UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

DIVISION OF
CORPORATION FINANCE

February 26, 2024

Nicole J. Leimer
Faegre Drinker Biddle & Reath LLP

Re: Fastenal Company (the "Company")
Incoming letter dated December 8, 2023

Dear Nicole J. Leimer:

This letter is in response to your correspondence concerning the shareholder proposal (the "Proposal") submitted to the Company by John Chevedden for inclusion in the Company's proxy materials for its upcoming annual meeting of security holders.

The Proposal requests that the board of directors take each step necessary so that each voting requirement in the Company's charter and bylaws (that is explicit or implicit due to default to state law) that calls for a greater than simple majority vote be replaced by a requirement for a majority of the votes cast for and against applicable proposals, or a simple majority in compliance with applicable laws.

We are unable to concur in your view that the Company may exclude the Proposal under Rule 14a-8(i)(10). Based on the information you have presented regarding the actions the Company has taken and will take, it appears that the Company has not substantially implemented the Proposal.

Copies of all of the correspondence on which this response is based will be made available on our website at https://www.sec.gov/corpfin/2023-2024-shareholder-proposals-no-action.

Sincerely,

Rule 14a-8 Review Team

cc: John Chevedden

faegredrinker.com

Faegre Drinker Biddle & Reath LLP
2200 Wells Fargo Center
90 South Seventh Street
Minneapolis, Minnesota 55402
+1 612 766 7000 main
+1 612 766 1600 fax

December 8, 2023

Via Staff Online Portal

SEC Division of Corporation Finance
Office of Chief Counsel
U.S. Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

Re: Fastenal Company – Notice of Intent to Exclude from 2024 Proxy Materials Shareholder Proposal of John Chevedden

Ladies and Gentlemen:

This letter is submitted on behalf of Fastenal Company, a Minnesota corporation ("Fastenal" or the "Company"), pursuant to Rule 14a-8(j) under the Securities Exchange Act of 1934 (the "Exchange Act"), to notify the Securities and Exchange Commission (the "Commission") of the Company's intention to exclude from its proxy materials for its 2024 Annual Meeting of Shareholders (the "2024 Proxy Materials") a shareholder proposal (the "Proposal") and statements in support thereof from John Chevedden (the "Proponent"). The Company requests confirmation that the staff of the Division of Corporation Finance (the "Staff") will not recommend an enforcement action to the Commission if the Company excludes the Proposal from its 2024 Proxy Materials in reliance on Rule 14a-8.

Pursuant to Rule 14a-8(j) and Staff Legal Bulletin No. 14D (November 7, 2008) ("SLB 14D"), we have concurrently sent copies of this correspondence to the Proponent as notification of the Company's intention to exclude the Proposal from its 2024 Proxy Materials.

Rule 14a-8(k) and SLB 14D provide that shareholder proponents are required to send companies a copy of any correspondence that the proponents elect to submit to the Commission or Staff. Accordingly, we are taking this opportunity to inform the Proponent that if the Proponent elects to submit additional correspondence to the Commission or the Staff with respect to the Proposal, a copy of that correspondence should be furnished concurrently to the undersigned on behalf of the Company pursuant to Rule 14a-8(k) and SLB 14D.

The Proposal

The Company received the Proposal on October 8, 2023. A full copy of the Proposal is attached hereto as **Exhibit A**. The Proposal reads as follows:

> RESOLVED, Shareholders request that our board take each step necessary so that each voting requirement in our charter and bylaws (that is explicit or implicit due to default to state law) that calls for a greater than simple majority vote be replaced by a requirement for a majority of the votes cast for and against applicable proposals, or a simple majority in compliance with applicable laws. If necessary this means the closest standard to a majority of the votes cast for and against such proposals consistent with applicable laws.

Basis for Exclusion

We hereby respectfully request the Staff concur in our view that the Proposal may be excluded from the Company's 2024 Proxy Materials pursuant to Rule 14a-8(i)(10) upon confirmation that the Company's Board of Directors (the "Board") has approved a resolution seeking shareholder approval at the 2024 Annual Meeting of Shareholders (the "2024 Annual Meeting") of an amendment to the Company's Restated Articles of Incorporation (the "Articles") that will substantially implement the Proposal. The Board is expected to consider the amendment at a Board meeting on January 17, 2024 and approve the amendment on or about that date (the "January Board Action"), and we expect to supplementally notify the Staff by January 31, 2024 to confirm that the Board has approved the amendment to the Articles.

Analysis

I. The Proposal May Be Excluded Under Rule 14a-8(i)(10) As Substantially Implemented.

A. *Background of Rule 14a-8(i)(10)*

Under Rule 14a-8(i)(10), a company may exclude a shareholder proposal from its proxy materials if the company has substantially implemented the proposal. The Commission stated in 1976 that the predecessor to Rule 14a-8(i)(10) was "designed to avoid the possibility of shareholders having to consider matters which already have been favorably acted upon by the management." Exchange Act Release No. 12598 (July 7, 1976).

