to ongoing litigation.

Sheila Marmion, BOF asked if the Town is obligated to repair Penfield since FEMA denied the Town's original claim and if the Town doesn't comply, would the Town be fined. First Selectwoman Kupchick replied that FEMA could potentially revoke residents' flood insurance in this area if the Pavilion is not FEMA compliant. Ms. Marmion also asked if the Town is obligated to remediate the paved parking lot since it was sealed. First Selectwoman Kupchick said the Penfield parking lot is still under the testing phase and until there are details on where the contamination has been found, regulatory agencies will decide what is required of the Town.

Tom Flynn, BOS thanked the First Selectwoman and the Administration for putting together this presentation. He asked for the Administration to confirm if the Town is not getting reimbursement from FEMA for Penfield to which First Selectwoman said is correct. Mr. Flynn asked what the Town needs to do to bring Pavilion into FEMA compliance. First Selectwoman said the Town is in negotiations with FEMA to determine what will be required. Mr. Flynn clarified that the Town has to both negotiate with FEMA on the repair of the building as well as needing to remediate under the Pavilion and possibly under the parking lot to which First Selectwoman replied correct. Mr. Flynn asked CFO Jared Schmitt about the total amount of funding available. Mr. Schmitt said the \$6.8 million amount shown in the presentation is an error. He said it should read about \$7.6 million. Mr. Flynn asked if the Capital Plan does not include costs for any remediation efforts at the Nike site to which First Selectwoman Kupchick answered correct.

Laura Karson, RTM D4 said she appreciated this presentation. She asked if Penfield is safe for public use and how the Town knows the contamination isn't seeping into the air.

First Selectwoman Kupchick said when she took office, she and attorneys immediately met with regulatory agencies in Hartford and made sure testing was ordered in and around Penfield to ensure there was no risk to the community. She said it is completely safe to be in and around the Pavilion.

Mark McDermott, RTM Moderator asked if there were 27 sites remediated. Attorney Miller said the numbering is difficult because it refers to locations, but there could be multiple sites at the locations.

Elizabeth Zezima, RTM D4 asked if there is a depiction of expenses for the fill pile and for historical contamination. First Selectwoman Kupchick told her that Gould Manor is the only site with historical contamination that the Town used funds to clean up. Ms. Zezima also asked about the contamination on Stratfield Road. First Selectman Kupchick said the site on Stratfield Road was a single property that had a tree removed.

Kevin Starke, BOF asked about the issue with FEMA and flood insurance for the area. He asked if the Town's attorneys can investigate the actual risk. First Selectwoman Kupchick stated the Administration is in discussions with FEMA and when the Town has information from FEMA, it can determine recommendations and potential plans to demolish, move or fix the Pavilion. She said she will have a presentation once she knows what will be required.

Pamela Iacono, RTM D8 asked if there is an investigation into what went wrong with the guidance and advice the Town was given in regards to Penfield and if there was any legal recourse. First Selectwoman Kupchick stated letters were sent to the previous Administration instructing the Town to stop building the Pavilion and those letters were ignored. Town Attorney Baldwin said a thorough investigation is underway, but he cannot comment on pending litigation.

Jill Vergara, RTM D7 said she thought the situation regarding Penfield and FEMA compliance raises questions about the Town's Engineering Department and asked if litigation could be taken against consultants. First Selectwoman Kupchick said Attorney Baldwin is looking into everything.

James Walsh, BOF suggested the Town look into the building committee process and whether it should continue with tasking committees to oversee certain projects or instead hire professionals who would have insurance in the event something should go wrong. First Selectwoman Kupchick agreed with Mr. Walsh and said she wants to bring this to the attention of the Charter Revision Commission.

First Selectwoman Kupchick thanked everyone for attending the presentation. She said she will continue to update elected officials and the public.

IV. Adjourn

The meeting adjourned at 7:22 pm.

Respectfully submitted,

Pru O'Brien
Recording Secretary