

**Board of Finance Special Meeting**  
**Monday, March 13, 2023, 7:00 pm**  
**Via Webex & In Person at BOE Room 295 A/B**  
**501 Kings Highway East, Fairfield, CT**

A recording of this meeting can be found here: [BOF Special Penfield Pavilion Funding Vote 3.13.23.](#)

**FINAL MINUTES**

MEMBERS PRESENT: Chairwoman Lori Charlton, Vice-Chair John Mitola, Secretary Sheila Marmion, Christopher DeWitt, Mary LeClerc, Kevin Starke, Jack Testani, James Walsh

OTHERS PRESENT: First Selectwoman Brenda Kupchick, CFO Jared Schmitt, CAO Tom Bremer, Engineering Project Manager Elias Ghazal, Town Plan and Zoning Department Planning Director Jim Wendt, Parks & Recreation Director Anthony Calabrese, Town Attorney James Baldwin, Attorney John Stafstrom, Interim DPW Director John Marsilio, Bismark Construction President Greg Raucci, Flood & Erosion Control Board Chairwoman Becky Bunnell, Flood & Erosion Control Board Secretary Dick Dmochowski, BOE member Christine Vitale, Jill Vergara - RTM District 7, FairTV, members of the public.

1) Call to Order

Chairwoman Lori Charlton called the meeting to order at 7:00 pm.

2) Pledge of Allegiance

Chairwoman Charlton led the Pledge of Allegiance.

3) To hear, consider and act upon a resolution as recommended by the Board of Selectmen entitled, "A resolution appropriating \$10,500,000 for costs related to construction, remediation and addressing the Notice of Violation at Penfield Pavilion." See Attached Full Resolution. Requires RTM approval.

First Selectwoman Kupchick went through her presentation of the history of the Penfield Pavilion building, how the Town got to the current situation and how to fix the issues.

Option 1: Maintain Building: Remediate & Fix Foundations

- Remove "Julian fill" contaminated material underneath the building to be in compliance with DEEP/EPA (\$5 million); and
- Demo and reinstall skirting, decks, ramps, support roof decks, temporary support of the building, dewatering and permanent structure support (\$3.5 million); and
- Correct the FEMA Notice of Violation (NOV) by relocating the grade beams to the required 8ft elevation. (\$3 million); and
- Total estimated cost \$11.5 million.

Option 2: Demo Building: Remediate & Rebuild Basic Necessities

- Demolish building and foundations to be in compliance with the FEMA NOV (excluding locker rooms which are not in violation) (\$2 million); and
- Remove "Julian fill" to be in compliance with DEEP/EPA (\$4 million); and
- Rebuild basic necessities to current FEMA regulations including lifeguard shack, concession, bathrooms, covered deck (\$2.5 million); and
- Total estimated cost \$8.5 million.

The Town has approximately \$15 million in surpluses set aside which could be used toward both remediation options related to the remediation and repair costs. There is also \$1 million in ARPA funds that has been allocated for fill pile related costs. Bonding for construction is also an option. There is also \$100,000 set aside for resiliency studies in the area.

The meeting opened up to discussion with the Board members. Highlighted discussions are included in these minutes, but the full discussion can be accessed here: [BOF Special Penfield Pavilion Funding Vote 3.13.23](#).

Flood & Erosion Control Board (FECB) Chairwoman Becky Bunnell was invited to the meeting to speak about the possible effects on the beach area by lowering the grade surrounding the building. She said it was her understanding that the grade underneath the building would be lowered to 8ft and the area around the building would stay between 8-9ft. Town Plan and Zoning Department Planning Director Jim Wendt confirmed the grades. Ms. Bunnell said that the FECB approved putting construction and design money into the 2024 Capital Budget to focus on resiliency. When asked about whether the Town should wait until results of resiliency studies and costs related to flooding come back to fix the building, Ms. Bunnell replied that the FEMA NOV should be addressed first and then the studies should be done before the project has been completed.

Engineering Project Manager Eli Ghazal and Bismark Construction President Greg Raucci went through the expenses for the two options. They said DEEP and EPA are the two regulatory bodies involved. They said there will be representatives from both groups on site during the remediation removal as the removal is required by both. They said if the money is approved in the next few weeks, bids will go out in July and they hope to start the project in the fall. Once the project starts, and option 1 is approved, it should take 7-9 months.