Originally, the Staff narrowly interpreted this predecessor rule and granted no-action relief only when proposals were "'fully' effected" by the company. See Exchange Act Release No. 19135 (Oct. 14, 1982). By 1983, the Commission recognized that the "previous formalistic application of [the rule] defeated its purpose" because proponents were successfully avoiding exclusion by submitting proposals that differed from existing company policy by only a few words. Exchange Act Release No. 20091, at § II.E.6. (Aug. 16, 1983) (the "1983 Release"). Therefore, in the 1983 Release, the Commission adopted a revised interpretation of the rule to permit the omission of proposals that had been "substantially implemented," and the Commission codified this revised interpretation in Exchange Act Release No. 40018 at n.30 (May 21, 1998). Thus, when a company can demonstrate that it already has taken actions to

address the underlying concerns and essential objectives of a shareholder proposal, the Staff has concurred that the proposal has been "substantially implemented" and may be excluded as moot. See, e.g., Exelon Corp. (avail. Feb. 26, 2010); Exxon Mobil Corp. (Burt) (avail. Mar. 23, 2009); Exxon Mobil Corp. (avail. Jan. 24, 2001); Masco Corp. (avail. Mar. 29, 1999); and The Gap, Inc. (avail. Mar. 8, 1996). The Staff has noted that "a determination that the company has substantially implemented the proposal depends upon whether [the company's] particular policies, practices and procedures compare favorably with the guidelines of the proposal." Texaco, Inc. (avail. Mar. 28, 1991).

Further, it is well established that proposals seeking elimination of each voting requirement in a company's charter and bylaws that calls for a greater than simple majority vote, like the Proposal, are excludable under Rule 14a-8(i)(10) where the company takes all reasonable steps to remove the supermajority voting standards in its governing documents. See, e.g. The Southern Co. (avail. Mar. 13, 2019); Korn/Ferry International (avail. July 6, 2017); Visa Inc. (avail. Nov. 14, 2014); and Hewlett-Packard Co. (avail. Dec. 18, 2013) (each concurring with the exclusion of a simple majority shareholder proposal as substantially implemented where the company's board of directors approved amendments to the company's governing documents that would replace each provision that called for a supermajority vote with a majority of outstanding shares vote requirement).

B. *Anticipated Action by the Board Will Substantially Implement the Proposal*

As discussed above, the Proposal requests that the Board "take each step necessary so that each voting requirement in our charter and bylaws (that is explicit or implicit due to default to state law) that calls for a greater than simple majority vote be replaced by a requirement for a majority of the votes cast for and against applicable proposals, or a simple majority in compliance with applicable laws." The Company's Restated By-Laws (the "By-Laws") do not contain any supermajority provisions applicable to the Company's shareholders. Article VI of the Articles requires a vote of at least 75% of the Company's outstanding shares of common stock to authorize, adopt or approve the following transactions with any Interested Shareholder or affiliate of an Interested Shareholder (an "Interested Shareholder" being generally defined as any beneficial owner of 15% or more of the shares of capital stock of the Company entitled to vote on the transaction):

- any plan of merger, consolidation or statutory exchange of shares of the company or any of its subsidiaries;
- any sale, lease, exchange, mortgage, pledge, transfer or other disposition (in one transaction or a series of transactions) to or with the company or any of its subsidiaries of any assets of any Interested Shareholder or any affiliate of any Interested Shareholder equal to or greater than 10% of the book value of the consolidated assets of the company;
- the adoption of any plan or proposal for the liquidation or dissolution of the company proposed by or on behalf of an Interested Shareholder or any affiliate of any Interested Shareholder;
- the issuance or transfer by the company or any of its subsidiaries (in one transaction or a series of transactions) to any Interested Shareholder or any affiliate of any Interested

Shareholder of any securities of the company other than capital stock of the company not exceeding in the aggregate 1% of the then outstanding capital stock of the company (except pursuant to stock dividends, stock splits or similar transactions which would not have the effect, directly or indirectly, of increasing the proportionate share of any class or series of capital stock, or any securities convertible into capital stock or into equity securities of any subsidiary of the company, that is beneficially owned by any Interested Shareholder or any affiliate of any Interested Shareholder) or of any securities of, a subsidiary of the company (except pursuant to a pro rata distribution to all holders of common stock of the company);

- any other transaction (whether or not with or otherwise involving an Interested Shareholder) that has the effect, directly or indirectly, of increasing the proportionate share of any class or series of capital stock of the company, or any securities convertible into capital stock or into equity securities of any subsidiary of the company, that is beneficially owned by any Interested Shareholder or any affiliate of any Interested Shareholder, including, without limitation any reclassification of securities (including any reverse stock split), or recapitalization of the company, or any merger, consolidation or statutory exchange of shares of the company with any of its subsidiaries of the company; or
- any agreement, contract or other arrangement or understanding providing for any one or more of the actions specified in the foregoing.

