

The West River Trail Passes from Dream to Reality

A long, circuitous path in creating one of Dummerston's most important recreational resources

by Alex Wilson

Dummerston walkers, hikers, joggers, cross-country skiers, snowshoers, and bicyclists have a lot to celebrate with the November, 2017 court decision that assures public use of the West River Trail at the Rice Farm Road access. But it's been a long and confusing process to get to this point. With this article, I'd like to describe the history of the West River Trail and the long-term efforts of Friends of the West River Trail (FOTWRT) to formalize the old West River Railroad bed into a public-use trail.

Early efforts to formalize the West River Trail

I first got involved in efforts to formally establish the trail in 1997, when I saw for-sale signs on a 23-acre parcel along the rail bed that was owned by Jim Severance. I pulled a few people together, including Monroe Whitaker and Bill Schmidt, and we negotiated with Mr. Severance to purchase the property, with support of the Vermont Land Trust. That sale fell through at the last minute, but we had meanwhile begun an effort to build support for formalizing a trail on the rail bed, which had been informally used for many decades (sometimes without permission), since the failure of the railroad that operated between Brattleboro and Londonderry. (The last operating segment extended only to the Presbrey Leland Quarry in West Dummerston.)

Our group of volunteers began meeting regularly and began discussions with property owners along the trail, hoping to secure permanent easements for the trail. We were working on forming a nonprofit organization to advance the trail when we learned that there already was an organization working to create a trail along the *upper section* of the rail bed—in South

Londonderry and Jamaica. Rather than form a new organization, we joined their efforts as the Lower Section of FOTWRT.

We spent several years researching deeds, meeting with property owners, and developing
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Aging Well

was the subject of a Dummerston Cares workshop. Pictured (left to right) are Bill Schmidt, the emcee, and panelists Mary Lou Schmidt, Tom Zopf, and John Wilcox. See story on page 6.

Coming of Age in 1940s West Dummerston

By Jean Bruce Momaney

Growing up in West Dummerston was a wonderful experience. The village had two stores, two churches, a very active Grange, a library, a busy sawmill, and the extraordinary, special Dr. Burnett.

The elementary school was a two room schoolhouse. At close to nine o'clock the flag would be hung on the porch and then there was the ringing of the bell. You could hear the bell from quite a distance and you had better hurry because being tardy was not a good thing. The only negative memory of school is the awful cod liver capsules we were given to keep us

healthy. Yuck.

In winter time, we did sledding on the hill, and there was a small ice pond on the ballfield for skating. Sometimes there would be a small bonfire while we were skating.

The Baptist Church had a youth group leader who occasionally would have get-togethers with us kids in the evening at someone's house in the village, followed by cocoa.

The older generation held card parties on Saturday nights. We kids were welcomed, encouraged to learn different card games, and there were competitive teams. We learned
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easement language that could be acceptable to these property owners. We were focused on the segment of rail bed between the Marina Restaurant in Brattleboro and Rice Farm Road in Dummerston. There was general support for the trail from most of the landowners along the rail bed, but some holdouts. Almost all of the property owners came to a potluck dinner we held in May 1997 to discuss the idea.

Some of us on the Committee wanted to move ahead with those easements we could obtain, while others wanted to finalize negotiations *along the entire rail bed* between Rice Farm Road and the Marina Restaurant before securing any of those easements. We were at a bit of an impasse, and most of us moved on to other activities and volunteer pursuits. The efforts to formalize the Lower Section of the West River Trail moved to the back burner.

New energy for the West River Trail

About ten years ago, however, members of the Brattleboro Energy Committee became interested in the trail potential. For them, the motivation was alternative modes of transportation for commuting into Brattleboro. This effort, led by Jason Cooper, began looking into easements. They found out about our prior efforts, and I passed them my files on the initiative.

In those files, the Committee learned about an obscure New York City company, the Salzberg Corporation, which had purchased the salvage rights to the railroad back in the 1930s and recycled the iron (rails are an extremely high grade of steel) for the war effort. The Committee was more action-oriented than we had been, and Jason reached out to the Salzberg Corporation and negotiated to purchase the easement to the rail bed—or whatever they owned.

By this time, the Brattleboro Energy Committee had spun off a separate committee to focus on the West River Trail; this became the reincarnation of the Lower Section of FOTWRT, and I joined (re-joined) that committee.

In May 2011, Jason purchased the trail easement from Salzberg Corporation, and then transferred it to FOTWRT. (He had acquired it initially, because he could move quickly to do so, while Salzberg was willing to sell it.) We thought what we had acquired was an easement to the rail bed—which we thought would be useful in our efforts to formalize the trail. But several lawyers we spoke with told us that, no, we had actually bought the entire strip of land between the Quarry and the Marina Restaurant end of the rail bed. This was a surprise to us, but we concluded that owning the land would greatly simplify the formal establishment of the trail.

Conflicting opinions on railbed ownership

Buoyed by the belief that we now owned the rail bed, we moved ahead with some trail improvements, such as drainage and clearing downed trees. In retrospect, we should have communicated more closely with property owners before we did this work, but we thought we owned the land.

