

**Town of Otisfield
Board of Appeals
Public Hearing Minutes
March 6, 2012**

Appellant: John Poto; 265 Cobb Hill Road, Otisfield, ME

This Appeals Board has jurisdiction over this appeal because under the Town of Otisfield's ordinances, the application and decision was heard and approved by the Otisfield Planning Board, as per Otisfield's Site Plan Review; Section 9, Letter A, and Otisfield's Board of Appeals Ordinance Section 5, #6, and Otisfield's Wireless Telecommunications Siting Facility Ordinance Section 10.

1. **Call to Order:** The Public Hearing was called to order at 7:01 PM. *Motion to move meeting to the Community Hall. AP/SM – Unanimous. *Meeting resumed @ 7:28 PM at the Community Hall.
2. **Attendance:** Members present were: Interim Chair-Marianne Izzo-Morin (MIM), Interim Vice Chair - Sharon Matthews, Recording Secretary- Anne Pastore and Alternate-Don Mixer (Absent – Chairman-Don Verrill & Vice Chair-Janet Douglas) *Don Mixer moved up as a voting member.

Tanya Taft – Secretary (TT)

Richard St. John – Code Enforcement Officer (CEO)

*This Board had a workshop on February 28th, because we received notification that the Chair and Vice Chair would not be at tonight's proceedings. For the record, Marianne Izzo-Morin was elected Interim Chair and Sharon Matthews was elected as Interim Vice Chair. The positions will remain in effect for the remainder of any meetings regarding this appeal. The reason for Don Mixer to remain as a voting member and the Interim Officers remaining in place is so that these members will bring a consistent knowledge of the proceedings and participation during the process of this particular appeal.

BOS in Attendance: Chairman Hal Ferguson, Selectman & Deputy Code Enforcement Officer Rick Micklon and Selectman -Lenny Adler

Appellant in Attendance: John Poto; 265 Cobb Hill Road, Otisfield, ME

Applicant for the Cell Tower Permitting process: Bob Gashlin, KJK Wireless Communications and his Attorney Kelly Matzen, Trafton & Matzen, LLP-

Abutters in Attendance: James Gregory – Scribner Hill Road, Katherine Brunette – Scribner Hill Road, Pixie Williams – Scribner Hill Road, Diana Olsen-Coon Road, Angela Bennett – Scribner Hill Road, Kevin Cook – Scribner Hill Road, Kristen Roy – Scribner Hill Road, Peter Arntsen-Ivory Hill Road/Corner of Scribner Hill Road, Robert Bundy– Scribner Hill Road, Herb Olsen – Coon Road, Kim Gregory– Scribner Hill Road: MIM: "Any abutters in this room, who were not notified via certified mail of tonight's meeting?" The record will show that no abutters are present who state that they were not notified of tonight's meeting.

Planning Board members in Attendance: Chair – Stan Brett, Vice Chair – Dan Peaco, Secretary- Karen Turino, Herb Olsen, & Alternates - David McVety & Rick Jackson. Beth Damon-Absent

*MIM introduced BOA members, CEO, applicant, Planning Board members and other “interested” parties. Interim Chair ensured that the BOA will hear any and all testimony during the appeal, yet will not allow repetitive comments or support of either side; hoping to allow as much time as needed for pertinent information that allows appellant to prove his appeal.

*Board agreed that it will recognize and call upon the “Interested Parties” as per the BOA Ordinance. Those parties are the Appellant, the U.S. Cellular representative, all PB members, CEO - Richard St. John, and the Board of Selectmen. TT will attempt to ensure that the minutes will reflect the comments provided by the interested parties; as well as those by the audience (but not be repetitive if expressed by multiple people).

3. Secretary’s Report:

A. Regular Meeting Minutes from February 28, 2012 *Motion to accept minutes. AP/SM – Unanimous.

4. **ADMINISTRATIVE APPEAL APPLICANT:** John Poto, 265 Cobb Hill Road, Otisfield, Maine, for the parcel of land on Scribner Hill Road identified as Map R2, Lot 8A. US Cellular/Telecommunications Facility. (Application submitted into public Record) John Poto read his application out loud. Appellant stated his reason for this appeal on page 1 of his application. Appellant believes the “approval was based on misinterpretation of the ordinance”. His request is to “nullify the approval, revoke the permit and allow Planning Board to reopen the review process”.

