

Questions Answered, Questions Raised For Permanent Memorial Panel

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Nancy K. Crevier
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On Friday, February 12, Town Attorney David L. Grogins clarified a statement he made at the Thursday, February 11 meeting of the Sandy Hook Permanent Memorial Commission (SHPMC) about why the High Meadow at Fairfield Hills is not open space. The SHPMC is currently considering a portion of the High Meadow as the most likely place for a memorial to be sited. Conservation-minded residents have spoken out against this use of open space, and continued to do so at the February 11 meeting.

Atty Grogins said that he had been asked to determine the legality of a memorial being placed on that property, and had determined that the town had not completed the process by which the High Meadow would be properly declared open space. What he referred to, and what may have been unclear on Thursday evening, is that Planning & Zoning failed to file a “restrictive covenant.”

A restrictive covenant, he said, is a declaration of how a particular piece of open property is used. “There are a lot of things you can do with open space,” Mr Grogins told The Newtown Bee on Friday morning. “All open space is not equal. [The SHPMC] asked me for the legal status [of the High Meadow]. It isn’t [open space]. I don’t think it’s been properly declared open space, and I stand by that.”

Mr Grogins added that he had not said the High Meadow could never be open space, simply that the town had not completed the process to do so.

“If it is declared open space, then people would have to see what is proposed. But that’s speculation now,” Mr Grogins said.

Approximately one dozen residents attended the February 11 meeting. Also in attendance was Newtown First Selectman Pat Llodra, and Director of Land Use, George Benson. Much of the one-hour-plus meeting was related to the commission’s proposal to create a permanent memorial on a portion of the High Meadow, an approximately 45-acre section of Fairfield Hills, located south and west of the southwest corner of the intersection of Wasserman Way and Nunnawauk Road.

Following introductory remarks, SHPMC chairman Kyle Lyddy opened the floor to public participation. Three residents indicated a desire to speak, with Holly Kocet, president of the Garden Club of Newtown and a member of the recently organized Protect Our Pollinators organization, stepping up to the microphone first. The first point she wanted to make, said Ms Kocet, was that she believes there are many other residents who feel as she does, but are afraid to come forward for fear of appearing “uncaring.” There may be a case for legality of using the High Meadow for a permanent memorial, she went on, “But it may not be the right thing.” Open space is to be preserved and protected, and for the enjoyment of all people, she stressed, asking that the commission members keep that in mind as they move forward.

Dottie Evans spoke next, saying that she is opposed to the building of a memorial monument with access road and parking area in any part of the High Meadow. Calling it a “special place of recreation and spiritual

renewal” for users, as well as a wildlife refuge, Ms Evans suggested the commission “Expand its vision. What if this memorial were a beautiful walking trail instead of an isolated destination?” Referring to the paved path encircling the Fairfield Hills Campus, currently in process of completion, Ms Evans asked “Why not complete this last portion by creating a new trail across from the soccer field in the grassy area that parallels Wasserman Way?” Screened with evergreens, the entire trail could be dedicated as a living memorial, she said, perhaps with a simple monument somewhere along the way. “I like to think this could be called the Angels’ Trail,” said Ms Evans, “and that people of all ages would use and enjoy it for years to come.”

Elizabeth Lincoln also voiced opposition to a permanent memorial on the High Meadow, adding that she thought Ms Evans’ proposal was “in the right frame.” The value of open space is far greater than any memorial would be, and more valuable than something static, stated Ms Lincoln. “Somebody should stand up today to protect the foresight of what went into those eight-plus acres,” she said.

In closing public participation, Mr Lyddy said that the commission had also received other e-mails from members of the public, concerning the proposal for the High Meadow.

Mrs Llodra spoke briefly, saying that she had asked Town Attorney David Grogins for an understanding of the status of the High Meadow for the memorial, and for clarity on what that pathway is.

A Surprise Opinion

What Atty Grogins had to say appeared to be a great surprise to members of the commission, as well as to residents at the meeting. The question had come up, he said, as to what the legal limitations might be, and who has jurisdiction over the High Meadow.

“A map has been filed regarding the property, but there has never been a dedication of it as open space. [The High Meadow] is not open space in the legal sense.” He added that authority over that property, by the Town Charter, is vested in the Board of Selectmen. The Conservation Commission does not have authority over this parcel of land, he said, and there is not a limitation on the use of the property.

Commissioner Sarah Middleleer said she was confused. “It has never been dedicated?” she asked. Mr Grogins replied that there was no declaration on the land records when the town bought the property [from the state], and no restrictions on how the land could be used.

“There was discussion, but no dedication,” Mr Grogins said.

Mr Benson also appeared surprised by Mr Grogins’ statements, saying that Planning & Zoning and Land Use had found and filed a map for the property. “I thought that was enough,” he said, adding that they apparently didn’t take the extra step for dedication of the High Meadow as open space.

“It’s going to be treated as open space,” Mr Benson noted.

Mrs Llodra said that regardless of the Board of Selectmen’s decision on the High Meadow, there are many steps beyond the Board of Selectmen for approval of use of the High Meadow. “We needed to know what is the right process,” she said.

While she stated on Thursday evening that due process would be followed, and said, “Ultimately, we can pursue this,” on Friday morning Mrs Llodra admitted she was perplexed by Mr Grogins’ saying the High Meadow is not legal open space.

