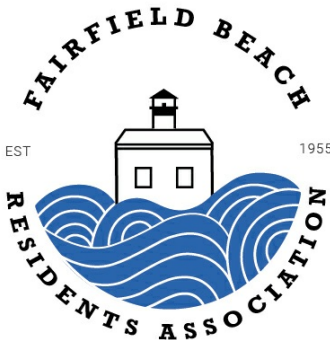


## Fairfield Beach Residents Association Newsletter

### IMPORTANT - PENFIELD PAVILION



### PENFIELD PAVILION: BACKGROUND

After Hurricane Sandy in 2012, Penfield Pavilion was severely damaged and closed for three years for reconstruction – presumably within conformity to required standards set by the Department of Energy and Environmental Protection (DEEP), and Federal Emergency Management Agency (FEMA). However, due to the town not complying with FEMA's approved scope of work and lack of FEMA approval prior to rebuilding, the town is now faced with a **required re-renovation** at significant additional costs to be borne by all Fairfield taxpayers.

Below is a series of correspondences between the FBRA and the town. Most significantly and with urgent timing, is the **request for a public meeting to be held prior to FEMA determination**. The meeting is meant to educate the public on the matters at hand, to present options on potential reimbursement for the original renovation problems, and to discuss the increased flooding impact based on the upcoming rebuild plan. It is a lot to digest, but it needs to be dealt with before the fact, not after.

**This tax burden is not isolated to the beach community.**

Please contact the Board of Selectmen (BOS) [BOS@fairfieldct.org](mailto:BOS@fairfieldct.org), and RTM members (contact info below) in support of an imminent public meeting.

For links to correspondences from other Fairfield RTMs in support, as well as those

below, please click here: [RTM](#)

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The FBRA board voted at their meeting on January 3rd to send the following letters to our Board of Selectmen (BOS), Board of Finance (BOF) and RTM members. **We feel strongly that the firms hired to provide design, engineering, and FEMA expertise for the initial Penfield Pavilion reconstruction have not been held accountable for FEMA's Notice of Violation. Has the town aggressively pursued all avenues of possible redress for reducing the burden on taxpayers?**

The FBRA letter and First Selectwoman Kupchick's response are below.

We urge you to take the time to contact the BOS and your RTM members.

Sincerely,

Carolyn Kamlet; President  
FBRA Board of Directors  
[fbra06824@gmail.com](mailto:fbra06824@gmail.com)

RTM District 9

Christine Brown (D) [cbrownrtm9@gmail.com](mailto:cbrownrtm9@gmail.com)  
Dru Mercer Georgiadis (D) [dru.georgiadis@gmail.com](mailto:dru.georgiadis@gmail.com)

Margaret Horton (D) [margarethortonrtm@gmail.com](mailto:margarethortonrtm@gmail.com)

Kelly Scinto (R) [kscintod9@gmail.com](mailto:kscintod9@gmail.com)

## Letter to Board of Selectmen re: Engineering Liability and Possible Reimbursement to Town

Fairfield Beach Residents Association

[www.FBRA.org](http://www.FBRA.org)

[fbra06824@gmail.com](mailto:fbra06824@gmail.com)

January 6, 2023

To: Town of Fairfield Board of Selectmen via e mail

cc: Town of Fairfield Board of Finance and RTM

We understand remediation of the Penfield Pavilion is expected to cost roughly \$8 million dollars to address the FEMA Notice of Violation (NOV) as FEMA did not approve the plans for the building as it was built. This is on top of the \$4 -5 million that it is anticipated will be needed to address the removal of contaminated fill that was used during the last renovation.

It is also our understanding the town retained building, engineering and coastal engineering firms and consultants to work with the Penfield Building Committee and relevant Town departments as part of the original rebuilding of the pavilion after damages incurred after Superstorm Sandy. These firms provided the technical expertise to rebuild the pavilion as it stands today. Several of these consultants and firms provided their expertise and opinions in the development of the two different appeals that went to FEMA supporting the physical grade beam and elevation decisions that went into the building that have been deemed by FEMA to be in violation in the

NOV and resulted in a loss of expected grant reimbursement. We write on behalf of the Town taxpayers who now stand to cover the cost of not just this remediation at \$8 million dollars, but also cover the roughly \$4.3 million in costs that the town did not receive as part of the expected grant reimbursement for the initial post Sandy rebuild due to the non-compliance with FEMA's guidelines for building in a flood plain. The FBRA would like to understand what recourse the town has to request that the appropriate engineering and building firms cover these costs through their insurance policies.