We also learned that there were different legal opinions about the disposition of the rail bed. Robert Fisher, the town attorney for both Brattleboro and Dummerston, believed that the rail bed had reverted to the property owners back in the 1930s with the closure of the railroad—so Salzberg Corporation hadn't actually owned it and, therefore, FOTWRT hadn't acquired it. Local resident Glenn Annis, an expert on the West River Railroad, concurred with Fisher, as did the Dummerston Listers.

Acquiring the Riverstone Preserve

While all of this was happening, the 23-acre property that we had tried to buy back in the 1990s came onto the market again. David Bradford, who had purchased the property from Jim Severance, was leaving the area and wanted to sell it—after having it surveyed (which showed that a portion of it was developable). We worked with the Vermont Land Trust and began an extensive fundraising effort to raise money to acquire the property. The Vermont Housing and Conservation Board supported the acquisition, and we closed on what we named the Riverstone Preserve in September 2013.

The Preserve took a lot of our attention for a while. We spent many weekends and got Jason Evans' support to remove old, rusted vehicles and tons of other junk that had been dumped along the rail bed. We fixed erosion problems, added some surfacing, re-routed the traveled trail back onto the original rail bed along here, cleared downed trees, and carried out other trail maintenance. With these improvements, we began to see an uptick in trail usage.

A new property owner at Rice Farm Road

In 2013, a non-resident purchased the two parcels that had been owned by Frank Little (who had died tragically in a house fire in February 2003), including the parcel on Rice Farm Road beside the rail bed. This individual posted no-trespassing signs on the rail bed and, and trail users reported him to be somewhat threatening when encountered on the trail.

We tried to meet with this individual, but he refused our requests, and then he upped the ante by blockading the trail access from Rice Farm Road. Meanwhile, the Dummerston Listers told us that ownership of the trail would have to be decided in court. It appeared that only a court

ruling would settle this issue.

A big issue was conflicting information on the ownership of a portion of the property at Rice Farm Road (Parcel 744) that the aforementioned individual had purchased. We knew from his deed that his land only extended to the edge of the rail bed—neither including the rail bed nor the strip of land between the rail bed and the West River. But if that was the case, who owned the land from his boundary down to the river? In other words, if the rail bed ownership had reverted to property owners, as attorney Fisher and Glenn Annis argued, to whom did that land revert at that location? The Dummerston tax map showed this parcel as 4.8 acres and extending from Rice Farm Road down to the river.

To sort this out, FOTWRT hired one of the most experienced and respected land surveyors in the region: Eric Morse, of Guilford. Mr. Morse did extensive research into the deeds going back to the 1800s and discovered, to everyone's surprise, that the David family, which used to own extensive land in the area, was the rightful owner. The David family had long since left the area, but we reached the heirs (three siblings), and explained the situation—letting them know that we believed them to be the rightful owners of about 2.8 acres that had been assumed to belong to Frank Little and then his heirs.

The David siblings were supportive of our efforts to establish a formalized trail, and in June 2015 they gave FOTWRT a quitclaim deed to the parcel.

FOTWRT and our attorney, Paul Gillies of Montpelier (a leading expert on easements), were fairly confident that this acquisition would hold up in court, but it was clear that we would have to go through a court procedure to convince the Town of Dummerston and law enforcement—which we needed to do if we were to stop the new property owner from blocking access to the trail. Reluctantly, we brought suit against the individual in February 2016. It was a long process, which only saw resolution in early November, 2017.

Losses and wins in the trial outcome

The public came out the winner in the ultimate outcome of the trial, but an initial ruling by the judge was a setback for FOTWRT: the judge ruled in *summary judgment* (a preliminary ruling in advance of the actual trial) that the rail bed had reverted to the original property owners from whom the land had been taken in the 1800s when the railroad was established.

This was a disappointment to us, but the trial was also to determine a) whether FOTWRT owned the 2.8-acre portion of Parcel 744 at Rice

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But Not Without Muddy Ruts and Downed Trees

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Farm Road that we had acquired from the David family, and b) whether the public had a right to use the trail crossing this property owner's other parcel of land, further south along the rail bed through a *prescriptive easement*.

A prescriptive easement can be awarded when a private property has been in continuous use by others without permission for at least fifteen years. The entire trail segment from Rice Farm Road to the Marina Restaurant in Brattleboro has long been used as a trail, at least back to the 1980s, and we even found reference to its use as a bridle path in a book from the 1930s. Establishing a prescriptive easement on this segment of the West River Trail had long been our fallback that would ensure that the public would be able to use the trail—and that's really all that most of us ever wanted.

More than a dozen people testified at the trial at the Newfane Courthouse on August 21, 2017—taking a break in the early afternoon so that participants could go outside and view the partial solar eclipse that was happening that day. Superior Court Judge John Valente presided, and did a great job at giving everyone a voice, and his ruling was both thorough and fair. The property owner represented himself, and the judge went out of his way to help him through some of the legal intricacies with which he wasn't familiar.

