

PENFIELD PAVILION

March 6th Board of Selectmen Meeting



Penfield Building History

- **Fall 2006** – Town wide discussions began regarding rebuilding the original Penfield Pavilion.
- **Summer 2011** - A new Penfield Pavilion was completed, costing the Town nearly \$5 million.
- **October 2012** – Penfield Pavilion was severely damaged during Hurricane Sandy.
- **December 2015** - FEMA determined the Town would be eligible for \$4.3 million in reimbursement towards reconstruction of the Pavilion based on an approved project scope of work (SOW).
- **February 2016** - Construction started on rebuilding the Pavilion with a scope of work that was different than what FEMA originally approved.
- **August 2016** – FEMA sent written notice that the revised scope of work may not comply with local and NFIP regulations and commencing the revised SOW without FEMA approval violates the reimbursement conditions. *Construction continued despite FEMA's notice.*
- **March 2017** – 4.5 years after Hurricane Sandy damage, Penfield Pavilion is reconstructed costing \$7.3 million, and reopens.
- **November 2018** – FEMA confirmed the Town is ineligible for reimbursement and reconfirmed the Town's noncompliance with floodplain management requirements.
- **January 2019** – The town submitted its first appeal to FEMA's decision.
- **June 2019** – FEMA denied the town's appeal.
- **August 2019** – The Town submitted its second appeal to FEMA's decision.
- **June 2021** – The Town was notified that FEMA denied the Town's second appeal, and reinstated the NOV.
- **July 2021** – My administration begins discussions with the FEMA on options to address the NOV.
- **Feb 2023** – FEMA notified the Town the downgrade of flood insurance deadline of March 31st.

WHY ARE WE HERE?

1. Contaminated “Julian Fill” from the fill pile was illegally deposited beneath Penfield Pavilion during construction. The Town is required to remove it pursuant to state and federal law.
2. FEMA has determined the Town installed horizontal grade beams at a height that is in violation of federal floodplain management regulations. Under federal law, the Town is required to bring Penfield Pavilion into compliance.

As a result, the Town has received Notices of Violation from federal and state agencies that must be addressed.

WHERE ARE WE?

If the Town does not approve a plan for corrective action by the end of March regarding the Notice of Violation at Penfield Pavilion, we face a myriad of negative consequences that will impact residents and the Town.

WHAT MUST THE TOWN DO?

Adopt a plan to address:

- 1. The grade beam Notice of Violation (NOV) from FEMA regarding Penfield Pavilion and;*
- 2. The Consent Order with the CT Department of Energy & Environmental Protection and the Environmental Protection Agency for the contaminated soil (“Julian Fill”) beneath the building.*

FEMA NOV: Fix the main building structure (excluding the locker room portion) to bring it in compliance by lowering the elevation of the grade beams. The alternative to comply is knocking down the main building structure and removing the grade beams.

DEEP/EPA: Remove all “Julian Fill” (contaminated fill from the fill pile) under the building in accordance with the remedial action plan submitted to DEEP and the US Environmental Protection Agency.

WHAT HAPPENS IF WE DON'T COMPLY?

If the Town does not approve corrective action by March 31st, FEMA will begin the process to downgrade the Town's Flood Zone Classification. A downgrade will result in residents in the flood zone losing the 10% discount on flood insurance, and ultimately, FEMA flood insurance would not be available in the community.

Additionally, the Town would also be ineligible for disaster and public assistance funding in the future.

This result would also likely have a devastating impact on the real estate market as flood insurance is a prerequisite for a mortgage in the flood zone.

Option 1: Maintain Building Remediate & Fix Foundations

“Julian Fill” Removal

To be in compliance with DEEP/EPA, the Town must remove all contaminated material beneath the building:

Estimated Cost
\$5 million



Construction Requirements

(examples below)

- Demo & Reinstall Building Skirting
- Demo & Reinstall of Decks and Ramps
- Temporary Supporting of Roof Decks
- Temporary Support of Building
 - Dewatering
- Permanent structure support

Estimated Cost
\$3.5 Million



FEMA NOV

To be in compliance with FEMA regulations, the town must relocate the grade beams to elevation 8’:

Estimated Cost
\$3 million

TOTAL: \$11.5 Million

Option 2: Demo Building Remediate & Rebuild Basic Necessities

Demolish Building & Foundations

To be in compliance with FEMA regulations, the town will demolish the Main Building and remove foundations (excluding the locker rooms)

Estimated Cost
\$2 million



“Julian Fill” Removal

To be in compliance with DEEP/EPA, the Town must remove all contaminated material:

Estimated Cost
\$4 million



Basic Necessities

Rebuilding basic necessities to current FEMA regulations:

- Lifeguard shack
- Concession
- Bathrooms
- Covered Deck

Estimated Cost
\$2.5 million

TOTAL: \$8.5 Million

HOW WILL WE PAY FOR IT?

Over the past two years, the Town has accumulated and boards have voted to set aside significant surpluses, approximately \$15 million of which, is still available and could be used to fund costs related to both the remediation efforts and Penfield Pavilion repair.

In addition, the Town allocated \$1 million in ARPA funding for fill-pile-related costs.

Bonding for construction is also an option.

IS THERE AN OPTION TO RECOUP FUNDS SPENT IN THE PAST?

The Town is exploring all legal remedies, and the investigation from the State's Attorney's Office is still active.

FEMA confirmed in a January 3rd email that the Town is NOT able to reclaim the \$4.3 million in financial assistance under the Public Assistance Program to repair the Penfield Pavilion.

BENEFITS OF PENFIELD PAVILION

- 150+ Events a Year (80% are residents)
 - Weddings, Fundraisers, Holiday Parties, Mitzvahs, Birthdays, Business meetings, Funerals, Retirements, Reunions
- Concession Stand
- Changing Stations/Locker Rooms
- Restrooms
- Park & Rec events & Town activities
- Covered deck utilized by residents of all ages
- The Pavilion was appraised by an independent appraisal company in November of 2021 for \$7.4 million.



ARE WE DOING ANYTHING TO INCREASE RESILIENCY EFFORTS?

Resiliency at the Penfield Pavilion site is a separate issue from resolving the NOV.

The Town has committed to funding the hiring of a coastal engineering firm to update previous resiliency studies.

Once preliminary designs have been established, the Town will review the designs with DEEP/EPA & FEMA. Any acceptable designs will then be discussed with the public.

WHAT ABOUT THE ELEVATION?

To resolve the NOV, the natural grade must be restored to elevation 8' per National Flood Insurance Program (NFIP) guidelines.

DEEP and FEMA have jurisdiction over the elevation of the beach.

CAN THE FEDERAL DELEGATION HELP US?

On February 10, 2023, FEMA notified the Town for the first time on a phone call that the insurance downgrade process was looming. The Town has been working with FEMA since July of 2021 and, at no time until the February 10th call, was the Town alerted to a deadline date for compliance with the NOV.

Congressman Himes and I agree the only path forward that would prevent FEMA from taking action by March 31st is for the Town bodies to take action this month.

We discussed a coordinated approach with the rest of the federal delegation, to ask FEMA for an extension on the insurance classification downgrade.

TODAY'S VOTE | NEXT STEPS

If the repair and remediation of Penfield Pavilion passes the BOS today, the BOF will take up the item in a special meeting on March 13th and the RTM will take the item up on March 20th.

Public input will begin next.

Residents will have another opportunity to provide comment to the BOF and RTM.