

<https://www.timesargus.com/articles/get-real-on-curtis-pond/>

Get real on Curtis Pond

Feb 21, 2005

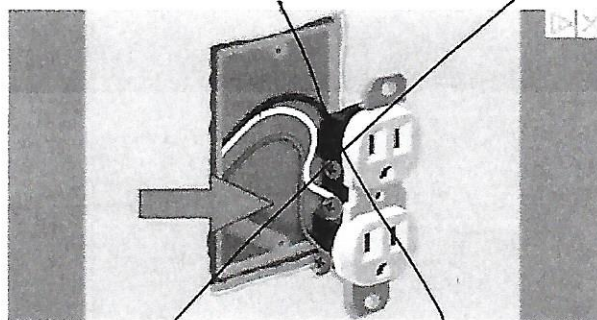
I just finished reading the Feb. 16 commentary on the Curtis Pond dam by J.C. Myers, and as my family has owned property and a camp on the pond for several generations, I feel obligated to respond. My first thought is, how come J.C. Myers was the only intelligent and responsible person from Calais assigned to this task force? Were the others on a work release program, or just your typical dregs of society always looking to find others to carry the load for them? Is this the direction towns and local government are heading? Their position, which I hope isn't the opinion of the majority of Calais voters, certainly raises many questions. 1) As shoreline property owners on the pond, will we get to vote on the reconstruction of the dam, or the draining of the pond if we choose not to reconstruct it and wish to go with the cost-saving measures? We could put up an association swimming pool for less money, and not have to put up with all those in town who voted against us peeing in our water. 2) If the shoreline property owners decide to go ahead and drain the pond, do you have the reassessed property values figured out so we could see what our savings would be; oh, and also what that cost would represent to the town as a net loss over the next 20 years (and beyond), as without the water frontage, the property values are probably a quarter of the current value, if that. 3) If we are going to assess the cost of the dam repairs to the shoreline property owners, and we vote on reconstruction, will the shoreline property owners then be allowed to erect a gate at the public access area and boat launch to charge a user fee to all those wishing to use our new owner maintained waterway. Let's get real! The town of Calais makes out very well from the tax revenue collected from the property owners on local ponds. If you look at what the town has collected from these mostly seasonal residences over the years, and the fact that no town services are offered in return, the town has benefited very well. If you prefer to create division in the town rather than unity, by all means, stick it to us! I do thank J.C. Myers for the effort, commentary, and grasp of the overall picture, and hope the rest of the voters in Calais are able to see the obvious as well. Bruce Watson East Montpelier

<https://www.timesargus.com/articles/dam-proposal-a-rotten-idea/>

Dam proposal a rotten idea

Mar 1, 2005

Having just read J.C. Myers commentary about the Curtis Pond Dam repair funding plans in The Times Argus, I have to say that I completely agree with his points, and would like to add a few additional thoughts. First, the 7.4 percent of the shorefront owned by the Town of Calais is not taxed, so that property would be doubly exempt from contributing tax money. Second, the state of Vermont owns shorefront and a Public Right of Way, a Fishing Access. That property would also be exempt under the proposed plan. This is exactly the opposite of what should be happening. Things which are a shared resource should have shared contributors, which is one of the basic building blocks of a community. Third, my parents, retired and on a fixed income, own agricultural land with shorefront on Curtis Pond. Another tax on this is the last thing that they need. This land has been in our family for over 200 years, since the original land grants, and has always been open to public use, and never been posted. I would bet that there are people from Montpelier that fish and hunt on this land more than my parents do. The plan proposed by the Calais Dams Task Force is one of the worst ideas I have heard in a while, and if implemented, will only serve to increase hard feelings between landowners and the general public, and further fragment the feeling of community in the town. Steve Gallagher Calais



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<https://www.timesargus.com/articles/calais-struggles-with-dam-issues/>