Can you please let us know what action has been taken to date to seek reimbursement and what the Town's legal and third-party insurance coverage options are in this regard.

Thank you.

Carolyn

Kamlet; President

FBRA Board of Directors

## BOS Response Letter re: Engineering Liability and Possible Reimbursement to Town

*(Editor's Note: The following response incorrectly addresses liability for the fill pile underneath Penfield. The FBRA request is to pursue an insurance claim on the consultant and engineering firm hired for the reconstruction itself.)*

### Town of Fairfield

**Office of the First Selectwoman**

**725 Old Post Road**

**Fairfield, CT 06824**

January 10, 2023

Fairfield Beach Residents Association  
C/O Carolyn Kamlet, President

Dear Ms. Kamlet:

Thank you for your letter of January 6 regarding Penfield Pavilion and the Notice of Violation from FEMA.

The Town has determined that the failure to comply with FEMA guidelines during the last rebuild of Penfield Pavilion was due to the misfeasance of the former First Selectman in concert with criminal defendants Robert Mayer, Joe Michelangelo and Scott Bartlett.

Through the pending criminal actions, the Town is hoping to receive restitution upon conviction or through plea agreements. In the case of Mr. Michelangelo, his tentative plea agreement stipulates \$500,000 in restitution to the Town. The amount for the other two named defendants, if any, is yet to be determined.

The Town has also made a claim under its Crime Insurance Policy however that will provide very limited (less than \$100,000) for the actions of the criminal

defendants.

Insofar as FEMA also cited the quality of the fill used beneath the building that came from the Julian contaminated fill pile, it has also brought legal actions against Julian that include claims for the cost of removing and replacing that fill.

The removal and replacement of the fill is governed by CT Department of Energy & Environmental Protection and US Environmental Protection Agency regulations, and the Town's licensed environmental professional has worked in concert with staff from these agencies to develop the plan to complete the work.

After careful review it has been determined that the retained engineering and FEMA consultants were not considered responsible for the actions of these players who essentially chose to ignore or override their recommendations.

On behalf of the Town's taxpayers I am incredibly frustrated by the time and resources that will be spent in total on this entire scandal. Tens of millions of dollars in taxpayer money is being wasted cleaning up this mess that could have been used for much needed projects in town. Addressing this issue has consumed hundreds of hours that would be much better spent on other important Town matters. What was allowed to happen in this Town is an atrocity, from the criminal cases, arrests, the employees who were used in the process, and the harm done to public trust in government.

I am doing my very best to clean up the mess left in the wake of this public corruption, and to rebuild trust with the public and Town employees, by being transparent and sharing our government's work through my newsletter. I hope all of our elected officials, especially those who were in office during these transgressions, and were publicly lied to or misled, will work with me to resolve these very complex issues so we can move our town forward together.

Sincerely,

Brenda L. Kupchick  
First Selectwoman

cc:

Board of Selectmen  
Board of Finance  
RTM

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## BOS response re: Request For Meeting Prior To FEMA Determination

*(Editor's note: this response does not indicate the condition of a meeting to be held **before** FEMA determination)*

On Tue, Jan 10, 2023 at 4:20 PM Kupchick, Brenda <[BKupchick@fairfieldct.org](mailto:BKupchick@fairfieldct.org)> wrote: Carolyn,

Please see attached response to your January 6<sup>th</sup> letter. **We are still in discussions with FEMA and working to plan a town hall meeting wherein a representative from FEMA will be present to answer questions from residents.** (Editors bold)

Sincerely,

Brenda L. Kupchick  
First Selectwoman  
Sullivan Independence Hall  
725 Old Post Road | Fairfield, CT  
203.256.3030  
[www.fairfieldct.org](http://www.fairfieldct.org)

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## FBRA to BOS re: BOS Response