There was a discussion about the amount of bonding still owed from the last two Penfield Pavilion constructions (\$12 million through 2037) and how this will still need to be paid even if there isn't a building in place. There was also a discussion about the National Flood Insurance Program (NFIP) 50/50 rule that prohibits improvements to a structure exceeding 50% of its market value unless the entire structure is brought into full compliance with current flood regulations.

There is \$15.9 million available. If the \$11.5 million is approved as is and the project cost goes over that amount, the Town will need to go back to board for approval of additional funds.

Vice-Chair John Mitola made a motion to amend the current resolution to add to the 8<sup>th</sup> WHEREAS:

*“Whereas the costs to fund the hiring of a coastal engineering firm to study and update the previous resiliency study pertaining to Penfield is \$100,000 and together with the remediation and construction cost aggregate \$11,600,000; and*

*Last paragraph “and \$100,000 to fund the hiring of a coastal engineering firm to study and update the previous resiliency study pertaining to Penfield.”*

Craig Curley seconded the amendment which carried unanimously.

Chairwoman Charlton opened the meeting up for public comment:

- Dick Dmochowski - Flood & Erosion Control Board Secretary, 241 Colonial Drive – He said the Flood & Erosion Control Board (FECB) sent two documents to the BOF. He said he agrees with all 10 WHEREAS clauses in the resolution and the FECB is in consent that fixing the NOV is job #1.
- Jill Vergara –RTM District 7 member, 271 Old Post Road – She said she was concerned about the 50/50 rule and field card changes. She said she was concerned the building will have to be lifted, incurring additional costs.

Craig Curley made a motion to break into caucus. Chairwoman Charlton seconded the motion which carried unanimously. Caucus started at 10:30 pm and the meeting resumed at 10:40 pm.

Board members gave comments before the vote and there was a discussion about having a building committee for this project. Those comments can be heard in full here: [BOF Special Penfield Pavilion Funding Vote 3.13.23.](#)

The motion to approve the following resolution as amended:

***A RESOLUTION APPROPRIATING \$10,600,000 FOR COSTS RELATED TO CONSTRUCTION, REMEDIATION, AND ADDRESSING THE NOTICE OF VIOLATION AT PENFIELD PAVILION***

***WHEREAS***, contaminated fill from the (Julian) fill pile was illegally deposited beneath Penfield Pavilion during construction;

***WHEREAS***, by state and federal law, the Town of Fairfield, Connecticut (the “Town”) is required to remove the fill in accordance with DEEP & EPA standards under a Consent Order;

***WHEREAS***, FEMA has determined the Town installed horizontal grade beams at a height that is in violation of federal floodplain management regulations;

***WHEREAS***, under federal law, the Town is required to bring Penfield Pavilion into compliance with FEMA regulations;

***WHEREAS***, the Town has received Notices of Violation from federal and state agencies that must be addressed.

***WHEREAS***, if the Town does not take corrective action by the end of March regarding the Notice of Violation, the Town faces a myriad of negative consequences that will impact residents and the Town;

***WHEREAS***, Penfield Pavilion is an asset to the community enjoyed by residents year round and cleaning the contaminated fill and lowering the grade beams is necessary to comply with all state and federal laws;

**WHEREAS**, the aggregate cost of 1) hiring a coastal engineering firm to study and update the previous resiliency study pertaining to Penfield; 2) remediation; 3) construction; and addressing the Notices of Violation is \$11,600,000 (the “Total Costs”); and

**WHEREAS**, the Town previously allocated and approved \$1,000,000 in American Rescue Plan Act funding to be applied towards the Total Costs; and

**WHEREAS**, the Town is holding funds (the “Funds”) in its Capital Non-Recurring Fill Pile Remediation Account (the “Account”) and desires to appropriate \$10,600,000 of the Funds to finance the balance of the Total Costs; and

**NOW, THEREFORE, BE IT RESOLVED:**

As recommended by the Board of Finance and the Board of Selectmen, the Town hereby appropriates the following sums from the Capital Non-Recurring Fill Pile Remediation Account for the following purposes:

\$4,000,000 related to remediation at Penfield Pavilion;

\$3,500,000 related to construction at Penfield Pavilion;

\$3,000,000 related to work to address the Notices of Violation; and

\$100,000 to fund the hiring of a coastal engineering firm to study and update the previous resiliency study pertaining to Penfield Pavilion

The motion to approve the amended resolution for appropriating \$10.6 million carried 7-2-0 (Charlton, Curley opposed).

4) Adjourn

The meeting adjourned at 11:02 pm.

Respectfully submitted,

Pru O’Brien  
Recording Secretary