Calais struggles with dam issues

By Joshua Larkin Times Argus Staff

Mar 30, 2005

CALAIS □ The selectboard opened the floodgates for comments Monday night when the Calais Dam Task Force came to discuss a report it had been working on since last April. And residents attending the meeting were happy to oblige, firing off questions concerning ownership of the Curtis Pond dam, how it will be repaired and who will actually pay for the project. From the start, Chairman Bob Withey made it clear to the crowd of more than a dozen residents that the board would not be taking any immediate action on the report's recommendations. The purpose of the discussion, he said, was to provide clarification and answer questions residents may have about the task force's recommendations. Last spring, the selectboard formed the Calais Dam Task Force to explore options for fixing the old stone dam in Maple Corner, whose stability has been raised as a concern by state officials. The group was asked to conduct an inventory of all privately owned dams in the town and assess each dam's condition. The panel concluded the dam at Curtis Pond □ whose owners have absolved themselves of responsibility for the dam □ is the only dam of immediate concern to the selectboard. The group, which was asked to examine alternatives to private dam ownership, recommended in its report that the town take over ownership of the Curtis Pond dam and create a "special assessment district" to fund repairs and maintenance. Six engineering options for fixing the dam were discussed, and two □ a \$228,000 new concrete dam option and a \$175,000 rebuild option □ have been recommended to the selectboard. A controversy has emerged on how to fund the repairs. If the town were to take over ownership of the dam, the task force stated in its report, the selectboard would have to decide between a townwide tax and various special tax districts, or a combination of the two to fund the project. The task force was split in its decision for the best funding option, with the majority favoring the combination of a townwide tax and a special tax district made up of shoreline property owners. A range of payment options was suggested, from shoreline owners paying 80 percent of the cost and the town picking up 20 percent, to both the town and shoreline owners covering 50 percent apiece. Responding to a question about the structural integrity of the dam, task force member Gary Root stated all dams fall somewhere between perfect and in need of repair. He said the information regarding the Curtis Pond dam is inconclusive as to where the dam is on that scale. However, Root said the task force was unanimous in its belief that some repair is needed. "There are certain signposts of degradation that are identifiable in what's happening to the dam right now," Root said. He said studies have indicated that some amount of the soil inside the dam walls that holds back water has washed away over time, and the problem will worsen if nothing is done. However, he said currently there's no way to know if the dam will fail catastrophically or will just degrade over time. "There is nobody in this town who really understands

what is going on inside this dam or on the backside of this dam," task force member Davis Cherington said. If the town were to decide to rebuild, Cherington said it would be necessary to do more thorough work to estimate the cost of the project. Task force member Barry Bernstein said the committee struggled with the ownership question, because town ownership would mean having to create a fair way to pay repair costs. He said most members of the panel felt it would be fair for shoreline owners to pick up some percentage of the costs. Ultimately, he said, the committee tried to make recommendations that would be "politically sellable" to the public. But the idea of a special tax district in which shoreline owners would bear the brunt of the financial responsibility for the dam was not received well by some residents. Marge Sweeney, who owns property on the popular swimming pond, wondered why no shoreline owners were appointed to the task force. She stated her husband had volunteered and was not appointed. Withey, however, stated that anyone who volunteered for the task force was appointed and that all of the meetings concerning the dam project were publicly warned. Furthermore, Withey said the task force was not formed to look solely at Curtis Pond, but to look at all of the town's dams, and representatives from all areas of the town were chosen for the task force. Task force member John Brabant stated that even without a Curtis Pond member, the area was represented on the committee. "I want you folks to know that there may not have been pond owners on the committee, but you were very well represented," Brabant said. "J.C. Myers was the most strong advocate that I think you could have found on that whole pond," he said, calling him "a fabulous advocate for the lakefront owners." Brabant also noted there were a number of other people who expressed the interests of pond owners to the task force. Nonetheless, one resident argued a special tax district comprising shoreline owners was unfair because the pond is a town resource open to the public. He argued if a road in the town were washed out, homeowners along the road would not be asked to pay more of the costs for reparations. But selectboard member Paul Hannan argued that the dam was a "very, very different situation" because the town is obligated by statute to maintain the roads, whereas it is not obligated to pay for dam repairs. Still others contended the dam is a problem only of the village of Maple Corner and there's no reason residents who live in East Calais or other areas of the town should have to pay for the dam. "We talked to a lot of people who are not right in the Maple Corner area, and you find a lot of people have an aversion to the town picking up the ownership of the dam," Bernstein said. "There are a lot of people who say, 'well I don't have a place on the pond, and I don't want to deal with it.'" Withey maintained the selectboard would let voters have the final say on the matter. "I think it needs to be clear that the selectboard will not be the ones to decide whether we spend \$25,000 or \$175,000 or \$225,000," Withey said. "It's the voters of the town who will decide, and correct me if I'm wrong, they're the ones who will decide whether in fact the town does take over ownership." Ultimately, Withey said, it would be up to the voters to decide who will pay for fixing the Curtis Pond dam.

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<https://www.timesargus.com/articles/special-meeting-called-on-future-of-curtis-pond-dam/>