“I knew the Board of Selectmen had taken action,” she said. Minutes from the November 18, 2013 meeting of the Board of Selectmen show that the board voted to recommend that Planning & Zoning declare High Meadow and East Meadow as open space in perpetuity, as depicted on maps 1 & 2 of the “Limited Property Survey” of July 2013.

The Thursday evening meeting was not the place to raise questions on that previous Board of Selectman action, Mrs Llodra said, and she has invited Atty Grogins and George Benson to the Board of Selectman meeting scheduled for Tuesday evening, February 16.

“I did not know on behalf of the Board of Selectmen that it was incomplete, nor did George Benson,” Mrs Llodra said. She added that there was no blame to be laid on Mr Grogins, as he had come to the question of the High Meadow legal status “brand new.”

“The action the Board of Selectmen took two years ago had integrity. Our intention was to say that the High Meadow is open space. I think all of us thought it was a complete process,” said Mrs Llodra.

The bottom line, however is that whether or not the High Meadow is officially designated [as open space], the question of how the space can be used is already under P&Z regulations.

“It doesn’t affect the path we’re on,” she said. “We’ll fix it.”

Mrs Llodra praised the SHPMC for its efforts. “They honor us by the calm and careful approach they use,” she said.

On Friday morning, Mr Benson said what seemed confusing was that Mr Grogins was talking about a restrictive covenant, and not a declaration. Mrs Llodra also said that she had also just learned that it could have been referred to more accurately as a “covenant” that had not been filed.

“We did a declaration,” Mr Benson said, “of what that open space at Fairfield Hills should be. The Board of Selectmen voted on it and agreed.” That policy statement included in part the allowance of passive recreation, he noted, “Which I consider this memorial to be.”

The reason it can all be confusing, explained Mr Benson on February 12, is that there wasn’t a transfer of property. After filing the P&Z and Board of Selectmen-approved map declaring the High Meadow as open space, in March 2014, “I thought we were done,” admitted Mr Benson. “We usually put a restrictive covenant on property when filing a deed, but because it was the town giving land to the town, I didn’t think of doing a restrictive covenant — because there was no deed transfer. To be one hundred percent legal, I should have done that. It’s all on me,” he said, “but we will do it.”

P&Z will treat the High Meadow as open space, he repeated. “To me, because the Board of Selectmen voted, and to me, that’s final,” he said. What it comes down to is how the property is treated.

A December 9, 2013 article in *The Newtown Bee* indicates that Planning & Zoning followed through on the November 18, 2013 Board of Selectmen recommendation. “The Planning and Zoning Commission (P&Z) has designated as permanent open space an undeveloped area at Fairfield Hills near Wasserman Way. Following discussion at a recent session, P&Z members unanimously decided to protect as designated open space the areas known as the High Meadow and the East Meadow. The area sometimes is known only as the High Meadow. The Board of Selectman already had endorsed designating the area as open space. P&Z members decided that the open space designation is consistent with the 2014 Town Plan of Conservation and Development and also with the recently updated Fairfield Hills Master Plan.”

On December 24, 2013, *The Newtown Bee* reported, “Preserved as open space, the High Meadow in Fairfield Hills will also be protected by a management plan, which the Conservation Commission members are finalizing, according to commission Chairman Mary Gaudet-Wilson.

‘Meadows habitat is what we have the least of in Connecticut and it’s valuable for certain species and biodiversity,’ she said. The plan being drafted, which must then be approved by other town officials, will be based on a habitat management plan already written for both the High and West Meadows at Fairfield Hills.”

Collaboration And Input From Others

The SHPMC also heard from Conservation Commission Chairman Jim Ryan on Thursday evening, with Mr Lyddy stressing the need for collaboration. “There are a lot of voices to listen to,” he said.

Mr Ryan said that the Conservation Commission has an interest in the High Meadow and will attempt to provide instructive input as the SHPMC project develops. “We are willing to participate and provide input when and where appropriate,” he said, without compromising the environment of the area. “As you bring on more certain plans, we can help,” he assured the commission.

Whether or not there are other lands [available on which to create a permanent memorial] remains a question, said Mr Lyddy. If there were a location that is relevant and meets the commission's criteria "We'd love to hear it." But, he added, the High Meadow is still on the table.

Gary Sorge, vice president of Stantec Consulting Services in New Haven offered a brief statement on the opportunity to assist the SHPMC with the memorial design infrastructure. Stantec has worked with Newtown Parks & Recreation on the trails at Fairfield Hills, and was asked to look at the High Meadow site, so far as constructability, and how to bring infrastructure to the memorial "in a quiet sort of way." Infrastructure depends on the final memorial design, Mr Sorge said, and Stantec would think about alternative options for the access way. Access way is one concern the commission has heard from the public, Mr Lyddy said. Another concern by the public about the memorial at High Meadow, said Mr Lyddy, is the viewpoint of the walking trail.

"We always wanted it to be a destination, not something seen walking by. We understand the concerns the community has," he said. Mr Lyddy also stressed that the commission intends to continue to listen to the public, and keep on top of miscommunications or misunderstandings.

A subcommittee is currently working on a document to outline design submissions for the actual memorial. Further knowledge about the location and site will assist them in working through design considerations, said commissioner Steffan Burns.

The final legal step of filing the restrictive covenant is a technicality, as far as he is concerned, Mr Benson said. That step is one that he said he hopes to pursue shortly. He will be sitting down with Mr Grogins next week, he said, to "See what we have to do."