

**PLANNING BOARD
EXECUTIVE SESSION MEETING MINUTES
June 7, 2021**

PRESENT: Daniel Doucette, Elizabeth Brown, David O'Connor, Jeanne Azarovitz, John Carroll, Elmer Clegg, Christopher Farrell, Louis Gallo, Sandra Goldstein

ALSO PRESENT: Glen Cannon, Jennifer Copeland, Coreen Moore, Robert Troy

Chairmen Doucette called the meeting to order at 5:05pm.

Mr. Clegg made a MOTION to go into Executive Session for the purpose of discussing strategy in regard to Cumberland Farms pending litigation – and return to open session later. Mr. Clegg noted that an open meeting may have a detrimental effect on the litigation position of the Town.

The MOTION was seconded by Ms. Brown. Roll call vote as follows:

Ms. Brown – yes	Ms. Azarovitz – yes	Ms. Goldstein – yes
Mr. Clegg – yes	Mr. Gallo – yes	Mr. Farrell – yes
Mr. O'Connor – yes	Mr. Carroll – yes	Mr. Doucette – yes

R. Troy stated reason for Executive Session. Cumberland Farms wants to present the outline of a proposal they'd like to make to the Town. CF wants to see if Town is interested in the revision ideas before they commit to spending money to further develop the plan. An agreement on the outline might lead to a new plan being brought before PB and CF dropping their lawsuit. CF's presentation will be made in a public meeting. No decision will be made by the PB at the public meeting.

The Selectmen will make a decision on the outline in collaboration with PB. Selectmen will not agree to outline unless PB is "on board."

Mr. Troy noted that the Town has prevailed in all CF litigation to date. He expects that today's public meeting will be for PB to listen and ask questions. There should be no discussion of what we hear outside of that meeting. We will meet again later in Exec. Session to provide RT with feedback. He will discuss that feedback with CF's attorney.

Some history:

PB approved the original project with key conditions: CF customers can enter the site from the rotary, but cannot re-enter the rotary from the site. Police data identifies the existing rotary as one of the most accident-prone sites on the Cape. CF's argument is that not allowing cars to re-enter the rotary would unreasonably hinder the company's ability to do business in this location - and is the basis of their land court lawsuit.

The Town moved for summary judgment - as there was no disagreement on basic facts. At Land Court, a judge can litigate a condition. Judge ruled that would be no summary judgment and the case must be tried. RT expects the trial will be a so-called "battle of the experts".

The Town identified Glen Cannon as its expert witness. Mr. Cannon came to the Town from the CC Commission and has a deep background in traffic planning issues. GC brought along Steve Tupper to provide add'l expertise.

Mr. Troy added, as an aside, that over time the program for these types of convenience developments has evolved. Developers have found that sale of liquor is one key to (revenue) success - aligned with other high-volume, rapid-turnover businesses (gas & food). A similar development might be 'AllTown Fresh' on Long Pond Rd., Plymouth.

Depositions were taken in 2018 or 2019. Mr. Troy wanted to depose MassDOT Sec. Stephanie Pollack. State agreed to set up a telecom interview and necessary information and documentation were received thereafter. Latest planning MassDOT iteration has new Bourne Bridge being built a little east of the existing bridge alignment and the Bourne South Rotary will be replaced with a fly-over viaduct that will link with MacArthur Blvd farther south. A new traffic pattern with on/off ramps and local road connections will be developed at the site of the former rotary.

At about this time, CF was sold to private equity investors. The new entity is looking at potential purchases of the Lobster Pot and All Seasons motel (2 separate owners).

A conference is scheduled for June 16th at Land Court. RT plans to ask for an extension.
Recommended PB try to schedule another Exec. Session before June 18th.

Mr. Carroll moved that the PB return to Open Session. Mr. Clegg seconded. Roll call vote as follows:

Ms. Brown – yes	Ms. Azarovitz – yes	Ms. Goldstein – yes
Mr. Clegg – yes	Mr. Gallo – yes	Mr. Farrell – yes
Mr. O'Connor – yes	Mr. Carroll – yes	Mr. Doucette - yes

With no further business before the Board, the meeting was adjourned at 5:40 PM.

Notes are as understood and recorded by the writer.
D.O'Connor