Special meeting called on future of Curtis Pond Dam

By DAPHNE LARKIN Staff Writer

Oct 1, 2006

CALAIS □ The Selectboard has called a special meeting on Monday night to seek authorization to add questions pertaining to the Curtis Pond Dam to the November Australian ballot. In the spring of 2004 the Calais Dam Task Force was created and charged with the task of taking inventory of Calais dams, assessing the condition of each dam and addressing potential problems. The group concluded the dam at Curtis Pond □ whose owners have absolved themselves of responsibility □ is the only one of immediate concern to the Selectboard, and now the town must decide how to address those concerns. Chairman Paul Hannen said an Australian ballot vote seemed like the best way to facilitate participation because the town gets the best voter turnout on Election Day. "The only real action item at the meeting will be looking for authorization from voters" to use the Australian ballot on Nov. 7, according to Hannen. If the Australian ballot vote is approved, the Selectboard will propose three questions for the ballot they believe will provide the answers they need to move forward with the dam: "Should the town of Calais own the Curtis Pond Dam? If the town owns the Curtis Pond Dam, should the town support repair and maintenance through a municipal tax on the Grand List? If the town owned the Curtis Pond Dam, should the town create a special assessment district, which would require shorefront owners to pay a greater percentage of the cost and repair of the dam?" This is one more step in the process of attending to the dam but Hannen said the board will not be discussing the answers to the proposed questions, merely the effectiveness of the questions as a means to learn what voters want. "We need to avoid getting into answering the questions," Hannen said.

<https://www.timesargus.com/articles/confusion-in-calais-dam-debate/>

Confusion in Calais dam debate

By Daphne Larkin Times Argus Staff

Oct 13, 2006

CALAIS □ While hammering out advisory questions to ask voters in November about the future of the Curtis Pond dam, Selectboard members were hit with an unexpected problem: conflicting eleventh-hour legal advice that raised key issues of legal responsibility. "We believed no one owned the dam years ago," Chairman Paul Hannan said. "The whole movement and thinking of the community and the task force we appointed" to figure out a repair plan were based on that belief, he said. But an opinion by attorney Paul Gillies cast doubt on that view and it has thrown a kink into the process of deciding what to do with the old stone dam on the popular pond in Maple Corner, which is used for swimming and boating. The dam has shown signs of instability, prompting the town to consider its replacement, because a washout could threaten properties below and ruin a recreational resource. According to Hannan, years ago when the town sought to determine who was responsible for the dam, state officials did research and determined that local residents Jeff Fothergill and his wife Candace Beardsley unwittingly inherited it from Beardsley's grandfather. "We were flabbergasted by the information," Fothergill said. What they were told, Fothergill said, was that even though his wife's grandfather had sold off parcels of the land that included the dam, Fothergill and Beardsley, being the only living direct relatives of the original owner and left with a four-acre plot, are the owners of the dam because Beardsley's grandfather never specifically transferred the dam to anybody. Fothergill said that when he and his wife learned of their dam ownership by default in 2004, they consulted an attorney, whom he wished to not name, who advised them to file a disclaimer of ownership. "The statute, as it was explained to us, says that when someone becomes aware of ownership transfer, you have nine months from the day you become aware (of the transfer) and you can disclaim it," Fothergill said. Which is what they did. Hannan said Fothergill and Beardsley tried to give the dam to the town, but the town needed time to do research about the issue of taking on the dam. So Fothergill and Beardsley filed the disclaimer and all parties believed that was the end of the story. But when the Selectboard consulted Gillies recently in preparation for taking over legal ownership of the dam and how to phrase questions on the Nov. 7 Australian ballot on the issue, Gillies advised that the disclaimer Fothergill and Beardsley filed does not apply. "In his very solid opinion that is not what that statute is there for, and the nine months has to do with (the date of) inheritance, not when you discovered you have it," Hannan said. The Selectboard held a special meeting Monday, Oct. 2, to gain permission to use an Australian ballot on Nov. 7 to ask questions about how voters want to handle the dam. It was after that meeting that the question of Fothergill and Beardsley's disclaimer was raised and shortly thereafter that the Selectboard was advised that the disclaimer doesn't apply. "The town, at this point, has no legal responsibility," Hannan

said. Hannan said the Selectboard then warned another meeting for Thursday, Oct. 5 in order to factor in this new information to the crafting of the questions on the ballot. "What we thought was kind of a rubberstamp meeting on Thursday turned into an hour-long discussion," Hannan said. As a result, the Selectboard amended the questions that will appear on the ballot on Nov. 7 to include the possibility there is a living legal owner of the dam. As approved, the questions facing voters are:

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- Should the town of Calais seek to own, control and pay to support the replacement or repair and future maintenance of the Curtis Pond Dam if it is found that title is held by a living person with legal responsibility for the dam?
 - Should the town of Calais seek to own, control and pay to support the replacement or repair and future maintenance of the Curtis Pond Dam if it is found that title is held by a deceased person with uncertain legal responsibility for the dam?
 - If the town owned the Curtis Pond Dam and decided to pay to support its replacement or repair and future maintenance, should the town provide this support through a municipal bond to be repaid by an annual tax evenly distributed on the Calais grand list?
 - If the town owned the Curtis Pond Dam and decided to pay to support its replacement or repair and future maintenance through a municipal bond, should the town create a special assessment district which would require shorefront owners of Curtis Pond to pay a greater percentage of the cost of repair and maintenance of the dam than other taxpayers in Calais? "It is an important asset to the town," Hannan said, noting the pond is a town recreational resource. "To me it's more the community aspect of it." If voters vote against ownership of the dam, then the Selectboard will be back to square one. But, Hannan said, the questions on the ballot are strictly advisory and not binding. There will be an informational meeting Monday, Nov. 6, so voters understand the history and meaning of the questions on the ballot.