5. PUBLIC HEARING DISCUSSION:

John Poto: January 17, 2012, the cell tower was approved by Planning Board. Section 3 purposes for proposed regulations were read out loud. Lack of height data and alternate location, located in lowest priority site. 880’ above sea level. 180’ tower, 120’ above tree line. Does it need to be this tall? John Poto does not think PB asked this question. Requesting that the PB reopen the review process. Applicant asking to nullify the approval, revoke the permit and restart the process. **Annie:** Are you stating that the Planning Board (PB) failed to take adequate measures by not asking enough from the applicant? You said this is apparent based on the PB minutes, but did you attend any of those meetings? **John:** I did not. **Annie:** Did you talk with the PB members about your concerns before the vote? **John:** No, I did not. **Annie:** I’d like to ask the PB if they felt they had enough information to render a decision. **Stan Brett,** PB Chair: Yes, we feel that we had more than enough information and what we did not have, we requested. The minutes taken are not verbatim; we get the topics, the motions and the votes in. We discussed this application at great length, and there were other locations looked into. **Annie:** Do all PB members agree with what Stan Brett has stated? **DP:** I echo the chair, **HO:** same thing, **RJ:** Yes, I agree, **KT:** I also agree, **DM:** I agree as well. **Annie:** Asks CEO: Are you satisfied w/ the information gathered. **CEO:** Yes, I am satisfied.

James Gregory: Scribner Hill Road: the balloon test, were there other folks in the area who did not see the balloon test? **CEO:** I was notified of balloon test, and I sent an email to the Fire Chief and Pixie Williams and to Planning Board, November 1st in the morning. It was foggy that morning so it was delayed until 11-ish.

Kristen Roy: Scribner Hill Road: was wondering if there was an RF-test done of the whole entire town? Or a test done of all the cell phone towers in (4) mile radius and how that affected the RF readings? **Annie**

Pastore: Questions need to be on John Poto appeal, this is about a misinterpretation of ordinance.

Kristen Roy: Would like to know if Mr. Poto knows why all the abutters who should have been notified weren’t for the public hearing: **MIM:** Does not think Mr. Poto can answer that, and will defer to CEO. **CEO:** failure for any abutter to get notified is CEO’s fault. This 1.5 acre site (being leased) for the tower will be a small area of a larger parcel (63 acre) of land and.. We did the 1,000 feet based upon the leased site; we did not go to the outside corners, only the “leased” area which is the affected site. I erred by measuring from the

site of the cell tower boundaries and I did so because the owner of the land is free to still develop the remaining parcel that falls outside this cell tower containment area. Using the entire property lines, we have since corrected this mistake to ensure that it will not happen again. For this Public Hearing we only needed to notify abutter's within 500' of the outside property lines. We aired on the side of caution and we notified abutters within 1,000 feet and stated this in the letter that went out. **Kristen Roy:** Where in the ordinance does it say site? The definition of abutter is 1,000 feet of the property on the tax map? **CEO:** In Wireless Ordinance. The PB should notify all abutters to the *site*, by first class mail. It does not say to the outside limits. To the outer limits are now being done. **Kristen Roy:** for now that answers my question. **Jim Gregory:** why pursuant to this meeting was I not notified? I am easily the most affected scenic piece of property in town, affected by more than 60% of my view. I never received the initial mailing that would have clued me in. I am the most visually impacted home owner in town. **CEO:** Your property fell out of any guidelines used. To reiterate, we went above and beyond this time, to err on the side of caution. **MIM:** Showed the audience the notification map, explaining how we went above and beyond this time. **Linda Poto:** PB said they considered other sites: only heard (1) mentioned, why this site? **CEO:** more than 6 months ago, U.S. Cellular was looking for sites over 800 feet above sea level. There were (3) sites identified at that time. Also mentioned in wireless ordinance, if there is an existing building on any of the highest points, it must be considered; only place practical is Bell Hill Church. Immediately checked out that site and demonstrated to the PB that it didn't provide enough coverage due to the flatness at the top of the hill, it couldn't get above the trees and into the adjacent valleys. **Linda Poto:** so they wanted it on Scribner Hill, but are there other possibilities? **CEO:** Yes, they go for higher sites with a more conical shape looking for the best coverage for customers. **Linda Poto:** is it true they might add additional antennas? **CEO:** the ordinance requires them to address collocation and allow 3 more competitors to add on with them. They have provided for that and also allowed the Fire Dept. to add an antenna at no cost to the town. **Linda Poto:** was the question ever asked if a lower site would work. **PB: David Mcvety:** we did discuss Bell Hill extensively. We looked at coverage that would be available and understood it was 50% less using that site. **CEO:** *collocation:* wireless ordinance requires collocation: Carrier must provide space for them and requires any other carrier would have to prove to PB that this tower would not be sufficient for their needs. Only then would the PB consider an application for an additional tower. **Robert Bundy:** concerned w/ additional space for competitors, if it works for them at lower heights, why can't it work for US cellular: **Bob Gashlin:** would like to provide presentation. **Robert Bundy:** did the PB consider the cost of lighting this tower? And if so, who pays? **Planning Board:** no lighting: **Robert Bundy:** Worse, I'll get hit by a plane. I have no services for direct TV, or cable, and now I have this in my area and it seems wrong, who will pay for the road damages if it rains and it causes damages to Scribner Hill Road? **MIM:** cellular company is liable for the road. CEO will enforce any rain damage issues. Road Commissioner will take care of the town roads: **Robert Bundy:** were they granted a driveway permit yet? **MIM:** No permits have been issued at all as of yet. Road Commissioner issues the driveway permit. **CEO:** storm water and erosion was addressed by Maine DEP. It has level spreaders, plunge pools, etc. and very little water will run off to Scribner Hill Road: very minimal or they will have questions from Maine DEP.

