

**GLOUCESTER CITY COUNCIL MEETING**

Tuesday, June 23, 2015 – 7:00 p.m.

Kyrouz Auditorium – City Hall

**-MINUTES-**

**Present:** Chair, Councilor Paul Fonvielle; Councilor Joseph Ciolino; Councilor Melissa Cox; Councilor Steve LeBlanc, Jr.; Councilor Greg Verga; Councilor Robert Whynott; Councilor Paul Lundberg; Councilor William Fonvielle; Councilor Robert Stewart

**Absent:** None

**Also Present:** Mayor Sefatia Theken; Linda T. Lowe; Kenny Costa; Jim Destino; John Dunn; Chip Payson; Gregg Cademartori; James Pope

The meeting was called to order at 7:00 p.m. The Council President announced that the meeting is recorded by video and audio in accordance with state Open Meeting Law.

Matters were taken out of order.

**Flag Salute & Moment of Silence.** Council President McGeary dedicated the Moment of Silence to the victims of the terrorist attack on the congregation of the Emanuel African Methodist Episcopal Church in Charleston, South Carolina: The Rev. Clementa Pinckney, Cynthia Hurd, The Rev. Sharonda Coleman-Singleton, Tywanza Sanders, Ethel Lance, Susie Jackson, The Rev. Depayne Middleton Doctor Jackson, The Rev. Daniel Simmons, and Myra Thompson.

**Oral Communications:** None.

**Presentations/Commendations:** None.

**New Appointments:**

**Historic District Commission TTE 02/14/18 Jessica Mulcahy**

COMMITTEE RECOMMENDATION: On a motion by Councilor LeBlanc, seconded by Councilor Verga, the Ordinances & Administration Committee voted 3 in favor, 0 opposed, to recommend that the City Council appoint Jessica Mulcahy to the Historic District Commission, TTE 02/14/18.

**DISCUSSION:**

**Councilor Whynott** said that Ms. Mulcahy has a great background and endorsed her appointment. **Ms. Mulcahy**, 33 Middle Street, said her home is in the Historic District, and her appointment to the Historic District Commission this is a great opportunity to serve the city and help plan for the historic area where she lives noting she has an abiding interest in the history of the city.

**Council President McGeary** said there are historical treasures in the city and looked forward to Ms. Mulcahy's participation in assuring their preservation.

**MOTION: On a motion by Councilor Whynott, seconded by Councilor Stewart, the City Council voted 9 in favor, 0 opposed, to appoint Jessica Mulcahy to the Historic District Commission, TTE 02/14/18.**

**Consent Agenda:**

- **MAYOR'S REPORT**

1. Memorandum, Grant Application & Checklist from Public Health Director re: request City Council accept the 3<sup>rd</sup> year of a 3-year award Of the Mass. Opioid Abuse Prevention Collaborative (MAOPC) in the amount of \$100,000 (Refer B&F)
2. Communication from Chair of the Friends of the Gloucester Dog Park re: request Council acceptance of donations totaling \$25,000 (Refer B&F)
3. Memorandum from Harbormaster and Supplemental Appropriation-Budgetary Request (2015-SA-1) (Refer B&F)
4. Memorandum from Harbormaster and Supplemental Appropriation-Budgetary Request (2015-SA-2) (Refer B&F)
5. Memorandum from Harbormaster and Supplemental Appropriation-Budgetary Request (2015-SA-3) (Refer B&F)
6. Memorandum from General Counsel re: 302 Essex Avenue Easement (Little River Stream Habitat Restoration Proj./Wellspring House) (Refer P&D)
7. Update regarding the 2015 Harborwalk Summer Cinema Series & closing of the I4-C2 lot on July 7, 8, 15, 22, 29, Aug. 5, 12, 19 & 26 (Info Only)
8. New Appointments: Stage Fort Park Advisory Committee TTE 02/14/18 Salvatore J. Frontiero (Little League Rep.)  
Community Preservation Committee TTE 02/14/17 Hank McCarl (Planning Board rep-filling unexpired term of Joseph Orlando) (Refer O&A)