The Board is expected to approve in the January Board Action a resolution approving and submitting for shareholder approval at the 2024 Annual Meeting an amendment to the Articles that will remove Article VI entirely (the "Proposed Articles Amendment"). If approved, the Board will then submit the Proposed Articles Amendment to a shareholder vote at the 2024 Annual Meeting, which approval is required under Minnesota law and the Articles. Further, the Board will recommend that shareholders vote "for" the Proposed Articles Amendment. If the Proposed Articles Amendment receives the requisite shareholder approval, the only provision in the Company's governing documents that explicitly reference supermajority voting requirements applicable to the Company's shareholders would be removed. Thus, the Proposed Articles Amendment would substantially implement the Proposal for purposes of Rule 14a-8(i)(10).

The Staff has consistently concurred with the exclusion of proposals identical to the Proposal where the company took steps to remove any remaining explicit supermajority voting requirements from the company's governing documents. For example, in each of *Flowserve Corp.* (avail. March 30, 2021) and Best Buy Co., Inc. (avail. Mar. 27, 2020), the Staff concurred with the exclusion of a proposal identical to the Proposal as substantially implemented where the company's board of directors approved amendments to the company's governing documents that would replace each provision that called for a supermajority vote with a majority of outstanding shares vote requirement. In Flowserve and Best Buy, the company initially notified the Staff that the company's board intended to approve amendments to remove the supermajority approval requirements from the company's certificate of incorporation, and then approximately one month later subsequently notified the Staff once its board had made the necessary approval. See also Church & Dwight Co, Inc. (avail. Jan. 15, 2021) (concurring with the exclusion of a proposal identical to the Proposal as substantially implemented where the company's board of directors

approved amendments to the company's governing documents that would eliminate the only remaining supermajority provisions); AT&T Inc. (avail. Jan. 9, 2020) (concurring with the exclusion of a proposal identical to the Proposal as substantially implemented where the company argued that no further action was required because all explicit simple majority voting requirements in its governing documents had already been eliminated); Ferro Corp. (avail. Jan. 9, 2020) (same); KeyCorp. (avail. Mar. 22, 2019) (concurring with the exclusion of a proposal identical to the Proposal as substantially implemented where the company did not propose making any further changes because its governing documents did not contain any supermajority voting provisions with respect to its common stock); Fortive Corp. (avail. Mar. 13, 2019) (concurring with the exclusion of a proposal identical to the Proposal as substantially implemented where the company's board of directors approved amendments to the company's governing documents that would replace each provision that called for a supermajority vote with a majority of outstanding shares vote requirement); AbbVie Inc. (avail. Feb 27, 2019) (same); Dover Corp. (avail. Feb. 6, 2019) (same); Ferro Corp. (avail Feb. 6, 2019) (concurring with the exclusion of a proposal identical to the Proposal as substantially implemented where all supermajority voting provisions had already been eliminated from the company's governing documents, so no further company action was required); and Johnson & Johnson (avail Feb. 6, 2019) (same). Consistent with the foregoing precedents, the Board is expected to approve in the January Board Action a resolution approving and submitting for shareholder approval at the 2024 Annual Meeting the Proposed Articles Amendment, which, if approved, will substantially implement the Proposal.

In addition, the Staff consistently has granted no-action relief in situations where the board lacks unilateral authority to adopt amendments to the articles of incorporation or bylaws but has taken all of the steps within its power to eliminate the supermajority voting requirements in those documents and submitted the issue for shareholder approval. For example, in Visa Inc. discussed above and in McKesson Corp. (avail. Apr. 8, 2011), the company's board approved certificate amendments to eliminate supermajority voting provisions, which would only become effective upon shareholder approval. The Staff concurred in the exclusion of the proposal under Rule 14a-8(i)(10) based on the actions taken by the board. See also American Tower Corp. (avail. Apr. 5, 2011) (concurring with the exclusion under Rule 14a-8(i)(10) of a proposal requesting that each supermajority shareholder voting requirement "be changed to a majority of the votes cast for and against the proposal in compliance with applicable laws" where the board approved submitting an amendment to the certificate of incorporation to the company's shareholders for approval that would reduce the shareholder vote required to amend the bylaws from 66 2/3% to a majority of the then-outstanding shares); and Applied Materials, Inc. (avail. Dec. 19, 2008) (concurring with the exclusion of a simple majority proposal when the company represented that shareholders would have the opportunity to vote on a company proposal that eliminated certain supermajority provisions in their entirety and reduced the voting threshold for other provisions to a majority of outstanding shares).