Bob Gashlin, US Cellular and Attorney Kelly Matzen: will present his testimony. Radio frequency presentation: shows why we need this specific spot, and specific height, (submitted for the record) exhibit 1, shows existing coverage. Otisfield is divided in (2) sections, if we were to site something on the west site, we couldn't get signal over top of Scribner Hill to the east side, and we when on the east side we wouldn't get a signal to the west side. This was discussed at great length with the PB and the public. We wanted to discuss height once we got the site figured out. On exhibit 3, there are (3) locations on Route 121. Otisfield and

Poland, 2nd location, on the intersection of Bell Hill Road and 121, 3rd location 121 as it's headed south along Pleasant Pond. On this plot it shows at 180'. These locations are just being tickled by coverage, just barely meeting objectives. Radio frequency plots: the 2 standards we are looking at is sufficient evidence as provided to the PB. We showed why we needed that height and we showed why other locations didn't work. A few other items to respond to in appeal: The lack of requiring any concealment of this tower: Mr. Poto stated: concealment of the tower was not properly addressed: what we did was we presented the photo simulations, we identified where some of the main view sheds and vistas were in town. We are proposing a steel tower, galvanized finish that does indeed blend in with Maine sky. We looked at the profile of the tower. If you want to discuss a fake tree, we have 2 things going on; a profile that's 35 or 40' wide, vs. a tower which is narrower. This has thoroughly been discussed in front of the PB during and after the hearing. The ordinance asks for one sentence, color and materials of the tower: match or blend in w/ environment. Unless otherwise required. Here's an important thing; can an argument be made to do a fake tree? Yes, but what's the standard and how is it addressed in your ordinance? Is the PB decision contrary to the ordinance? No it's not contrary. Mr. Poto talks about a lower priority site; it lists priorities 1 -5 ... industrial site, commercial site, rural, etc., which are zones that don't currently exist. We discussed why we needed this particular location. This is the site that works, no alternatives are feasible for us to build in your town. I'm sorry. We proved the higher priority sites didn't work for us. What would coverage look like if we looked at other locations? I don't need to do any additional studies because it needs this site in order to reach enough people on and around Rt 121. The final item questions about the notice practices. US Cellular was not part of this. If someone was improperly noticed, no one has appealed that. The 2 big standards that Mr. Poto is appealing: was proper evidence submitted to the record? Clearly there is evidence in the records to the points of your ordinance criterion. The most important: did the planning board make any decision that was clearly contrary to the Ordinance; I believe they did not.

