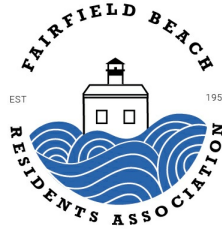


February 15, 2023



Fairfield Beach Residents Association IMPORTANT NOTICE

Penfield Pavillion Town Hall Meeting



Residents are invited for a Town Hall Meeting
Regarding Penfield Pavillion:

Thursday, February 23, 2023
(Snow Date: Tuesday, March 7, 2023)

6:00 PM

Fairfield Ludlowe High School Auditorium
758 Unquowa Road

Please join the Town of Fairfield, representatives from FEMA and Congressman Himes' office for an informational Town Hall on the Notice of Violation from FEMA regarding Penfield Pavillion.

There will be an opportunity for residents to submit questions to FEMA during the meeting.

There will also be a virtual option, however due to the nature of a large auditorium, it might be difficult to hear, so it is recommended residents attend in person, if possible. The meeting will be recorded for those who cannot attend.

Since the last update on Penfield in my [January 20th](#) newsletter, I participated in a call with FEMA on Friday afternoon and want to clarify a few items for residents prior to the meeting, specifically members of the Fairfield Beach Residents Association who have submitted questions. Certainly, all residents can and should clarify any questions directly with FEMA at the upcoming Town Hall meeting.

- Is there an option for residents and the Town to mediate the NOV with FEMA? While a fair request, FEMA confirmed on Friday that mediation of their regulations is not an option.
- Residents have asked questions about the elevation beneath the building. FEMA's regulations require the grade beams beneath the building to be at 8'.
- FEMA stated on Friday that residents who have insurance with the National Flood Insurance Program are at risk of losing the discounted rate, in addition to the Town buildings in the flood plain.
- Noncompliance with FEMA regulations puts the Town at risk of fines, and jeopardizes federal funding opportunities.

The Town remains committed to resolving the Notices of Violations with all the regulatory agencies. It is incredibly frustrating that the actions of a few individuals in the prior administration are costing the Town tens of millions of taxpayer dollars.

I hope this informational forum will be helpful in answering our residents questions. We will send out a link to the meeting for those who want to participate virtually next week.

Sincerely,

First Selectwoman Brenda L. Kupchick

Included below are some helpful pieces of information for residents to know about the history of the Pavilion.

- In early 2016 the Town was first warned, then formally notified through DEEP in August of 2016, and again many times since, that the construction of Penfield Pavilion was not in compliance with minimum floodplain management criteria and that continuing construction put the town at risk of losing the \$4.3 million in FEMA funding.
- After ignoring FEMA's directives to bring the building into compliance and denying the two appeals by the Town for funding, FEMA formally issued the Notice of Violation to the Town, requiring the building be brought into compliance.
- [This letter](#) from FEMA to the Former First Selectman dated November 18, 2018 provides an informative look into FEMA's determinations.

PAST PRESENTATIONS:

PAST TOWN UPDATES ON THE FILL PILE AND PENFIELD PAVILION:

[January 20, 2023 Update](#)
[January 6, 2023 Year in Review](#)

Your FBRA board has the following opinions and thoughts on this issue:

1. FBRA believes that we are not likely to get FEMA to change its opinion in the Notice of Violation (NOV) and that the Town will need to reduce the height of the sand under the pavilion from roughly 10 - 11 ft down to 8 ft (NAVD88). In addition, we believe that FEMA's NOV means the Town will need to either keep the building and reduce the grade beam height to 8 FT (estimated cost of \$8M) OR tear down the part of the building that is supported by a grade beam structure. It is our understanding that the town is only offering 2 options to taxpayers - to rebuild as is but with a lower grade beam level OR to tear the whole building down completely.

2. The FBRA hopes the following questions and concerns will be answered by the town in this town hall meeting (since it is unlikely that there will be a second Town Hall meeting it will be important to not just answer FEMA related questions):

A. We would like to see a THIRD option and cost that leaves the locker and bathroom area and any part of the decking that is today supported by piles. Having a bathroom and place to change for beach goers makes the use of Penfield Beach much more enjoyable. It is our understanding that the locker room and bathroom section of the building does not have a grade beam support structure but is supported by piles and accordingly we would not be required by FEMA to change that other than to lower the grade down to 8 ft.

B. Residents are also very confused and would like to better understand the town's statements that the professional firms that advised the town and Penfield Building Committee (PBC) on the plans for the current structure and natural grade and supported those professional opinions through two appeals to FEMA have no liability in providing those professional opinions to the town. The town authorized the rebuild based on those plans and those opinions while they negotiated with FEMA to resolve the differing points of view. In hindsight, the town administration should have immediately stopped the building process once they were notified that there was an issue from FEMA but that still does not absolve the professional firms and consultants from providing that advice in the first place, which the PBC and town acted on.

C. We understand that the town is planning to fund a study to understand how to add resiliency from flood waters to the neighborhood behind the pavilion which was so heavily damaged in Super Storm Sandy. We fully support this and thank the town for taking a proactive approach to future flooding. We would request that the full costs of adding this resiliency get appropriated in the long-term capital planning for the town.

3. The FBRA hopes that FEMA will answer the following questions

D. Can FEMA please explain the implications of not complying with the NOV and whether that automatically would remove the town from the CRS National Flood Insurance Program (NFIP) discounted rate program. Is there any possibility of carving out the Pavilion from the CRS and any future reimbursement claims and certifying that all other town and residential buildings are in compliance? Would the town also risk losing future FEMA grant funds?

E. Can FEMA help residents explain why they believe that sand does not naturally accrete on sites based on storms and wind events and why this would not also be true for Penfield after Superstorm Sandy and the many Nor'easters we get. We certainly see this on other Fairfield beaches and in the four to five years after Sandy, sand was built up 3 - 4 ft on many of the Fairfield beaches because of the wave and wind action (of course some storms also take sand away). How can a natural grade be constant at 8Ft at Penfield when we have seen such dramatic increases at other beaches. It seems like the 8 ft grade was based on historical pre-Sandy Lidar studies.

4. If you are not able to attend the meeting, please send any questions to the FBRA and we will present them in the meeting for FEMA and the Town to answer. Please indicate whether your question is for the town or FEMA.

About the FBRA:

Founded in 1955, the Fairfield Beach Residents Association is a 501(c)4 advocacy organization comprised of homeowners from the Old Post Road south to Fairfield Beach Road west to the end of the road, and Reef Road east to Beach Road. The FBRA aims to: Represent and implement the interests and desires of the membership in maintaining and improving Fairfield Beach and vicinity; promote cooperation among the owners and renters; represent the common interests of the membership in relation to governmental authorities; and provide for the mutual assistance, enjoyment, and quality of life for all people residing in the Fairfield Beach area.

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