C. *Supplemental Notification Following Board Action*

We submit this no-action request now to address the timing requirements of Rule 14a-8(j). We supplementally will notify the Staff shortly after the Board approves the Proposed Articles Amendment in the January Board Action. The Staff has consistently granted no-action

relief under Rule 14a-8(i)(10) where a company has notified the Staff that it expects to take certain actions that will substantially implement the proposal and then supplements its request for no-action relief by notifying the Staff after those actions have been taken. See, e.g., Walgreens Boots Alliance, Inc. (avail. Nov. 25, 2020, recon. denied Dec. 10, 2020); Best Buy (avail. March 27, 2020); Fortive Corp. (avail. Feb. 12, 2020); Invesco Ltd. (avail. Mar. 8, 2019); AbbVie, Inc. (avail. Feb. 27, 2019); United Continental Holdings, Inc. (avail. Apr. 13, 2018); United Technologies Corp. (avail. Feb. 14, 2018); The Southern Co. (avail. Feb. 24, 2017); Mattel, Inc. (avail. Feb. 3, 2017); The Wendy's Co. (avail. Mar. 2, 2016); The Southern Co. (avail. Feb. 26, 2016); The Southern Co. (avail. Mar. 6, 2015); Visa Inc. (avail. Nov. 14, 2014); Hewlett-Packard Co. (avail. Dec. 18, 2013); Starbucks Corp. (avail. Nov. 27, 2012); DIRECTV (avail. Feb. 22, 2011); NiSource Inc. (avail. Mar. 10, 2008); and Johnson & Johnson (avail. Feb. 19, 2008) (each granting no-action relief where the company notified the Staff of its intention to omit a shareholder proposal under Rule 14a-8(i)(10) because the board of directors was expected to take action that would substantially implement the proposal, and the company supplementally notified the Staff of the board action).

Conclusion

Based upon the foregoing, the Company respectfully requests that the Staff confirm that it will not recommend any enforcement action to the Commission if the Company excludes the Proposal from its 2024 Proxy Materials pursuant to Rule 14a-8(i)(10). We would be happy to provide any additional information and answer any questions regarding this matter.

Should you have any questions, please contact me at Nicole.Leimer@FaegreDrinker.com or (612) 766-7239 or John Milek, the Company's Vice President and General Counsel at jmilek@fastenal.com or (507) 453-8117.

Thank you for your consideration.

Regards,

FAEGRE DRINKER BIDDLE & REATH LLP

Nicole J. Leimer
Partner

cc: John Milek
Vice President and General Counsel
Fastenal Company
Email: jmilek@fastenal.com

John Chevedden
Email: [redacted] PII

EXHIBIT A

[Attached.]

JOHN CHEVEDDEN
PII

Mr. John J. Milek
General Counsel
Fastenal Company (FAST)
2001 Theurer Boulevard
Winona, MN 55987-1500
PH: 507 454 5374

Dear Mr. Milek,

This Rule 14a-8 proposal is respectfully submitted in support of the long-term performance of our company.

This Rule 14a-8 proposal is intended as a low-cost method to improve company performance – especially compared to the substantial capitalization of our company.

This proposal is for the next annual shareholder meeting.

I intend to continue to hold the required amount of Company shares through the date of the Company's next Annual Meeting of Stockholders and beyond as is or will be documented in my ownership proof.

This submitted format, with the shareholder-supplied emphasis, is intended to be used for definitive proxy publication.

Please assign the proper sequential proposal number in each appropriate place.

Please use the title of the proposal in bold in all references to the proposal in the proxy and on the ballot. If there is objection to the title please negotiate or seek no action relief as a last resort.

I expect to forward a broker letter soon so if you acknowledge this proposal in an email message to PII it may very well save you from formally requesting a broker letter from me.

Please confirm that this poposal was sent to the correct email address for rule 14a-8 proposals.
Per SEC SLB 14L, Section F, the Securities and Exchange Commission Staff "encourages both companies and shareholder proponents to acknowledge receipt of emails when requested."
I so request.

Sincerely,

John Chevedden

October 8, 2023

Date

[FAST: Rule 14a-8 Proposal, October 8, 2023]
[This line and any line above it – *Not* for publication.]

Proposal 4 – Simple Majority Vote

Shareholders request that our board take each step necessary so that each voting requirement in our charter and bylaws (that is explicit or implicit due to default to state law) that calls for a greater than simple majority vote be replaced by a requirement for a majority of the votes cast for and against applicable proposals, or a simple majority in compliance with applicable laws. If necessary this means the closest standard to a majority of the votes cast for and against such proposals consistent with applicable laws. This includes making the necessary changes in plain English.

