

Local & State

Rutland City ■ Rutland County ■ Middlebury

Rutland Daily Herald | Monday, May 7, 2012

REPORTER'S
 NOTEBOOK



Gordon Dritschillo
 Writing
 on the Hill

'Pond'ering the future

I keep hearing that people like when I do "cutting room floor" segments in the column. Well, that metaphorical surface has a whole bunch of clippings from Tuesday's meeting on Combination Pond.

"Why is there this emphasis on water quality for Moon Brook?" asked Art Crowley. "We're not talking about the Battenkill. ... Why all this emphasis on a brook that, for many of us, is pretty but not that important?"

Another man offered that before the dam went in, there was productive fishing to be done on the brook, but that it is now barren downstream of the pond.

A couple people noted that most of the options in the draft report either address the environmental concerns downstream in Moon Brook or the safety concerns regarding the dam, but not both. One asked why dredging the pond was not on the list of alternatives. Engineer Matt Murawski said the options could all be tweaked.

Several people emphasized the heavy recreational use of the pond, with one offering an estimate of 40 people a day going there during the summer.

About that dam

Questions about who was responsible for deciding what to do with the dam did not get clear answers because, Murawski said, who owns it is unclear.

When City Attorney Andrew Costello popped in later in the week — he was bringing my colleague, Brent Curtis, the rejection of our latest public records request dealing with the police department — I grabbed him and asked if the city claimed, or disclaimed, ownership of the dam. He said the city makes no claim to ownership and denies any responsibility for its maintenance.

"We own the road that goes over the dam, but we don't own the dam," he said.

Tax breaks

In the two Charter and Ordinance Committee meetings I sat through on collecting the rooms, meals and entertainment tax from the farmers' market, I kept hearing what a small amount of money the city was missing out on due to the couple of vendors who supposedly are not ponying

PAYING THANKS



Skip Mulcahey and his neighbors were surprised by a group of Vermont National Guardsmen on Saturday evening who rode in on horseback and military vehicles at his home in Rutland City to thank him for his support during their time serving in Kuwait and Afghanistan recently. Mulcahey's two sons served in the unit and he sent the troop supplies and support. On the horses are Capt. Zachariah Fike, left, and 2nd Lt. Mathew Helmer. Mulcahey's son 1st Sgt. Kevin Mulcahey, presented his father with a saber from Bravo Troop in Bennington.

VITO STARBUCKS / STAFF PHOTO

Inspirational man sets big goals

By KATHRYN EDDY
 CORRESPONDENT

PITTSFIELD — Chris Davis is half the man he used to be.

Just two years ago, Davis, 34, was 696 pounds. "At that point, I was having a hard time just walking from my desk to my car, working 40 hours plus a week. Life was starting to be a challenge, everything I did I had to continuously plan and think out, even something as simple as walking back to the breakroom," he said. "I had been in the hospital with lymphedema and cellulitis. I couldn't do anything on vacation. I decided to change my life."

After making that decision, his first challenge, Davis fought through many more to arrive where he is now: in Pittsfield, training for the Killington Spartan Race Ultra-Beast, a 26.2-mile, military style obstacle course.

Back in 2010, bariatric surgery was an option, but only if he could get down to 600 pounds. After starting on a medically supervised weight loss program and losing more than 40 pounds, he was informed that he would actually have to lose over 150



JENNIFER LANGILLE / STAFF PHOTO

Just two years ago, Chris Davis, 34, was 696 pounds. He weighs half that now and is training for the Killington Spartan Race Ultra-Beast.

more as the hospital could not get certified for surgery any higher than 500 pounds.

"I was crushed," Davis says. But a friend helped him to find another

surgeon and a different form of bariatric surgery, still considered to be experimental. After battling with the insurance company for a couple months, he finally got approval for

a less invasive and lower risk procedure called a gastric sleeve/ectomy and on July 12, 2010 at 634 pound Davis' surgery was a success. For six months following the surgery, he experienced rapid weight loss, but once that slowed he began to exercise. When that resulted in some health problems he found what is called "lazy river," a low impact pool and was able to work up to five miles of walking.