- **COMMUNICATIONS/INVITATIONS**

- **APPLICATIONS/PETITIONS**
- 1. Special Events Application re: request to hold Gran Prix of Gloucester Cyclocross Race on September 26 & 27, 2015 at Stage Fort Park (Refer P&D)
- **COUNCILORS ORDERS**
- 1. CC2015 (Fonvielle) Amend GCO Sec. 22-270 "Parking prohibited at all times" re: Plum Street (Refer O&A & TC)
- 2. CC2015 (Fonvielle) Amend GCO Sec. 22-270 "Parking prohibited at all times" and Sec. 22-272 "No parking Saturdays, Sundays Holidays May 1 to September 15, 2015 re: Atlantic Road (Refer O&A & TC)
- **APPROVAL OF MINUTES FROM PREVIOUS COUNCIL AND STANDING COMMITTEE MEETINGS**
- 1. Special City Council Meeting: June 16, 2015 (Approve/File)
- 2. Standing Committee Meetings: B&F 06/18/15, 06/23/15 (under separate cover), O&A 06/15/15, P&D 06/17/15 (Approve/File)

**By unanimous Council consent the Consent Agenda was accepted as presented.**

By unanimous Council consent, at the request of **Council President McGeary**, the City Council assented to take in numeric order the Scheduled Public Hearings prior to its Committee Reports.

**Scheduled Public Hearings:**

1. **PH2015-032: Amend GCO Chapter 21 by ADDING a new subsection 21-7 entitled, "City Block Parties-Permits and Regulations"**

**This public hearing is opened at 7:07 p.m.**

**Those speaking in favor: None.**

**Those speaking in opposition: None.**

**Communications: None.**

**Councilor Questions: None.**

**This public hearing is closed at 7:07 p.m.**

MOTION: On a motion by Councilor Stewart, seconded by Councilor Ciolino, the Ordinances & Administration Committee voted 3 in favor, 0 opposed, to recommend that the City Council Amend GCO Chapter 21, by ADDING a new subsection 21-7 "City Block Parties-Permits and Regulations" as follows:

- (a) Description and Purpose. A city block party shall mean a city-sponsored event intended to take place and actually taking place in whole or in part on a city street and which thereby obstructs vehicular traffic and on a city sidewalk which obstructs pedestrian traffic.
- (b) Permit Required. The city council shall issue a permit for the temporary blocking of a city street and city sidewalk for the purpose of holding a city block party.
- (c) Usage. Upon issuance of a permit by the city council, participants are granted the temporary right to use the designated portion of the city street and city sidewalk for a city block party.
- (d) Obstacles Blocking Streets to be Movable. Notwithstanding Sec. 21-9 concerning "Sale or Display of Goods," a street or portion thereof blocked off for a city block party shall not be obstructed by obstacles which cannot be readily moved for all emergency and hazard vehicles to enter it in response to an emergency.
- (e) Rules and regulations. The city council may approve reasonable rules and regulations, including but not limited to those put forward by the Licensing Board, to implement the provisions of this section as relates to licensed restaurants and food establishments.

**DISCUSSION:**

**Councilor Whynott** explained the Block Parties have been a great success each summer, but that this amendment to the Code of Ordinances is to tighten up the rules of holding the events in light of advice received by the Licensing Board and from the state. He noted the offered ordinance amendment was drafted by General Counsel which he said he supported.

**Council President McGeary** commented that also coming before the Council at a later date is a separate amendment to the Code of Ordinances regarding obstructions on sidewalks but that proposed ordinance change was not before the Council at this time.

**Councilor Ciolino** stated under M.G.L. c. 268A, said that that he is a Main Street businessman and opens his place of business during the Downtown Block Parties but has no fiduciary responsibilities to the Block Parties.

**MOTION: On a motion by Councilor Whynott, seconded by Councilor Stewart, the City Council voted by ROLL CALL 9 in favor, 0 opposed, to Amend GCO Chapter 21, by ADDING a new subsection 21-7 “City Block Parties-Permits and Regulations” as follows:**

- (a) Description and Purpose.** A city block party shall mean a city-sponsored event intended to take place and actually taking place in whole or in part on a city street and which thereby obstructs vehicular traffic and on a city sidewalk which obstructs pedestrian traffic.
- (b) Permit Required.** The city council shall issue a permit for the temporary blocking of a city street and city sidewalk for the purpose of holding a city block party.
- (c) Usage.** Upon issuance of a permit by the city council, participants are granted the temporary right to use the designated portion of the city street and city sidewalk for a city block party.
- (d) Obstacles Blocking Streets to be Movable.** Notwithstanding Sec. 21-9 concerning “Sale or Display of Goods,” a street or portion thereof blocked off for a city block party shall not be obstructed by obstacles which cannot be readily moved for all emergency and hazard vehicles to enter it in response to an emergency.
- (e) Rules and regulations.** The city council may approve reasonable rules and regulations, including but not limited to those put forward by the Licensing Board, to implement the provisions of this section as relates to licensed restaurants and food establishments.