Shareholders are willing to pay a premium for shares of companies that have excellent corporate governance. Supermajority voting requirements have been found to be one of 6 entrenching mechanisms that are negatively related to company performance according to "What Matters in Corporate Governance" by Lucien Bebchuk, Alma Cohen and Allen Ferrell of the Harvard Law School. Supermajority requirements are used to block initiatives supported by most shareowners but opposed by a status quo management.

This proposal topic won from 74% to 88% support at Weyerhaeuser, Alcoa, Waste Management, Goldman Sachs, FirstEnergy, McGraw-Hill and Macy's. These votes would have been higher than 74% to 88% if more shareholders had access to independent proxy voting advice. This proposal topic also received overwhelming 98%-support each at the 2023 annual meetings of American Airlines (AAL) and The Carlyle Group (CG).

Please vote yes:
Simple Majority Vote – Proposal 4
[The above line – *Is* for publication.]

Notes:

Please use the title of the proposal in bold in all references to the proposal in the proxy and on the ballot. If there is objection to the title please negotiate or seek no action relief as a last resort.

"Proposal 4" stands in for the final proposal number that management will assign.

This proposal is believed to conform with Staff Legal Bulletin No. 14B (CF), September 15, 2004 including (emphasis added):

Accordingly, going forward, we believe that it would not be appropriate for companies to exclude supporting statement language and/or an entire proposal in reliance on rule 14a-8(l)(3) in the following circumstances:

- the company objects to factual assertions because they are not supported;
- the company objects to factual assertions that, while not materially false or misleading, may be disputed or countered;
- the company objects to factual assertions because those assertions may be interpreted by shareholders in a manner that is unfavorable to the company, its directors, or its officers; and/or
- the company objects to statements because they represent the opinion of the shareholder proponent or a referenced source, but the statements are not identified specifically as such.

We believe that it is appropriate under rule 14a-8 for companies to address these objections in their statements of opposition.

See also: Sun Microsystems, Inc. (July 21, 2005).

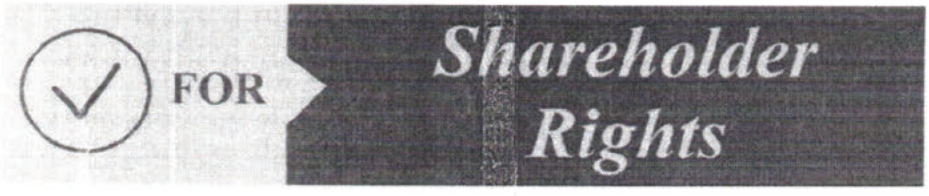
The stock supporting this proposal will be held until after the annual meeting and the proposal will be presented at the annual meeting. **I intend to continue holding the same required amount of Company shares through the date of the Company's next Annual Meeting of Stockholders as is or will be documented in my ownership proof.**

Please acknowledge this proposal promptly by email [redacted]

It is not intend that dashes (–) in the proposal be replaced by hyphens (-).
Please alert the proxy editor.

The color version of the below graphic is to be published immediately after the bold title line of the proposal at the **beginning** of the proposal and be **center justified**.

Please use the title of the proposal in bold in all references to the proposal in the proxy and on the ballot.
If there is objection to the title please negotiate or seek no action relief as a last resort.
Please do not insert any management words between the top line of the proposal and the concluding line of the proposal.



January 1, 2024

Office of Chief Counsel
Division of Corporation Finance
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

 # 1 Rule 14a-8 Proposal
Fastenal Company (FAST)
Simple Majority Vote
John Chevedden
467741

Ladies and Gentlemen:

This is a counterpoint to the December 8, 2023 no-action request.

Management only addresses the first sentence of the 3-sentence resolved statement. As illustrated on the attachment under "Anticipated Action" the description of the anticipated action begins right after the quote from the first sentence of the resolved statement.

This is similar to *Fortive Corporation* (April 11, 2022) and *Rite Aide Corporation* (May 3, 2022) both of which failed to obtain no action relief.

Sincerely,

John Chevedden

cc: John Milek

address the underlying concerns and essential objectives of a shareholder proposal, the Staff has concurred that the proposal has been "substantially implemented" and may be excluded as moot. See, e.g., Exelon Corp. (avail. Feb. 26, 2010); Exxon Mobil Corp. (Burt) (avail. Mar. 23, 2009); Exxon Mobil Corp. (avail. Jan. 24, 2001); Masco Corp. (avail. Mar. 29, 1999); and The Gap, Inc. (avail. Mar. 8, 1996). The Staff has noted that "a determination that the company has substantially implemented the proposal depends upon whether [the company's] particular policies, practices and procedures compare favorably with the guidelines of the proposal." Texaco, Inc. (avail. Mar. 28, 1991).