Nearly a year from his surgery, he moved to Atlanta, Ga. "The first weekend in Atlanta, I decided that was going to focus on getting out at focusing on life. New city, new life. There he met his now good friend Jennifer Daniels, who asked him what he would do for his year anniversary. Home to the world's largest piece of exposed granite, the 1.3-mile hill up Stone Mountain park in Atlanta seemed like a good celebration, at a test of his strength. "As soon as I send (for an email to Daniels), I will be like 'Uh-oh.' I was a little worried." took him three hours, but he climbs

See Goals, Page 1

From bears to peanut M&Ms



CAPITOL

Vermont Republicans look to be shedding their elephant skin in favor of a species more native to the Green Mountains.

Last Sunday of course, Republican candidate for governor Randy Brock introduced the

It's a take-off on an iconic 1984 Reagan presidential ad called, "The Bear in the Woods," which sought to capitalize on Cold War anxieties about the Soviet "bear."

In this week's ad from the GOP, the bear

Central Vermont Public Service.

The ad also calls Shumlin to task for a proposal to tax certain software products, though Republicans might want to check their work on that one. While some Democratic lawmakers favored

When Rep. Ken Attkin announced earlier this year that this term would be his last, his colleagues in the House were worried about losing more than just a friend.

The Winooski Democrat is well-known as

COMBINATION POND ALTERNATIVES ANALYSIS AND FEASIBILITY REPORT

Summary of Public Meeting of May 1, 2012 Rutland Free Library, Rutland City, Vermont Prepared by Mary Nealon, Bear Creek Environmental, LLC

Approximately 30 people attended a meeting at the Rutland Free Library to hear a presentation of the Alternatives Analysis and Feasibility report prepared by DuBois & King, Inc. (D&K) and Bear Creek Environmental, LLC (BCE). Ethan Swift of the Vermont Department of Environmental Conservation gave the opening remarks. Mary provided background information and Matt presented the results of the dam inspection and the alternatives analysis. The primary comments and questions from the audience are provided below by topic. Most of those attending the meeting were property owners in the Charter Hills neighborhood. A couple people attending the meeting own property downstream of the dam. The steering committee of Evan Pilachowski (City of Rutland), Nanci McGuire (Rutland NRCD), and Ethan Swift and Jim Pease (Vermont Department of Environmental Conservation) were also present at the meeting. Gordon Dritschilo, reporter with the Rutland Herald, provided coverage of the meeting in an article dated May 3, 2012.

Water Quality

1. Why are we trying to meet water quality standards?
2. Is there a temperature increase in Piedmont Pond?
3. Why consider removing Combination Pond when there are other onstream ponds that are contributing to temperature warming?
4. Jim Pease of the Vermont Department of Environmental Conservation mentioned there is enough data to support Combination Pond is a problem. The State is pushing the City to improve water quality. There is no treatment of stormwater in the Charter Hills neighborhood and a retrofit may be required at some point.
5. There is a low density trout population downstream of Combination Pond. Ethan Swift mentioned the high water temperatures are also a concern for other coldwater fish species, such as slimy sculpin.

Funding

1. The integrity of Moon Brook has deteriorated. Who will pay for this?
2. What are potential sources of funding?
3. Are landowners willing to financially contribute to take responsibility for maintenance of the dam?

Ownership/ Property Rights

1. Who owns the dam?
2. Who owns the surface waters of the State?
3. Removing the dam may result in litigation
4. Landowners have rights to use the pond with no maintenance requirements.

Uses of the Pond/ Resource

1. Property owners and other residents use the pond for dog walking, boating, and fishing. Some of the area schools study the wildlife. There is an annual fishing derby run by the Kiwanis Club and the Rutland Recreation Department held in May.
2. Trees and clouds are mirrored in the pond. The pond is important for aesthetics and fills people's spirits.
3. Skaters use the pond.
4. The pond is used religiously, and it is important for recreation and the aesthetic value.
5. Pond is a valuable resource and provides wildlife habitat for herons, ducks and geese.
6. Make Combination Pond into a city or state park.