**2. PH2015-033: Amend GZO Sec. 2.3 Use Tables pertaining to the 2014 Harbor Plan Implementation Marine Industrial District**

**This public hearing is opened at 7:10 p.m.**

**Those speaking in favor: None.**

**Those speaking in opposition: None.**

**Communications: None.**

**Councilor Questions: None.**

**This public hearing is closed at 7:10 p.m.**

**COMMITTEE RECOMMENDATION:** On motion by Councilor Lundberg, seconded by Councilor LeBlanc, the Planning & Development Committee voted 3 in favor, 0 opposed, to recommend that the City Council Amend GZO Section 2.3 Use Tables, 2.3.1 Residential Uses by changing the use allowance of Residential Use #10 “Boarding House, rooming house, lodging house or hostel, licensed by the Licensing Board” from allowed by special permitted issued by the Zoning Board of Appeals (SPS) to a prohibited use (N) in the Marine Industrial District.

**DISCUSSION:**

**Councilor Verga** said that this amendment to the Zoning Ordinance is to clarify that the way the Section 2.3 Use Tables. Section 2.3.1 reads currently that boarding houses, rooming houses or hostels are allowed by special permit in the Marine Industrial (M/I) District. Such uses are not permitted under the state’s Designated Port Area (DPA) regulations. The amendment would bring the city’s zoning ordinance into conformance with the state regulations.

**Council President McGeary** said that he and Councilor Verga served on the Harbor Planning Commission for two years to make small changes in the Harbor Plan which governs the rules of what can be done in a Designated Port Area (DPA). As part of that they agreed they would modify the city’s M/I zoning to make it clear that boarding house, rooming houses, lodging houses or hostels were not permitted. He added there was some concern that when they opened up permitted uses that they would be opening the door to hotels and/or condominiums, and that this is to ensure that it is not a gateway to residential or hotel-like structures in the M/I District.

**MOTION: On motion by Councilor Verga, seconded by Councilor Ciolino, the City Council voted by ROLL CALL 9 in favor, 0 opposed, to Amend GZO Section 2.3 Use Tables, 2.3.1 Residential Uses by changing the use allowance of Residential Use #10 “Boarding House, rooming house, lodging house or hostel, licensed by the Licensing Board” from allowed by special permitted issued by the Zoning Board of Appeals (SPS) to a prohibited use (N) in the Marine Industrial District.**

COMMITTEE RECOMMENDATION: On motion by Councilor Lundberg, seconded by Councilor LeBlanc, the Planning & Development Committee voted 3 in favor, 0 opposed, to recommend that the City Council Amend GZO Section 2.3 Uses Tables by striking the words “and uplands” from the first sentence so it will now read:

“(1) In the MI District, Supporting Designated Port Area (DPA) Uses, as defined in 310 CRM 9.02, shall not in the aggregate occupy more than 50% of the ground level area on filled tidelands on a lot within the DPA....”

**DISCUSSION:**

**Councilor Verga** said that in recognition of the limit of the state’s jurisdiction to filled and flowed tidelands in the DPA, the Planning Board proposed to amend footnote #1 to Section 2.3 Uses Tables by striking the words “and uplands” from the first sentence.

**Councilor Stewart** asked if this will create a lot of non-conforming structures. **Councilor Verga** said that it shouldn’t -- that if they are existing the structures would become at least legal non-conforming structures. **Council President McGeary** noted this was something they discovered in the Harbor Plan process that the state’s jurisdiction through the office of Coastal Zone Management only governs the filled tideland and brings the Zoning Ordinance into conformance with state law. **Councilor Stewart** briefly discussed with **Council President McGeary** the issue of the creation of possible non-conforming structures.

**MOTION: On motion by Councilor Verga, seconded by Councilor Lundberg, the City Council voted by ROLL CALL 9 in favor, 0 opposed, to Amend GZO Section 2.3 Uses Tables by striking the words “and uplands” from the first sentence so it will now read:**

“(1) In the MI District, Supporting Designated Port Area (DPA) Uses, as defined in 310 CRM 9.02, shall not in the aggregate occupy more than 50% of the ground level area on filled tidelands on a lot within the DPA....”

**3. PH2015-028: Amend GZO by adding a new definition to Section VI “Definitions” for “Farmers Markets”**

**This public hearing is opened at 7:16 p.m.**

**Council President McGeary** said that the Planning Board recommendation was not available to the Planning & Development Committee at the time the committee took up this matter at its May 6 meeting. He suggested it would be appropriate that this matter be referred back to the Planning & Development Committee before the matter comes forward for a full public hearing. With the assent of the Council the matter was referred back to the P&D Committee. **Councilor Verga** confirmed he has asked for a ruling on the matter from General Counsel.