<https://www.timesargus.com/articles/advisory-questions-add-to-calais-confusion/>


Advisory questions add to Calais' confusion

By Daphne Larkin Times Argus Staff

Nov 14, 2006

CALAIS □ The town asked four questions on the November ballot hoping to get an answer about what to do with the aging Curtis Pond dam. What it got seems to some more like an ancient Sphinx riddle. Voters answered four advisory questions on Election Day and the numbers, in short, were in favor of taking over the leaking dam if there is no legal living owner, which remains in legal debate. "We have some indication that the town wants to do something," Selectboard Chairman Paul Hannan said. "It seems to be support for taking this thing over and fixing it." But there is also vagueness in interpreting results of something that was intended to provide clarity. The vote was 422-381 against owning the dam if there is a legal owner; the vote was 520-314 for taking over the dam if the owner is deceased "with uncertain legal responsibility." Those numbers establish that if there is a legal owner, voters do not want to take responsibility for the dam and if there is no other owner, that voters would take it over. And therein lies the confusion. "If you're not up on the nuances, these are complicated questions," said Hannan, who said some people voted one way on all four questions or avoided answering them all together. What began as a straightforward attempt to ascertain voters' preferences for repairing the dam over removing it □ and how the potential repair might be funded □ turned into a sort of chicken-and-egg conundrum in the weeks before the election. "We believed no one owned the dam years ago," Hannan said. "The whole movement and thinking of the community and the task force we appointed" were based on that belief, he said. But just before the ballots were sent to the printing press in October, the Selectboard learned that local residents Jeff Fothergill and Candace Beardsley may still be the legal owners of the dam. The Calais couple first learned of their potential legal responsibility for the dam back in 2003 when the town conducted a survey of the conditions of all Calais dams and determined the Curtis Pond dam to be the only one in need of attention. The old stone dam in the village of Maple Corner is a key structure holding water in the pond, which is a major recreational resource for the west side of town. The Agency of Natural Resources searched land records and determined Fothergill and Beardsley had inherited the 100-plus-year-old structure from Beardsley's grandfather. Even though her grandfather had sold off parcels of the land that included the dam, Fothergill and Beardsley, being the only living direct relatives of the original owner and left with a four-acre plot, are the owners of the dam because Beardsley's grandfather never specifically transferred the dam to anybody. Beardsley and Fothergill filed a disclaimer that allows people who inherit something they don't want to disinherit it, essentially absolving themselves of any legal responsibility, potentially clearing the way for town action. But Attorney Paul Gillies advised before the Nov. 7 election that the disclaimer Fothergill and Beardsley filed does not apply. "In (Gillies') very solid opinion that is not what that statute is there for,"

Hannan said. As a result, the ballot questions were altered to reflect the possibility that there are owners of the dam. And it appears that detail matters to voters, as evidenced by answers to the first two questions. The other two questions pertain to funding the repair of the dam, should the town end up owning the structure. Based on the results, residents by a 476-377 vote favor the creation of a special tax district that would place more burden on shorefront owners than the entire town to fund repairs. Meanwhile, the dam is in a sort of limbo, since the town cannot take ownership from Fothergill and Beardsley because the couple denies any legal responsibility. Calais could purchase the dam for a nominal cost or possibly acquire it through probate court, but that would mean incurring costs, which must be approved by voters. Fothergill said he and his wife are very confident in their legal position, but if it turned out he and his wife are legally responsible for the dam, he doesn't know what they would do because the cost of repairs is too high for one family to incur. But he acknowledges the value of repairing the dam and the difficulty of the decision of taking it down. "It would affect a lot of people and it's not something that could be done by anybody lightly," he said. Hannan said the Selectboard would like to be able to have a vote at the March meeting but the board is uncertain just what to ask voters. "One solution is to ask the town if we can bond for some amount of money and then ask the town if we can set up a special taxing district," said Hannan. "If the answer was 'no' on the bond, then we wouldn't accept the dam: we wouldn't do anything." If the town decides to take over the dam, then voters will also have to decide how they want repairs to be made. Dubois and King quoted \$228,044 for a concrete reinforcement to go behind the stone dam, which would remain as a facade. And Morris Root, of Root Engineering, quoted \$175,588 for a stone rebuild. Hannan said the state can compel the owners of the dam to fix it or take it down, since its deterioration threatens certain property damage. "If it blew out cataclysmically there would be property damage and loss of public infrastructure □ Washington Electric has a substation in the path," Hannan said.



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