Alternatives Analysis

1. Concern about pond going stagnant with bypass pipe and bypass channel alternatives.
2. Would the groundwater augmentation alternative draw down water levels around houses near the pond?
3. Would a bypass channel impede access to fisherman from that side?
4. Would plantings along new channel be active or would area be allowed to revegetate?
5. Would there be an increase in mosquitoes if the pond were converted to wetland and a stream channel?
6. Would it make sense to lower the level of the road if the dam were removed?
7. Consider dredging the pond as an alternative
8. Use a combination of cold well water and dredging as an alternative
9. Consensus from audience that the dam removal alternative should not be considered. In a vote proposed by one of the land owners, seventeen people voted to take this alternative off the list. No hands were raised in favor of considering dam removal.

10. Evan Pilachowski, Commissioner of Public Works, stated that the City has not determined that its preference is to remove the pond.
11. Selected alternative should address both dam safety and water quality concerns.
12. Could the groundwater augmentation well be located closer to the pond outfall?
13. Who decides which alternative is implemented?
14. Consider implementing lower cost options first, followed by other more expensive options if some progress is made.

Dam Safety and Maintenance

1. Combination Pond dam was built circa 1952.
2. Was Tropical Storm Irene a 100 year flood event? Tropical storm Irene was the first time the water flooded over the road.
3. Tropical storm Irene was not the first time water flooded over the road. Water overtopped the road in 1977 according to one landowner.
4. The trash rack has not been maintained.
5. Sediment has accumulated in the pond as a result of tropical storm Irene and should be dredged. Is there grant money available through FEMA to do so?
6. The pond will continue to get old and deteriorate.
7. Who is using the pond and who will maintain it?
8. The concerns of landowners downstream of the dam should be considered.

Sign in Sheet

Combination Pond Alternatives Analysis and Feasibility Report
 Meeting of May 1, 2012
 Fox Room of Rutland Free Library

Name/Organization	Address	Phone Number	Email Address
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Kevin & Claire Austin	8 Hill Pond Rd.	779-2389	Kaustine@moors.com
Ethan Smart	88 Bloomer	786-2503	Ethan.Smart@state.vt.us
Mark Godick	235 South Main Street	775-5233	MARK@DESIGNKRAMERS.BIZ
John Muley	122 Huntington Ave	773-8541	
Betty Wheeler	21 Victor Place	775-5888	

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Name/Organization	Address	Phone Number	Email Address
Melissa Meier	10 Hill Pond Rd.	342-9878	
Mike Messer	10 Hill Pond Rd.	342-9878	
Ann Galvin	95 South St.	773-3781	
Jim Goble	9 Hill Pond Rd	747-0485	
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Combination Pond residents want pond to stay

By [Gordon Dritschilo](#)
Staff Writer | May 03, 2012



Residents living on Combination Pond said Tuesday that whatever else happens, they want the pond to stay.

About 30 people gathered at Rutland Free Library for a forum on a study of alternatives for dealing with environmental and safety issues posed by the dam creating the pond. The most direct piece of feedback was that the option of removing the dam and restoring the natural channel of Moon Brook should come off the table.

The study, conducted by DuBois and King and funded with a state grant, listed seven options ranging from "do nothing" to removing the dam. Other options included minor repairs to the dam and a variety of projects that would move cooler water either through or around the pond into Moon Brook.

Engineer Matt Murawski said the study was initially aimed at improving water quality in Moon Brook, which the city believes is impaired because of the way the water in the pond is heated during the summer, but that safety concerns came to the fore when the pond overtopped the dam during Tropical Storm Irene.

Murawski said that while there are questions about the ownership of the dam, at least 70 properties in the Charter Hills development have deeded access rights to the pond. A number of those residents were at the meeting and spoke of the value of the pond, both aesthetically and as a recreation resource.