Further, it is well established that proposals seeking elimination of each voting requirement in a company's charter and bylaws that calls for a greater than simple majority vote, like the Proposal, are excludable under Rule 14a-8(i)(10) where the company takes all reasonable steps to remove the supermajority voting standards in its governing documents. See, e.g. The Southern Co. (avail. Mar. 13, 2019); Korn/Ferry International (avail. July 6, 2017); Visa Inc. (avail. Nov. 14, 2014); and Hewlett-Packard Co. (avail. Dec. 18, 2013) (each concurring with the exclusion of a simple majority shareholder proposal as substantially implemented where the company's board of directors approved amendments to the company's governing documents that would replace each provision that called for a supermajority vote with a majority of outstanding shares vote requirement).

B. *Anticipated Action by the Board Will Substantially Implement the Proposal*

As discussed above, the Proposal requests that the Board "take each step necessary so that each voting requirement in our charter and bylaws (that is explicit or implicit due to default to state law) that calls for a greater than simple majority vote be replaced by a requirement for a majority of the votes cast for and against applicable proposals, or a simple majority in compliance with applicable laws." The Company's Restated By-Laws (the "By-Laws") do not contain any supermajority provisions applicable to the Company's shareholders. Article VI of the Articles requires a vote of at least 75% of the Company's outstanding shares of common stock to authorize, adopt or approve the following transactions with any Interested Shareholder or affiliate of an Interested Shareholder (an "Interested Shareholder" being generally defined as any beneficial owner of 15% or more of the shares of capital stock of the Company entitled to vote on the transaction):

- any plan of merger, consolidation or statutory exchange of shares of the company or any of its subsidiaries;
- any sale, lease, exchange, mortgage, pledge, transfer or other disposition (in one transaction or a series of transactions) to or with the company or any of its subsidiaries of any assets of any Interested Shareholder or any affiliate of any Interested Shareholder equal to or greater than 10% of the book value of the consolidated assets of the company;
- the adoption of any plan or proposal for the liquidation or dissolution of the company proposed by or on behalf of an Interested Shareholder or any affiliate of any Interested Shareholder;
- the issuance or transfer by the company or any of its subsidiaries (in one transaction or a series of transactions) to any Interested Shareholder or any affiliate of any Interested

Shareholder of any securities of the company other than capital stock of the company not exceeding in the aggregate 1% of the then outstanding capital stock of the company (except pursuant to stock dividends, stock splits or similar transactions which would not have the effect, directly or indirectly, of increasing the proportionate share of any class or series of capital stock, or any securities convertible into capital stock or into equity securities of any subsidiary of the company, that is beneficially owned by any Interested Shareholder or any affiliate of any Interested Shareholder) or of any securities of, a subsidiary of the company (except pursuant to a pro rata distribution to all holders of common stock of the company);

- any other transaction (whether or not with or otherwise involving an Interested Shareholder) that has the effect, directly or indirectly, of increasing the proportionate share of any class or series of capital stock of the company, or any securities convertible into capital stock or into equity securities of any subsidiary of the company, that is beneficially owned by any Interested Shareholder or any affiliate of any Interested Shareholder, including, without limitation any reclassification of securities (including any reverse stock split), or recapitalization of the company, or any merger, consolidation or statutory exchange of shares of the company with any of its subsidiaries of the company; or
- any agreement, contract or other arrangement or understanding providing for any one or more of the actions specified in the foregoing.

The Board is expected to approve in the January Board Action a resolution approving and submitting for shareholder approval at the 2024 Annual Meeting an amendment to the Articles that will remove Article VI entirely (the "Proposed Articles Amendment"). If approved, the Board will then submit the Proposed Articles Amendment to a shareholder vote at the 2024 Annual Meeting, which approval is required under Minnesota law and the Articles. Further, the Board will recommend that shareholders vote "for" the Proposed Articles Amendment. If the Proposed Articles Amendment receives the requisite shareholder approval, the only provision in the Company's governing documents that explicitly reference supermajority voting requirements applicable to the Company's shareholders would be removed. Thus, the Proposed Articles Amendment would substantially implement the Proposal for purposes of Rule 14a-8(i)(10).

