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## Water Users set to defend lawsuit in court next week

June 27th, 2024 | 2 Comments



||| FROM DAN BURKE for EASTSOUND WATER USERS |||

Next Wednesday we go to court to fight a lawsuit brought forth by Mike Parnell under his Farm to Market, LLC in the SJC Superior Court. Parnell is claiming that the Director's election last fall was flawed and that as a result, the entire election should be thrown out, and that every decision from the election date of November 15, 2023, by the sitting Board should be thrown out as well.

### The Scenario

For those of you who were not able to attend last year's annual meeting we will provide a recap of the issue at hand as we experienced them:

Two candidates were on the ballot last year, and during the voting process, it was brought to the Board's attention that there should have been three seats on the ballot instead of two (Clyde Duke came back on the Board via an appointment once his elected term had expired, so he should have been up for re-election). The Board stood corrected and made public notice of the mistake.

Farm to Market then brought us to court to stop the election. We appeared at the SJC Superior Court, and the judge denied the motion to halt the election. It was later determined by the Board that the most appropriate remedy for the situation would be to appoint the third-place candidate to the vacated seat. All parties seemingly agreed with that outcome, and we did not hear any dissent on the topic until months later (March 18, 2024).

### IT'S ABOUT TIME

28 June 2024, 08:50 AM

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The Association's attorney did keep in touch with Farm to Market's counsel after the election and they gave us indication that there would be no more action needed. But at the end of March, we received service for legal action from Farm to Market, which was quite a surprise

### *The Election Process*

The November 2023 election was the most documented, impartial and most accurate election in recent Eastsound Water history. There was an independent elections supervisor, multiple video cameras in place to record the ballot counting process and weeks of perfecting the membership's address lists. We stored all ballots in a safe and then preserved all related voting documents in a safe deposit box with only one key that was held by the election supervisor. We have supplied all of these videos and documents to Farm to Market for their review over the past few months to review as we had a complete log of the vote counting process

### *A Reasonable Cure*

The Eastsound Water Board believes this to be a frivolous lawsuit because our cure for this election mistake was a reasonable solution, and further, it was also what the objecting party demanded. There were no other flaws in the election process despite the chatter on social media. The Association's legal counsel has verified that

### *If They Win*

If Farm to Market wins the case, Eastsound Water will be required to throw out November's election results which would unseat four (4) Directors at once. This includes the two elected candidates (Anderson and Nigretto) and the two appointed members (Cook and Templin). This would leave only three Directors (Nelson, Claus and Cleveland) which isn't permitted in our Bylaws. It would also invalidate all the items that were approved by the Board over the past 8 months, including member water membership applications, taxing approvals, financial decisions and more. There is a lot at stake

### *What You Are Paying For*

It has cost the Association \$60,000 at this point with the likely total landing closer to the \$80,000 mark if we win the case. If we lose the case, it will add approximately \$50,000 more in time and money to re-run the election once again, not to mention delay the daily running of the business

### *Our Superior Court Hearing*

That this court case will be live via streaming at 1:30PM on July 3, 2024. If you want to virtually attend this meeting, you can join via the following link:

[Microsoft Teams meeting](#). Join on your computer or mobile app.

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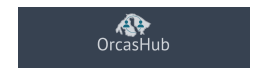
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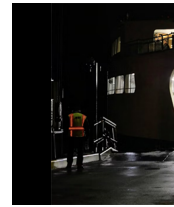
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2 Comments

Robert Austin June 27, 2024 at 8:56 pm - Reply

Who is actually supposed to be in charge of managing this litigation—Manager Burke, or the Board? It’s the Board that bears the liability and responsibility for how our member funds are being spent, not the Manager that they appoint and supervise, at least in my understanding of what a nonprofit’s Board is supposed to be doing. See for example <https://board-room.org/blog/fiduciary-responsibility-of-board-members>. I’m surprised that this essay was contributed by the Manager and not the Chair, Teri Nigretto.

If this current litigation has actually cost our EWUA members \$60k or more, then why didn’t whomever is spending our money on legal fees settle and re-run the election properly? Would that not have been the cheaper solution, though perhaps embarrassing due to having to admit to screwing up the last election?

David Bowman June 27, 2024 at 11:38 pm - Reply

Dan, what’s your annual salary? I ask because that information doesn’t seem to be available to the public.

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