Rebuttal: **John Poto:** I agreed w/ what Mr. Gashlin said; I'm saying PB did not do enough. The ordinance may state that the galvanized steel is acceptable, but the charge of the board is to ask what's best for the town. 2nd, I never used the word collocation: the reason they sought out collocation is because he needs to do that per the ordinance. Stan, were you provided data for different locations? **SB:** No. **John Poto:** Did you ask for it? **SB:** No. The ordinance doesn't require it. **John Poto: Bob Gashlin:** the plot that I showed proved that there is one location in town that works for our network. The fact is the target is identified and at 180 feet we just barely hit our target, and in the 3 other locations we don't even hit the target. Also as I stated earlier the different locations are not feasible because the town is divided in half by Scribner Hill. **John Poto:** What exactly was the coverage from Bell Hill vs. Scribner Hill? Are there other locations other than the ones you looked at? **Sharon Mathews:** I believe he already said he looked at priority areas only, mainly Rt 121. He said he did the research on the other areas and there were too many dead zones. Scribner Hill is a peak access area, to reach the base area. **John Poto:** My question is still not answered. **Bob Gashlin:** the ordinance does not ask US Cellular to do that. Even if argument doesn't hold water. The ordinance doesn't ask for that. The max. height is allowed at 180 feet and it doesn't ask for you to build a shorter tower. It allowed 180', that's what we asked for and received. **John Poto:** The ordinance charges the PB with protecting the visual character of the area. When reviewing the height of the tower, the PB has the right to waive the max. height due to visual character of the neighborhood and the town. **CEO:** The ordinance does not specify a height difference in any district limitations. The only one referenced is 180'. No other districts, not industrial, not rural or residential district. Whoever copied this Ordinance for Otisfield was taking language from another place where districts were in place and probably had different height limits in one or more of those districts. . We do not have one. **John Poto:** Visual display on the screen of an out of state location (Tennessee?) presented to public, showing different tower heights and how little it affected the coverage. All he's asking is why wasn't this study done at lower heights? **Bob Gashlin:** As I stated earlier,

and demonstrated to the PB, of any of the (3) places we looked at, as a target on 121, we barely tickle the possible coverage and that's the reason. **John Poto:** wants this reopened with the PB. **Bob Gashlin:** Again, the 2 things Mr. Poto has founded his appeal on are misinterpretation and if the standard of PB review was clearly contrary to the ordinance and the records and testimony clearly prove it wasn't.

Interested parties: **Kristen Roy:** Feel I have an administrative appeal. Would like you to consider an Administrative Appeal. **MIM** the time line has gone by. There is only one appeal allowed at this time.

Kristen Roy: I feel I was denied rights as a landowner to be heard in public hearing because I was not properly notified. **Rick Micklon:** Agrees that Kristen was an aggrieved party because of the lack of proper notification, and she "did" have the right to appeal after the public hearing, but those 30 days have since gone by. **Kristen Roy:** I'm not a lawyer or a politician, I'm a citizen. I was under the assumption when Mr. Poto filed his appeal that he was filing on behalf of the group of citizens "Friends of Scribner Hill", I had signed that document before this was filed. I was under the assumption that I would be an appellant on that appeal.

Annie: Sorry but your assumption was incorrect. **Kristen Roy:** I would ask the town out of respect to the 20 abutters who were not notified, please let me address this in this forum: (then submitted a document into public record re: lack of notification, questions she would have asked, towers in Weld, Maine, Berwick PB minutes, etc.) If she were informed, she would have asked questions that were overlooked and she would have found information for the PB. I want to be clear: I'm not advocating for no cell towers in our town. I believe wireless communication is an essential service for the citizens of Otisfield. Note: Kristen then read excerpts from her submittal. **Bob Gashlin:** Bar Harbor and Berwick, their ordinances are entirely different. Some towns have visual restrictions that are very different. This town has its own criteria which is very different. It was all discussed. They balanced, they looked at a false tree and they compared that with a steel narrow tower, and they thought narrow was the way to go. We can disagree. Is it exceedingly different? No, to the contrary.

Sharon Mathews: Any Planning Board members on the last Comprehensive Plan Committee? Both PB Chair & V. Chair raised their hands. Did you discuss and take the Plan into consideration during this review?