"If you remove that, there will probably be litigation," Art Crowley, one of the residents, said. "It's a property right we don't want to lose."

Crowley called for a vote on whether the "sense of the meeting" should favor the preservation of the pond.

Seventeen hands went up when he called for "yes" votes. None went up as "no" votes, and nobody spoke up at a different point in the meeting when he asked if anyone in the room favored removing the dam.

"I think you can call it unanimous," he said.

Another individual asked if there was anyone living downstream at the meeting — almost no hands went up — and suggested that safety concerns deserved more thought. Others replied that Tropical Storm Irene was the first time anyone was aware of water overtopping the dam.

Asked if he was willing to put up money to repair the pond, Crowley said yes. Murawski noted that it is common in Vermont for associations of homeowners living around a pond to take ownership of and maintain a dam. He asked the assembled residents if they were interested in such a move, but nobody spoke up.

One individual noted the use of the pond by nonresidents — a Kiwanis Club-sponsored fishing derby is scheduled there May 12 and several people said individuals use the pond in a variety of ways year-round — and suggested the state take possession of it as a state park.

The meeting was the first of two. The second, which will include an identical presentation but offer a chance for people who missed the first to offer feedback, is scheduled for May 15.

COMBINATION POND ALTERNATIVES ANALYSIS AND FEASIBILITY REPORT

Summary of Public Meeting of May 15, 2012 Rutland Free Library, Rutland City, Vermont

Twenty-five to thirty people attended a meeting at the Rutland Free Library to hear a presentation of the Alternatives Analysis and Feasibility report prepared by DuBois & King, Inc. (D&K) and Bear Creek Environmental, LLC (BCE) on May 15, 2012. A sign in sheet with most attendees is attached. This was the second of two public meetings at the library with the same content and structure. The first public meeting took place on May 1, 2012.

Ethan Swift of the Vermont Department of Environmental Conservation gave the opening remarks. Mary Nealon of BCE provided background information and Matt Murawski of D&K presented the results of the dam inspection and the alternatives analysis. The primary comments and questions from the audience are provided below by topic. Many of those attending the meeting were property owners in the Charter Hills neighborhood. Based on a quick poll, about six to seven attendees are homeowners with property located downstream of Combination Pond. A handful of attendees of the May 1, 2012 meeting were present again at the May 15 meeting. Steering committee members Evan Pilachowski (City of Rutland), Nanci McGuire (Rutland NRCD), and Ethan Swift (Vermont Department of Environmental Conservation) were present at the meeting. The mayor of Rutland, Christopher Louras, and two representatives to the Vermont Legislature (Peter Fagan of District 5-1 and Margaret "Peg" Andrews of District 5-2) also attended.

Water Quality

1. Are developments grandfathered for stormwater improvement requirements? *No, through the State MS4 permit process, older developments such as Charter Hills could be required to install stormwater treatment and control measures.*
2. Why wasn't Piedmont Pond studied? *Temperature warming due to Piedmont Pond is significantly less than Combination Pond (see item 3 below).*
3. Evan Pilachowski provided information about temperature studies from Piedmont Pond that have been conducted by the City of Rutland. The water temperature increase through Combination Pond is 10 to 12 degrees Fahrenheit versus 3 degrees in Piedmont Pond.
4. Water temperature data from 2006 recorded by the City of Rutland was used by Bear Creek Environmental to demonstrate that Moon Brook below Combination Pond is not meeting criteria for a cold water fishery. One community member stated that 2006 was the warmest summer in 20 years.