From: **FBRA** <[fbra06824@gmail.com](mailto:fbra06824@gmail.com)>  
Date: Thu, Jan 12, 2023 at 2:46 PM  
Subject: Re: Penfield Pavilion Remediation  
To: Kupchick, Brenda <[BKupchick@fairfieldct.org](mailto:BKupchick@fairfieldct.org)>  
Cc: BOF <[BOF@fairfieldct.org](mailto:BOF@fairfieldct.org)>, Board of Selectmen <[BOS@fairfieldct.org](mailto:BOS@fairfieldct.org)>, RTM <[RTM@fairfieldct.org](mailto:RTM@fairfieldct.org)>, Baldwin, James <[jbaldwin@cbklaw.net](mailto:jbaldwin@cbklaw.net)>, Bremer, Tom <[TBremer@fairfieldct.org](mailto:TBremer@fairfieldct.org)>, Miller, Michael <[MMiller@wiggins.com](mailto:MMiller@wiggins.com)>

First Selectwoman Kupchick,  
FBRA is in receipt of your response to our letter of January 6, 2023. Some of our board members remain concerned that the specific consultant advice we are referencing is not the fill pile, but the advice and expertise provided on the height of the grade beam and natural grade of the site resulting in the FEMA NOV (Notice of Violation) leaving Fairfield with this financial burden.

However, FBRA appreciates your willingness to hold a town meeting so all residents can be fully educated on the options facing us and what it means to taxpayers across Fairfield. **We assume the meeting will happen in the immediate future well in advance of a final determination from FEMA.**

FBRA stands ready to assist in notifying our members and the members of neighborhood associations across Fairfield as we are all in this together.

Please let us know the date and time of the meeting and we will alert residents.

Regards,

Carolyn Kamlet

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Finally, below is a proposal by FBRA for mediation with DEEP, FEMA and the Town. This option has not yet been acknowledged by the Town. We believe residents need to be educated regarding FEMA and DEEP's stance before we have no choice but to spend another \$8-9 million once again rebuilding Penfield.

## FBRA to BOS re: Request for Mediation

Fairfield Beach Residents Association  
[www.FBRA.org](http://www.FBRA.org)

January 9, 2023

To: Town of Fairfield Board of Selectmen via e mail

cc: Town of Fairfield Board of Finance and RTM

First Selectwoman Kupchick, Selectman Flynn, and Selectwoman Lefkowitz:

After reviewing the information available to date on the proposed actions at Penfield Pavilion to remedy the FEMA Notice of Violation, we are concerned about the significant expenditure of taxpayer funds to execute a plan that will negatively impact the Town's coastal resiliency and the associated flood impacts to the thousands of citizens we represent.

We know the history that led us to this place and FEMA's desire for accountability. However, the current requirement to lower the elevation of the beach to eight feet and the associated changes to the supporting structures to retain the Pavilion at a cost of \$8-9M do not make good sense to us. The current beach elevation at Penfield is a key part of our town's flood defense; lowering it weakens our town's flood resiliency and serves to increase the speed, and possibly frequency, with which water will flood the neighborhoods in the beach area. In addition to the \$8-9M to comply with FEMA's current demands and keep the Pavilion, the Town will need to budget for new flood mitigation measures to protect the homes behind Penfield Beach due to the new lower elevation; a cost estimated to be \$8-10M or more; bringing the total cost to taxpayers in excess of \$16M. The lowering of the beach elevation has no positive environmental impacts, it simply corrects an error in height FEMA states we made when building the pavilion. There must be a better solution for FEMA to have the accountability they desire that does not spend millions of taxpayer dollars to decrease our coastal flood resiliency and have no positive impacts on the Town, while diverting tax funds from other vital government programs and initiatives.

One of our members brought us a proposal for a mediation effort between all parties involved in the situation at Penfield, the town, FEMA and DEEP. We believe this an opportunity worth pursuing. We know the administration has worked hard to get to a solution with FEMA, but this approach might allow your team to work towards a better solution for all involved. A solution that will hold the Town accountable without wasting crucial public dollars and reducing our flood resiliency.

If mediation is not possible or if another strategy is being pursued to address the concerns referenced above, we would respectfully ask to understand this alternative path. We thank you for your hard work and diligence on this matter.

Sincerely,

FBRA Board of Directors

### 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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