The Staff has consistently concurred with the exclusion of proposals identical to the Proposal where the company took steps to remove any remaining explicit supermajority voting requirements from the company's governing documents. For example, in each of *Flowserve Corp.* (avail. March 30, 2021) and Best Buy Co., Inc. (avail. Mar. 27, 2020), the Staff concurred with the exclusion of a proposal identical to the Proposal as substantially implemented where the company's board of directors approved amendments to the company's governing documents that would replace each provision that called for a supermajority vote with a majority of outstanding shares vote requirement. In Flowserve and Best Buy, the company initially notified the Staff that the company's board intended to approve amendments to remove the supermajority approval requirements from the company's certificate of incorporation, and then approximately one month later subsequently notified the Staff once its board had made the necessary approval. See also Church & Dwight Co, Inc. (avail. Jan. 15, 2021) (concurring with the exclusion of a proposal identical to the Proposal as substantially implemented where the company's board of directors

[FAST: Rule 14a-8 Proposal, October 8, 2023]
[This line and any line above it – *Not* for publication.]
Proposal 4 – Simple Majority Vote

Shareholders request that our board take each step necessary so that each voting requirement in our charter and bylaws (that is explicit or implicit due to default to state law) that calls for a greater than simple majority vote be replaced by a requirement for a majority of the votes cast for and against applicable proposals, or a simple majority in compliance with applicable laws. If necessary this means the closest standard to a majority of the votes cast for and against such proposals consistent with applicable laws. This includes making the necessary changes in plain English.

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This proposal topic won from 74% to 88% support at Weyerhaeuser, Alcoa, Waste Management, Goldman Sachs, FirstEnergy, McGraw-Hill and Macy's. These votes would have been higher than 74% to 88% if more shareholders had access to independent proxy voting advice. This proposal topic also received overwhelming 98%-support each at the 2023 annual meetings of American Airlines (AAL) and The Carlyle Group (CG).

Please vote yes:
Simple Majority Vote – Proposal 4
[The above line – *Is* for publication.]

faegre drinker

faegredrinker.com

Faegre Drinker Biddle & Reath LLP
2200 Wells Fargo Center
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+1 612 766 7000 main
+1 612 766 1600 fax

January 19, 2024

Via Staff Online Portal

SEC Division of Corporation Finance
Office of Chief Counsel
U.S. Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

Re: Fastenal Company – Notice of Intent to Exclude from 2024 Proxy Materials Shareholder Proposal of John Chevedden

Ladies and Gentlemen:

On December 8, 2023, we submitted a letter (the "No-Action Request") on behalf of Fastenal Company, a Minnesota corporation (the "Company"), notifying the staff of the Division of Corporation Finance (the "Staff") of the Securities and Exchange Commission (the "Commission") that the Company intends to omit from its proxy statement and form of proxy for its 2024 Annual Meeting of Shareholders (collectively, the "2024 Proxy Materials") a shareholder proposal (the "Proposal") and statements in support thereof received from John Chevedden (the "Proponent").

The Proposal states:

> RESOLVED, Shareholders request that our board take each step necessary so that each voting requirement in our charter and bylaws (that is explicit or implicit due to default to state law) that calls for a greater than simple majority vote be replaced by a requirement for a majority of the votes cast for and against applicable proposals, or a simple majority in compliance with applicable laws. If necessary this means the closest standard to a majority of the votes cast for and against such proposals consistent with applicable laws.

Basis for Supplemental Letter

The No-Action Request indicated our belief that the Proposal may be excluded from the 2024 Proxy Materials pursuant to Rule 14a-8(i)(10) because the Company's Board of Directors (the "Board") intended to approve a resolution seeking shareholder approval at the 2024 Annual Meeting of Shareholders (the "2024 Annual Meeting") of an amendment to the Company's Restated Articles of Incorporation (the "Articles") to remove the remaining supermajority voting standards applicable to the Company's shareholders from its governing documents. As discussed

in the No-Action Request, the Company's Restated By-Laws (the "By-Laws") do not contain any supermajority provisions applicable to the Company's shareholders. The only provision in the Company's governing documents that includes supermajority voting requirements applicable to the Company's shareholders is Article VI of the Articles. We write supplementally to confirm that the Board has adopted resolutions approving an amendment to the Articles that will remove Article VI in its entirety (the "Proposed Articles Amendment"). Moreover, the Board has approved submitting the Proposed Articles Amendment to a shareholder vote at the 2024 Annual Meeting of Shareholders, which approval is required under Minnesota law. Further, the Board has determined to recommend that shareholders vote "for" the Proposed Articles Amendment. If the Proposed Articles Amendment receives the requisite shareholder approval, the Company's governing documents will not contain any supermajority voting requirements applicable to the Company's shareholders. Thus, the Proposed Articles Amendment substantially implements the Proposal for purposes of Rule 14a-8(i)(10).

Analysis

Rule 14a-8(i)(10) permits a company to exclude a shareholder proposal from its proxy materials if the company has substantially implemented the proposal. Under Rule 14a-8(i)(10), a company must demonstrate that its actions address the essential objective of a shareholder proposal. *See*, *e.g.*, *Exelon Corp*. (avail. Feb. 26, 2010); *Exxon Mobil Corp. (Burt)* (avail. Mar. 23, 2009); *Exxon Mobil Corp*. (avail. Jan. 24, 2001); *Masco Corp.* (Mar. 29, 1999); and *The Gap, Inc.* (avail. Mar. 8, 1996).