Dan Peaco /Stan Brett: Both agreed they took Comprehensive Plan into account. **Kristen Roy:** I appreciate all the hard work that the PB, BOA and the BOS do, they volunteer their time to us, which is really important, having said that, I feel that, PB could have done more. Were you aware that there were more types of towers and antennas available other than what was listed? Were you aware that they could make a tower look like a fire tower? And put a platform on it so that hikers could go up and enjoy the view? **Stan Brett:** Would this be the same kind that would require an access road to it? One that would require rescue vehicles to access it if there was an accident because the public was climbing it and maybe fell? One that invites the public onto private land? Yes, I'm aware of them. **David McVety:** I called Bar Harbor Town Manager, Dana Reed, and asked what they have for towers and coverage? He said, they have one camouflaged, it doesn't look like a tree and it stands out, hence the reason they used galvanized steel on another one. He said with the severe weather you lose the shape and color of a tree, so they left the 120' tower as is and it blended in. This is how this town approached it. It drew more attention being different. **John Poto:** Who did you speak to in Bar Harbor? **David McVety:** Bar Harbor Town Manager, Dana Reed. **John Poto:** They now require every tower to be camouflaged. **Bob Gashlin:** Not accurate, they don't require it. **Robert Bundy:** Is there a single pole and also one w/ the branches? The thinner pole from a distance is probably better. Everyone who is an abutter would like it to have branches. **Kevin Cook:** How are we going to stop the water coming down the hill? This is a huge problem already in that neighborhood. What about the fact that it's all ledge on that hill and how is the tower going to be anchored so that it doesn't topple over during high winds? **CEO:** The tower has been designed and stamped by a professional engineer. It's anchored into the

ledge itself. You can't get any stronger than that. DEP has reviewed the storm water erosion design by the engineer and DEP will issue a permit.

John Poto: There are (11) towers all within close proximity, Norway, South Paris, Poland, Casco, Harrison, Oxford. Of all 11 towers, the next closest tower is 68' feet shorter. The 2nd next tower is 119' feet shorter than this tower will be. The next being 162' feet lower than this tower will be. This makes it 386' feet shorter than the mean height of this tower. The terrain of Otisfield is slightly different, but I don't understand why a tower has to be that much higher than all the surrounding towers. Why the question was not asked by the PB; does it have to be that high? **Herb Olsen:** I take offense that you suggest we didn't ask these questions. We did. We spent much time on what we could do. It's impossible for a board to change the Town Ordinance. All we can do is follow it, one section at a time. We went one line at a time. We cannot change what the town voted on. All the questions that were said were not asked by people here tonight, were asked. One thing we believe is we are better to have one tall tower than a bunch of short towers, under the ordinance of this town. US Cellular must offer spaces to the other providers. With this tower you get all the other providers right on one tower, rather than several smaller ones. Again, we followed the ordinance line by line. We have to follow what you people voted on. Many questions were asked. We got the answers and we came back with what we thought was best for the town. If someone wants my spot on the Board you're welcome to have it.

MIM: Can Mike Hooker address the issue of the repeater for the FD and its proposed height being under the other antennas. **Mike Hooker: Fire Chief:** Antennas have to be above tree tops. We need to be a hundred feet or higher. For us, it's beneficial to have it higher.

Rick Micklon: Process and procedure: Before BOA closes hearing; who would like to speak that hasn't? He did a public show of hands for those who have not spoken and would like to: Approximately (11) hands went into the air. **Annie:** Please, it must be for anyone with new information or statements? **Frank**

Blauvelt: Would like to make a suggestion: since the meeting was for a set time at town office. I would like to suggest that number of minutes missed because of move from town office to community hall, be added to closing time. **BOA** All agree. This was their intention.

Interested parties: **Pete Arntsen:** would like John Poto to bring up picture where it showed coverage from before and after and he did. **Pete Arntsen:** Appears that if it got moved to Porcupine Mountain, you would gain more coverage. No houses on Porcupine either, whereas on Scribner Hill there are quite a few. **Annie:** Sorry but that issue of location is not being addressed in the Administrative Appeal, which is for misinterpretation of the ordinance by the PB. **James Gregory:** Not trying to stand in the way of technology, there is a good degree of overlap with this tower on Scribner Hill Road. It seems as if this were on Porcupine it would solve a lot of problems. Because the balloon test was not seen by me or anyone else that he has spoken with. Pictures presented into public hearing from his own balloon test. (Submitted into public record) Photos show the balloon visibility from multiple angles from his property. He asked a realtor for a statement re: property valuation with cell tower in view. Lois O'Connor, Sunset Lake Real Estate sent a letter stating that real estate will be affected in a negative way with this tower added. (Submitted into public record). It's important enough that we should have verified financial impact information with an independent source. **MIM:** reminded everyone this appeal is about the Misinterpretation of Ordinance not property values. **Pixie Williams:** Not going to block progress, but heard a very narrow definition. Quality of place needs to be addressed. We should preserve our quality of place. Not one word about all the summer people that will be affected by this. My concern is the summer people have not been represented at all. **Katherine Brunette:** If Jim's balloon test is accurate, she will see it from her driveway, in bedroom, all around her

