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**From:** bill.weale@builderman.com

**Subject:** Usurping?

**Date:** December 15, 2023 at 3:31:34 PM EST

**To:** Peter Berger <peter.berger@fairleevt.gov>, Cathy McGrath <cathy.mcgrath@fairleevt.gov>, Lance Mills <Lance.Mills@fairleevt.gov>

**Cc:** Ryan Lockwood <townadministrator@fairleevt.gov>

To: The Fairlee Select Board

From: Bill Weale

Date: 12/15/2023

Re: Governance of the Fairlee Forest Board

cc: Ryan Lockwood, Fairlee Town Administrator

Hello Fairlee Select Board;

I was asked by Peter Berger and Fairlee Town T-A Tad Nunez nearly 4 years ago, in the Spring of 2020, to look into problems our Select Board was having in its relationship with the Fairlee Forest Board and with Board Chairman David Matthews specifically.

Select Board Chairman Berger and former T-A Nunez made that request to me, which I volunteered to accept, because I had reported logging—the sale of public property—taking place on Knox Road that was not supported by a contract of any kind and about which, Mr. Berger claimed, the Select Board had no knowledge.

We discovered also that several Timber Sales had previously taken place along Knox road, under the sole direction of David Matthews and his Fairlee Forest Board. Neither the individual, Matthews, nor the group as a Forest Board, nor the Fairlee Select Board itself had then, or have now, the required approval of Fairlee's voters to sell Town Forest property or to spend proceeds from those sales or to spend money from any forest trust account.

Once we began asking questions, Forest Board Chair Matthews self-destructed during a rant at a Select Board meeting and thereafter left town. And for what it was worth, I was publicly thanked by the Select Board for my efforts at that time. (It will be interesting if Matthews' moving to Florida shields him from accountability, if it is determined that fraudulent and/or otherwise illegal acts involving a Federal Grant have taken place.)

Under continuing support and encouragement of the Select Board, I kept on with my research effort, to determine the premise—the rules—under which the Fairlee Forest Board was operating. There were no bylaws. The Forest Board functioned with no budget, thus all of its financial activities as well as all of its policies and operations were immune to public scrutiny and most importantly, to voter control. They were a perpetual self-appointing board. Membership changed only when one of them "...decided not to re-up..." in the words of T-A Nunez. New members were selected by the existing members.

Fairlee's voters have been illegally prevented from voting on any operational, financial or management aspect of our 1600-acre forest ever since the Fairlee Forest Board was created and populated, under false pretenses, in March of 1980. I explained this, providing complete documentation confirming the situation, to the Select Board and T-A Nunez in early July, 2020. I placed copies of this documentation on T-A Nunez' laptop, in his presence in the Grange Room of the Town Hall, shortly before noon on July 9, 2020. I have the thumb drive I used for the file transfer and, of course, an original of every document I turned over to the Select Board at that time. The documents I have are copies of originals stored in the Town Hall. We all agreed, at that time, (T-A Nunez and the full SB included) that the forest governance mess must be fixed permanently.

The documents I presented to the Select Board shed light upon what still appears to be a decades-long and continuing successful attempt by our own Select Board to deceive and defraud our town and our state. The Select Board had falsified a 7-page document titled, "Plan for Management of Recreational Activities in the HCRS Project and Forest Management Plan."

That document was intended, in perpetuity, to be one of several legally-binding terms and conditions of our Federal LWCF grant, under which we obtained taxpayer funding to acquire the 770 acres comprising the Lange Memorial Forest. To change any of those terms and conditions would have required and still does require a Town Vote, approval by the State of Vermont and the signature of the Secretary of the Interior.

There is substantial documentary proof that the Fairlee Select Board never wanted to participate in the LWCF grant, despite a 92-53 Town Vote and despite John and Irma Lange's firm insistence to do so. The Langes refused to donate altogether if the town were not involved with the LWCF stewardship grant.