Judge Valente ruled that FOTWRT is the rightful owner of the contested portion of Parcel 744 on Rice Farm Road, comprising about 2.8 acres, including about a quarter-mile of rail bed and the narrow strip of land between the rail bed and the river. FOTWRT has notified the Dummerston Listers of this decision and will work with them to get the parcel correctly identified on the Dummerston Tax Map and Grand List.

The judge also ruled that the West River Trail can continue to be used where it crosses the southern parcel that was at issue in the trial. This decision was based on evidence of decades of use of the trail by witnesses during the trial—witnesses called both by Attorney Gillies for FOTWRT and by the property owner.

The trial outcome was a huge win not only for FOTWRT, but also for residents of Dummerston and the region, who will have unencumbered use of the West River Trail. Indeed, I believe that the West River Trail is one of the most important recreational amenities we have in Dummerston.

With the knowledge that FOTWRT doesn't own most of the land over which the trail crosses, we are working to build lasting relationships with property owners along the trail. We have made mistakes in the past in those relationships, and we are trying to make amends.

FOTWRT is an all-volunteer organization, and we welcome involvement by Dummerston residents. We hold periodic trail maintenance work-days. And we're working to control the invasive plants that are pervasive in the Preserve.

Other than some support from the Vermont Housing and Conservation Board (using funds that come from real estate transactions), no government support has gone into our efforts to

Forum Held on Aging Well

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open heart surgery.

"Through all of it, I just had a certainty that I would be OK," Wilcox said. "It was basic optimism bolstered with good thoughts. I'm in good health now."

Most important to Wilcox was gardening. "We try to keep the gardens full of flowers," Wilcox said. "It means a lot to us to have them."

Mary Lou said that at an early age she adopted the Serenity Prayer, which goes, "God, give me the serenity to accept the things I cannot change, courage to change the things I can, and wisdom to know the difference."

In 1978 Mary Lou was diagnosed with MS, and "the Serenity Prayer kicked in," she said. "It would sustain me over the next 40 or 50 years."

Then, in the 1990s, she was diagnosed with scoliosis. "I had my back x-rayed and my spine was a corkscrew," she said.

Body therapy once a week for 25 years has helped correct her spine and keeps her body in working use, Mary Lou said.

But taking sleeping pills made things worse, Mary Lou said. She would fall into a deep sleep and never turn over during the night. She dug a hole in her mattress.

A bed sore she got from this took forever to heal while she was being treated by professionals. She racked up over \$4,000 in medical costs before she and Bill healed it in a few weeks with made-in-Vermont Bag Balm.

For many years the Schmidts owned and ran the Elysian Hills Tree Farm, which raises and sells Christmas Trees. In 2014, the Schmidts sold their farm to the Manix family; it became part of Walker Farm. Under the sale agreement, the Schmidts continue to live in their historic 1791 cape home on the property. Mary Lou said the thing she missed most was her tractor.

Mary Lou offered advice to the audience.

"Don't be proud," Mary Lou said. "Use an aid, like a walker. I've used a walker for 23 years. Watch your nutrition. Watch salt. Don't eat spicy foods. Install hand bars in your home. If you live alone, get a medical alert and use it."

The Schmidts also recommended downsizing. "Go through your file cabinets," Bill said.

date. We are a nonprofit organization dedicated to helping the public enjoy this spectacular resource.

Please contact Friends of the West River Trail to get involved or donate to our efforts through our website (www.westrivertrail.org) or by email (lowersection@westrivertrail.org). You can also contact me directly if you have questions: alex@atwilson.com.

"You can't believe what you thought you should save. And heirlooms make good birthday presents. A few years ago we held a large party at a local hotel and put out 60 pieces from our collection of heirlooms as party favors. We only had to take two back home with us."

The Schmidts have a pet cemetery on their property, and plan to be buried there. "Bill says, 'We're going to the dogs,'" Mary Lou joked. Then she grew serious. "What am I grateful for? For Bill. For 43 years of loving and caring. I could not be here without him."

After the panelists told their stories, audience members added their own advice:

- Keep on working. Don't retire.
- If you can't do regular yoga, take classes in the more gentle chair yoga.
- Don't scorn alternative medicines like chiropractors and acupuncturists.
- Change things up: if you live in the country, for example, like Zopf, then move to town.
- Consider taking advantage of Vermont's assisted suicide law, but be aware that it takes several months to earn the right to get the life-ending medications; several area hospitals will not let their practitioners offer the drugs.
- Create advanced directives for health care, especially for end-of-life care.
- If you are living alone or feel socially isolated, consider sharing a home with other compatible people.
- Write your own obituary.

And most of all, keep busy.

"I'm grateful that I don't have arthritic hands," Mary Lou said. "I'm always embroidering and sewing. I make lap quilts for the people at Thompson House who are in wheelchairs."

"Create and live your own lifestyle," Bill said. In closing, he talked about a Japanese philosophy called Naikon.

"I ask myself each day, 'What have I received today?'" Bill said. "'What have I given? What difficulties or problems have I given someone today? Or what did I miss doing?' Gratitude is the quality to develop. Recognize the benefits and rewards of growing old."