home. The visual quality of her property is going to be terrorized by cell phone tower. You (KJK) would have had to look at alternative sites, but PB agreed quickly with what you had. Is it possible to have another location? It relates to the scenic aspect of neighborhood and town. Could it be better off in a different location? If it goes through as is, I will move. Other areas need to be looked at. **Joe Vaillencourt:** Spent 5 years on the BOA. If you look at the characteristics of the PB decision, there may have been an error. There has been concern about the intent of comprehensive plan. The appeals board has grounds to remand this to PB for reconsideration, if same rules are still in effect. Think it would be well worth it to have it reconsidered.

Linda Poto: Applicant made the point that our Ordinance needs work. Very loud and clear that the intent of ordinance is about views. However, this should all be taken into consideration. We are not saying "no" just let's take another look at it. **Lenny Adler:** Feels this conversation is far from the appeal. The PB has to follow the ordinance. He is sure they all cross the t's and dot the i's. They took the information they were given, and still asked for more. No matter where it goes in town, someone is not going to like it. They did their job and they did it well. Bottom line is that US cellular complied with the ordinance. **Rick Micklon:** My position on public awareness, notification, and responsibilities: public notification by the town is very important. We made a mistake, we have corrected it and it will not happen again. When it came to this meeting, this appeals ordinance that we are addressing tonight, only requires notification up to 500'. We actually went to 1,000 feet, twice beyond what tonight's ordinance asked for. We all have a responsibility to ourselves to know what's happening in our town, especially if it can affect our homes and properties. We have friends & summer residents who go to our web site every week, from Maine to Florida. It's accessible from everywhere. You have a public responsibility to try and stay informed. Please attend our meetings, join our boards & committees and become part of the discussions. We have an opening on this Appeals Board as we speak, so please ask to be appointed if you want a seat on the Appeals Board. The appeal paperwork requests that the BOS look at location of a cell tower on town owned land. Speaking as only one of three Selectmen, I would never vote for a cell tower on town owned land. If we did, the only way I would is if they exhausted all the other options. We are not in the business of competing with our taxpayers. The BOS appoint board and committee members. We take it very seriously. The PB is a true representation of our residents. They are there with your best interest in mind but as Lenny said, they must follow the ordinances that you have voted into existence. If you have not attended the PB meetings and then complain they didn't do their due diligence, it's hard to see your point of view. You can't just read the minutes and fully comprehend the amount of work and discussions that took place. I was a former PB Chair and I know how difficult the process is. Hal and I were the only people in town who attended all three PB meetings on the cell tower. They were bound by an ordinance and they did their jobs well. This issue and the appeal have shown that it is an educational experience and "We definitely need to review our cell tower ordinance"; we have a mechanism in place to do that, through our Ordinance and Policy Review Committee. I feel that if we change the tower location, we would still have the same concerns, just different individuals in front of us...from Bell Hill to Peaco Hill to Bean Road. No one actually wants to see a cell tower in their neighborhood. Re: Comprehensive plan: The PB read it, discussed it, considered it in their votes. **Hal Ferguson:** Like Rick said; he and I went to all 3 meetings. US Cellular was on agenda since 11/15th and this issue was common knowledge to anyone who looked at a posted agenda or talked to anyone involved in the process. They (U.S.Cell.) had to reschedule for the 20th. They had a public hearing on Jan. 17th. As soon as the public hearing was over, everyone left and did not attend the regular meeting. No one stayed and asked to be recognized by the PB. We try to do the best we can. Planning Board was always open to ideas and input. BOS take turns meeting at town office last Tuesday of every month for anyone who would like to discuss things w/ only one Selectman vs. the entire BOS at a regular meeting. **Kristen Roy:** The collocation has not been thoroughly addressed by US Cellular: Did the PB get a list of all the towers within 4 miles of the boundary of Otisfield? Did you get a complete list that US Cellular is not on? That's crucial. Did they give you a list of towers they are on? There are towers out there. **Bob Gashin:** It was supplied in the packet. **Annie:** We need to follow the ordinance. If it requires it, the PB can require it. If it isn't required then the PB can't require it. Mr. Gashlin said the issues of collocation and

surrounding towers were thoroughly discussed.