Town archives describe nearly a year-long effort by Paul Sargent's Select Board to both rescind the existing 92-53 Town Vote and even, without voter approval, to offer to pay the full appraised price to the Langes for their land. That written offer and the Lange's firm refusal took place just 2 days before the Select Board's forgery of the Forest Management plan and 3 days before, under false pretenses the Select Board accepted grant reimbursement money.

Years later that same forged Management Plan was used, unilaterally by the Select Board, to bestow plenary powers to the Fairlee Forest Board over the entirety of our 1600-acre town forest.

A summary of the documents surrounding organization of the Fairlee Forest Board:

In 1) the official Select-Board-signed and voter approved LWCF grant application documents sent to the State of Vermont, 2) the State-approved documents sent to the Federal Department of the Interior by Vermont ANR, 3) the Federally-signed and approved LWCF documents returned by the state to the town, 4) the town's own LWCF grant archives, and 5) the archive copies I received from the U.S. Department of the Interior, following a FOIA request, the members of the forest board were to be "...elected by the town."

Only in the Town of Fairlee's Select Board meeting minutes and in the Proclamation titled "Rules and Regulations of Fairlee Heritage Recreation Service Project (Lange Forest)" are the words "... appointed by the Selectmen..." used.

This falsification, this forgery of the terms of a Federal Grant Agreement was committed against the Federal Government, the State of Vermont and against the residents of the Town of Fairlee. It was carried out unilaterally by the Fairlee Select Board, without notice and without voter approval, during 2 Select Board meetings in March of 1980. The final act of fraud, a proclamation specifying a Select Board-appointed Forest Board, was crafted just one day before the Fairlee Select Board requested and received the Federal LWCF grant reimbursement funds. I think there will be agreement by authorities at all levels that the reimbursement request and the receipt of money by our Select Board was done under false pretenses.

The Fairlee Forest Board is a SB-appointed board, hence ours is primarily a Select Board problem. However, through the years, the Forest Board appears to have had 1 or more of its members, along with the Town T-A, coordinating forest board actions with the Select Board. One sad consequence is that, according to these documents, most (but not all) members of our Fairlee Forest Board, since its inception, have been unwitting tools, used by a defiant Select Board, purposely and with detailed planning, in a decades-long effort to evade the terms of a Federal contract and to annul the Constitutional, legal and contractual rights of its own residents.

All of this could have been avoided, had the Fairlee Select Board taken responsibility and accepted accountability, early in the Summer of 2020. I can think of no other explanation for your refusal to address these problems other than you have chosen to protect yourselves and serve your own interests at the cost of violating the very essence of the responsibilities of your office: serving the public trust.

Note to Mr. Berger:

You accuse me of "usurping your authority."

Consider this:

I have—everyone has—the right to contact anyone anywhere in an effort to discover what my—their—town's legislative body is up to. You have no authority to prevent me or anyone else from doing so.

I am simply...

1) trying to get you and your Select Board to do the right and honorable thing, which simply is to honor the requirements of your office and your legal responsibilities work on behalf of the town. Your bullying and your attempts at intimidation only confirm suspicions that you are just as much involved in this long ordeal which Paul Sargent's Select Board started over 40 years ago.

2) as a result of your having failed your duties, and as an honest and concerned resident of the town of a failed leadership, I think I not only have the right, but also the duty to help clean up a mess that has propagated to include many innocent town officials and other well-meaning folks.

What you accuse me of usurping is in truth what you and your Select Board have usurped from those you represent: our town's right to vote and our town's obligation to honor the promises of our votes.

I shall follow this explanation with with a long list of questions about legal culpabilities on the part of both the Town of Fairlee and the State of Vermont, concerning management and oversight of all town forest land.

I suggest you engage a competent attorney, who is not conflicted between representing you and defending PACIF's liability insurance policy, in an effort to seek the best course for the town going forward.

Have a good day,

Bill Weale