5. Peter Fagan gave a summary of the EPA 303d list.
6. What other water quality factors are being considered (as part of the alternatives analysis)?
7. The TMDL does not address water temperature. The City of Rutland believes water temperature is causing a water quality impairment.
8. One landowner questioned the validity of the temperature data because batteries used to run these devices had been recalled.
9. What will the role of private landowners be in mandated stormwater improvements down the road? Peg Andrews, City of Rutland Representative to the legislature, said there are no simple answers. Steps will be needed that affect different groups of people.
10. How will stormwater regulations be implemented to improve water quality? *This could be accomplished by revisiting old stormwater permits, requirements for new development, and retrofitting developed areas that were built prior to the issuance of stormwater permits.*
11. What is the plan to improve the water quality of Moon Brook? *The plan to improve water quality is part of MS4 permit. The entire watershed will be considered. The TMDL primarily focuses on stormwater.*
12. Frogs and fish that lived in Combination Pond years ago (during landowner's childhood) are no longer there. Pond is warmer than it used to be.

Funding

1. Where would funding come from to do improvements? *No funding available for dam rehabilitation, but some funding likely available to assist with measures to improve water quality.*

Ownership/ Property Rights

1. Judy Barone, owner of Combination Pond, stated she is willing to give the pond to whoever wants it. "The pond is not meaningful to me." Judy encouraged the landowners along the pond to read their property deeds.
2. Why use money on legal issues surrounding the pond and dam. Judy Barone encouraged lot owners around the pond to invest money to resolve issues surrounding the dam and pond rather than toward legal fees.

Uses of the Pond/ Resource

1. One landowner mentioned that 300 people were at the Kiwanis fishing derby at Combination Pond that was held earlier in the month.

Alternatives Analysis

Bottom release: Would the temperature of Combination Pond increase if water on the bottom were released? What size pipe would be needed for bottom release? Would sediment from the bottom of the pond be released through the riser pipe?

Dam removal: The dam removal option is not realistic. This option would trigger large legal issues and would be expensive. Who has the authority to remove the dam? One landowner suggested that VT Superior court will determine whether the dam can be removed, and stated that EPA has no authority to remove the dam.

Dam Safety and Maintenance

1. What kind of dam does Combination Pond have? *Combination Pond has an earthen embankment with a concrete box riser connected to a corrugated metal outlet pipe.*
2. Who is responsible for maintaining the trash rack? *Typically the dam owner has responsibility for maintenance. In this case, ownership of the dam is not clear.*
3. Owner is not responsible for maintenance per the 1958 document that grants rights to property owners for recreational uses.
4. What is the potential for collapse of the outlet pipe? *It is approximately 40 years old, which is at or beyond the typical reliable service life of corrugated metal pipe.*
5. The spillway used to be closer to the road.
6. Could a smaller pipe be used as a quick fix for deteriorating outlet pipe? *Yes, a smaller pipe slipped inside an existing one may be a cost-effective solution.*
7. How much damage was there downstream of Combination Pond from Tropical Storm Irene? *Damage noted in low lying areas. Some landowners lost lawn and vegetation along Moon Brook. Moon Brook is flashy.*
8. Did the Combination Pond dam survive Tropical Storm Irene? *Matt Murawski looked at dam following the high flow of Irene, but has not done a formal dam inspection. Damage appeared to be minimal.*
9. Please define overtop? *Water flowing over the road and down the backside of dam*
10. Landowner has lived 15 years along Combination Pond and has noticed it overtop only once. Another landowner mentioned the water has overtopped twice in 15 years and landowners downstream have been evacuated both times.
11. What is the volume of the pond? *Approximately 460,000 cubic feet at normal pool elevation and 800,000 cubic feet at top of dam.*
12. Could a stormwater pipe be used to reduce flows during large events? *This would be of relatively little value because of the small size and position high up on the embankment.*

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Name/Organization	Address	Phone Number	Email Address
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Susie Cagle	Enken Brook Dr.	802-773-2195	
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Robert Anderson	P. Colburn Dr.	775-1656	
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ALAN DONAHUE	3 BRENTWOOD DR	773-8979	
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Sign in Sheet

Combination Pond Alternatives Analysis and Feasibility Report
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Name/Organization	Address	Phone Number	Email Address
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James Gamble	9 Hill Pond Rd.		
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