

BOARD OF SELECTMEN REGULAR MEETING
Monday, March 6, 2023
4:00 pm
Via Webex & In-Person at
BOE Conference Room 295 A/B
501 King Hwy E. (across from Goodwill)
Fairfield, CT 06825

A recording of this meeting can be found here: [BOS Penfield Funding Meeting 3.6.23.](#)

FINAL MINUTES

MEMBERS PRESENT: First Selectwoman Brenda L. Kupchick, Selectman Thomas Flynn, Selectwoman Nancy E. Lefkowitz

OTHERS PRESENT: CEO Tom Bremer, Planning Director James Wendt, Project Engineer Elias Ghazal, Attorney John Stafstrom, Town Attorney James Baldwin, CFO Jared Schmitt, Interim DPW Director John Marsilio, Parks and Recreation Director Anthony Calabrese, FairTV, members of the public

1) **CALL TO ORDER**

First Selectwoman Kupchick called the meeting to order at 4:00 pm.

2) **PLEDGE OF ALLEGIANCE**

First Selectman Kupchick led the Pledge of Allegiance.

First Selectwoman Kupchick then said, "It is with deep sadness the Town of Fairfield, CT shares the passing of retired Assistant Fire Chief Chris Tracy. Chris was the driving force behind the Fairfield Regional Fire School. Chris will always be remembered as a consummate gentleman and passionate about proper training for the department. Please keep Chris' family and the Fairfield Fire Department in your thoughts and prayers during this very sad time. Godspeed Chris."

First Selectwoman Kupchick asked for a moment of silence.

3) **FIRST SELECTWOMAN/CAO/ENGINEERING DEPARTMENT** (*requires Board of Finance and RTM approval*)

To hear, consider and adopt a bond resolution entitled, "A resolution appropriating \$3,000,000 FOR THE PENFIELD PAVILION FOUNDATION AND CONSTRUCTION PROJECT AND AUTHORIZING THE ISSUANCE OF BONDS TO FINANCE SUCH APPROPRIATION."
See Full Resolution in Backup

First Selectwoman Kupchick introduced the panel of Town personnel involved in the Penfield Pavilion project. She also introduced Attorney John Stafstrom as Bond Counsel regarding bonds that have been put aside to help pay for Fill Pile issues. First Selectwoman Kupchick went through a Powerpoint presentation that addressed questions as to the why and how the Town is in this situation and the why and how the Town will pay for it and what options are on the table. She said there are two scenarios at this point:

Option 1 – Maintain Building and remediate and fix foundations - FEMA Notice of Violation (NOV) - which comes to a total estimated cost of \$11.5 million.

Option 2 – Demolition the building and remediate and rebuild basic necessities which comes to a total estimated cost of \$8.5 million.

First Selectwoman Kupchick said FEMA will look at the Penfield building as two separate sections - the locker rooms and the main building. She said the main building needs to be fixed, but the locker rooms do not.

First Selectwoman Kupchick discussed the process that brought the Administration where it is now. She said there has been constant contact with FEMA for two years to try and downgrade the NOV without success and now a decision has to be made by March 31, 2023 so FEMA can see action is being taken to fix the situation. She said if the Town does not meet the deadline of March 31st and does nothing, FEMA can take other action that would negatively impact the Town. First Selectwoman Kupchick said almost 1800 residents are eligible for the 10% discount on their Flood Insurance and there is a strong possibility that FEMA will take away the eligibility of Town residents using the flood insurance discount now and then the Town would have to reapply for eligibility that could take years.

Selectman Flynn made a motion to adopt the resolution appropriating \$3 million for the Penfield Pavilion project. Selectwoman Lefkowitz seconded the motion.

Selectman Flynn made a motion to amend the original resolution to the new resolution that has been presented. Selectwoman Lefkowitz seconded the amendment. (See Full Resolution Below).

Selectwoman Lefkowitz said has many concerns regarding the resolution. First Selectwoman Kupchick said the Judge in the Fill Pile case said this is the worst case in the Town of Fairfield and the most complicated case in the State. Selectwoman Lefkowitz referred to the March 31st deadline and said she is not denying that it is a horrible situation, but feels the Administration should not rush into a decision.

There was discussion with Planning Director James Wendt, Project Engineer Eli Ghazal and the others on the panel regarding the NOV and the March 31st deadline. The comments were passionate for both options and regarding finances. The panel explained that they used local contractors to provide feedback on all costs in proposals. CEO Tom Bremer expressed his concern that there might be more fill under the building to be removed than is thought now. Selectwoman Lefkowitz reiterated her original suggestion to buy time to make a decision. The others on the Town panel did not think that decision would be in the best interest of the Town as there were many residents who participate in the discount program who don't live near the beach and wouldn't want the Penfield situation to have an effect on their flood insurance. It was also mentioned that if FEMA moved the Town to suspension of the program it could have a catastrophic effect on the marketplace.

The First Selectwoman opened the meeting to public comment:

- Katie Lawrence – 6 Carlton Street

- Elizabeth Zezima – RTM – District 4 - 160 Fairfield Woods Road #22
- Ken Camarro – 345 Carroll Road
- Warren Lapa – 200 Lalley Boulevard
- Jim Bowen – 44 Fox Street
- Jill Vergara – RTM – District 7 - 271 Old Post Road
- Dick Dmochowski – Flood & Erosion Control Board member, 241 Colonial Drive
- Rick Grauer – 268 Rowland Road
- Karen McCormack – RTM – District 2 - 305 Winnepoge Drive
- Meghan McCloat – 2815 Redding Road
- Becky Bunnell – Flood & Erosion Control Board Chair - 2005 Fairfield Beach Road
- John Kuhn – RTM – District 7 - 125 Mayweed Road
- Ed Humiston – 25 Fox Street
- Alex Durrell – RTM – District 3 - 64 Woodcrest Road

Public comment closed at 6:56 pm. The public comments can be heard in their entirety by accessing the link here: [BOS Penfield Funding Meeting 3.6.23.](#)

There was a short break and the meeting resumed at 7:01 pm.

After comments and more of the same discussion from the BOS members the vote was taken.

The amended resolution:

A RESOLUTION APPROPRIATING \$10,500,000 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 total costs for the remediation and construction at Penfield Pavilion, as well as, the cost to address the Notices of Violation is \$11,500,000 (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 \$10,500,000 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

The motion to amend the original resolution carried unanimously.

The main motion, as amended, carried 2-1-0 (Lefkowitz opposed).

4. Adjourn

Selectwoman Lefkowitz made a motion to adjourn. Selectman Flynn seconded the motion which carried unanimously.

The meeting adjourned at 7:37 pm.

Respectfully submitted,

Pru O’Brien
Recording Secretary