The Board's actions with respect to the Proposed Articles Amendment substantially implement the Proposal because the Board has acted to remove the sole remaining supermajority voting provision in the Company's governing documents applicable to the Company's shareholders. As discussed in the No-Action Request, the Staff has consistently concurred with the exclusion of proposals identical to the Proposal where the company took steps to remove any remaining explicit supermajority voting requirements from the company's governing documents. For example, in each of *Flowserve Corp.* (avail. March 30, 2021) and *Best Buy Co., Inc.* (avail. Mar. 27, 2020), the Staff concurred with the exclusion of a proposal identical to the Proposal as substantially implemented where the company's board of directors approved amendments to the company's governing documents that would replace each provision that called for a supermajority vote with a majority of outstanding shares vote requirement. In Flowserve and Best Buy, the company initially notified the Staff that the company's board intended to approve amendments to remove the supermajority approval requirements from the company's charter, and then approximately one month later subsequently notified the Staff once its respective boards had made the necessary approval.

Like in *Flowserve Corp.* and *Best Buy*, the Company filed the No-Action Request and now informs the Staff that the Board has approved and taken the other actions described above with respect to the Proposed Articles Amendment, which, if approved by shareholders, will remove all supermajority voting requirements applicable to shareholders from the Company's governing documents. Thus, we believe that the Company has substantially implemented the Proposal for purposes of Rule 14a-8(i)(10). *See, e.g., PPG Industries, Inc.* (avail. Feb. 1, 2021) (concurring with the exclusion of a proposal identical to the Proposal as substantially implemented where the board approved amendments to the governing documents that would

replace each provision that called for a supermajority vote with a majority of outstanding shares vote requirement); *Church & Dwight Co., Inc.* (avail. Jan. 15, 2021) (concurring with the exclusion of a proposal identical to the Proposal as substantially implemented where the board approved amendments to the governing documents that would eliminate the only remaining supermajority provisions); *AT&T Inc.* (avail. Jan. 9, 2020) (concurring with the exclusion of a proposal identical to the Proposal as substantially implemented where the company argued that no further action was required because all explicit supermajority voting requirements in its governing documents had already been eliminated) and others.

In addition, the Staff consistently has granted no-action relief in situations where the board lacks unilateral authority to adopt amendments to articles of incorporation or bylaws but has taken all of the steps within its power to eliminate the supermajority voting requirements in those documents and submitted the issue for shareholder approval. For example, in *McKesson Corp*. (avail. Apr. 8, 2011), the board approved certificate amendments to eliminate supermajority voting provisions, which would only become effective upon shareholder approval. The Staff concurred in the exclusion of the proposals under Rule 14a-8(i)(10) based on the actions taken by the board. *See also Flowserve; Best Buy; American Tower Corp.* (avail. Apr. 5, 2011) (concurring with the exclusion under Rule 14a-8(i)(10) of a proposal requesting that each supermajority shareholder voting requirement "be changed to a majority of the votes cast for and against the proposal in compliance with applicable laws" where the board approved submitting an amendment to the certificate of incorporation to the company's shareholders for approval that would reduce the shareholder vote required to amend the bylaws from 66 2/3% to a majority of the then-outstanding shares); and *Applied Materials, Inc*. (avail. Dec. 19, 2008) (concurring with the exclusion of a simple majority proposal when the company represented that shareholders would have the opportunity to vote on a company proposal that eliminated certain supermajority provisions in their entirety and reduced the voting threshold for other provisions to a majority of outstanding shares). As a Minnesota corporation, the Company is required by Minnesota law to obtain shareholder approval of the Proposed Articles Amendment in order for it to become effective. As discussed above, the Board has taken all of the steps within its power to eliminate the supermajority voting requirements in the Company's governing documents applicable to the Company's shareholders and has approved submitting the Proposed Articles Amendment for shareholder approval.

Conclusion

Based upon the foregoing analysis, the Company intends to exclude the Proposal from its 2024 Proxy Materials, and we respectfully request that the Staff concur that the Proposal may be excluded under Rule 14a-8(i)(10). In accordance with Rule 14a-8(j), a copy of this supplemental letter is being sent on this date to the Proponent. We would be happy to provide any additional information and answer any questions regarding this matter.

Should you have any questions, please contact me at nicole.leimer@faegredrinker.com or (612) 766-7239 or John Milek, the Company's Vice President and General Counsel at jmilek@fastenal.com or (507) 453-8117.

Thank you for your consideration.

Regards,

FAEGRE DRINKER BIDDLE & REATH LLP

Nicole J. Leimer

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