Public (non-interested parties): **Noreen Edwards (Otisfield resident)**: Asked to speak, then changed her mind and wants to remain quiet at this time. May ask later. **Attorney: Kelly Matzen**: (on behalf of KJK/U.S. Cellular) Submitted to BOA a letter re: "legal standing" of the appellant. The Appeal application clearly shows that Mr. Poto is the only one who appealed, and showed no evidence in the application or at tonight's meeting that he is an aggrieved party with legal standing. The substance of the appeal was whether there was a finding of PB being contrary to town ordinance. My reply to that is not whether the BOA agrees, the issue is more that was there evidence presented to PB in which facts could be derived. I couldn't have said it better than Mr. Olsen. (PB member) Questions were asked. They followed the ordinance line by line and evidence was submitted on every issue that was raised. John said it was his duty to prove the PB did something wrong. I contend that he was not able to sustain that duty. He claims he is an aggrieved party and needs to prove that the PB made that error. John Poto thinks PB did not do enough. PB has received evidence and that it was satisfied with that evidence. Whether he thinks the PB fulfilled that duty, or if he would have done it differently is not the issue. He is not on PB now. New PB members are there. Did they fulfill their duty? They conscientiously did. **John Poto**: He does think he has legal standing. I would like to hand letters out to rebut that (submitted into public record) **Hal Ferguson**: The BOS doesn't support the opinion that John Poto should not be here tonight. He is an Otisfield resident and has every right to be here. Town attorney believes that this hearing should go on. Whether or not John has property within 1,000 feet or if the land is in tree growth. **Lenny Adler**: I don't agree with John on this appeal, but you have every right to appeal and we like hearing from the people of Otisfield, whether you agree or don't agree with what's going on in town. The Selectmen all want your input at any time and I encourage you to stay involved. **Mike Everding**: Once you lose the visual qualities of the town, you lose it for good. Hope you take that into consideration. They are ugly.

Noreen Edwards: The tower does interfere with the comprehensive plan. Would like you to consider having the PB re-look at this.

Pixie Williams: PB could have requested more input. The lakes associations would have liked to have had an input. **MIM**: so noted. **Kristen Roy**: Can she read what she felt was not meant in the criteria for the appeal. What she is questioning is if the RF maps would affect the need for the tower; the correct RF maps affect the placement of the tower, the height of the tower and the need of the tower and without a complete due diligence you cannot make an educated decision. They didn't address the existing towers. Biggest concerns of the town are the location and the heights of the tower. **MIM**: *so noted.

MIM: Last chance for any further discussions. Repeated; Is there anyone who wishes to offer new evidence or testimony at this time? Anyone else have public participation? John Poto? PB members? BOS? All say no. No comments or questions or raised hands.

6. **Adjournment of Public Hearing**: *Motion to close the public hearing at 10:29 PM. AP/SM - Unanimous.

Rick Micklon: Just as everyone stands to leave, he reminds everyone that they are welcome to stay for regular meeting to follow, just as they were free to do so on January 17th after the PB cell tower Public Hearing. Noted that this action is exactly what happened at the last Public Hearing and then no one heard the PB deliberations that followed, but then criticized the PB for its lack of due diligence. Audience then took their seats.

Appeals Board discussion re: next meeting date, time, and location.

MIM: Decision and announcement: Board will reconvene on March 20, 2012 at 7:00PM at Community Hall. Board will deliberate and make a decision to approve or deny the Administrative Appeal based upon tonight's proceedings & submittals and PB meetings / file content. No further public participation will now be allowed unless specifically requested by the Appeals Board for specific clarifications.

NOTE: Regular Board of Appeals meeting to follow, after a 10 minute recess

Respectfully submitted
Tanya Taft, Secretary

Approved by:

Marianne Izzo-Morin, Interim Chair

Approved on: March 20, 2012