**This matter is referred back to the Planning & Development Committee for further discussion related to the Planning Board’s recommendation on the matter of amending the Zoning Ordinance by adding a new definition to Section VI “Definitions” for “Farmers Markets,” at its July 8 regularly scheduled meeting.**

This public hearing is continued to July 14, 2015.

**4. PH2015-027: SCP2015-001: Concord Street #250, Map 248, Lot 13, GZO Sec. 5.13 Personal Wireless Service Facility**

**This public hearing is opened at 7:18 p.m.**

**Those speaking in favor:**

**Attorney Edward Pare, Jr.**, Brown, Rudnick LLP, One Financial Center, Boston, MA, representing SBA Towers V, Inc., and New Cingular Wireless PCS, LLC by and through its Manager, AT&T Mobility Corporation (AT&T) presented an overview of the Special Permit application for a new cell tower proposed at 250 Concord Street (Map 248, Lot 13), the property which is owned by Pamela J. Fryklund and Carrie Fryklund, Co-Trustees of the Donald L. Fryklund Living Trust.

**Mr. Pare** presented a PowerPoint Presentation received prior to opening of City Council meeting and placed on file. The presentation showed area coverage plot plans. Maps shown to the Council by the Applicant as well as the Zoning Board of Appeals decision referred to during the public hearing are on file as part of the Special Council Permit SCP2015-001 application with the City Council.

**Mr. Pare** reviewed as followed:

- Exhibit 2: Existing Coverage. The existing AT&T coverage in West Gloucester noting a yellow star on the map represents the proposed cell tower site – areas shaded in green indicate the existing AT&T coverage in West Gloucester; white areas represent inadequate AT&T coverage. He said it was agreed at P&D that AT&T has very little coverage in this area.
- Exhibit 1, AT&T Network Plan. This shows a number of AT&T sites in the area and the distances from the AT&T existing sites to 250 Concord Street.
- Exhibit 3: Planned Coverage. This exhibit shows planned coverage for a 150-foot monopole-style cell tower with antennas mounted on the exterior. A problem with covering this area is topography, Mr. Pare said; the signal doesn't penetrate land, and is interfered with by foliage, vegetation and buildings.
- Exhibit 4: Terrain-3D view: This exhibited highlighted the hilly nature of the area terrain, particularly to the south of the antenna location.
- Parcels with Zoning Districts: The site location (250 Concord Street). The city has established wireless overlay districts which are limited in extent. It was suggested when the ordinance was originally drafted that the districts for cell towers were kept in the industrial areas. The nearest overlay districts are quite far from 250 Concord St.
- Plan Z-2 Elevations: This slide depicts a mockup of a steel shaft monopole at 150 feet with antennas attached in a triangular array at the top of the pole. Proposed is some sound attenuating fencing (noted on the plans). AT&T would occupy the top position and it was suggested that three, four or five co-locators would be located below at about 10 foot increments.
- Plan Z-1 Overview of the Proposed Site Plan: This shows the cell tower compound which is 65 feet by 65 feet fenced leased area. The equipment shelter was pointed out and the triangular array at the top of the pole with four antennas attached to the sides of a triangular array to get a 360 degree pattern.
- A 150-foot Personal Wireless Service Facility was described: The facility will provide service to areas of significant gaps in AT&T's coverage with 12 antennas and associated equipment on the tower. Cables that run from the equipment at the base shelter to the tower are inside the monopole. There would be a back-up power generator in the event of electrical outage. Noise barriers are to be installed in compliance with the Zoning Ordinance.
- The property is owned by the Donald L. Fryklund Living Trust, Pamela J. Fryklund and Carrie Fryklund, Co-Trustees. The parcel is 34 acres +/- . It was pointed out that one of the reasons SBA Towers chose this parcel is the distance of the tower from neighbors. The property has an ongoing commercial use as a tree farm and composting operation in an otherwise residential area. There is an access driveway of about 1,700 feet in length which will minimize vegetation and tree removal. There is a network of roadways on the property, making access easy. Utilities are adequate to the purpose.
- Plan C-1, Plot Plan: Dotted-line rings depict is the 500 foot setback requirement under the ordinance and a central ring shows the 300 foot zone. It was pointed out no homes or structures are impacted. The 500-foot ring is a "smidge" inside a property line, but the tower would be positioned to have maximum shielding and be screened by existing vegetation.
- The lot is odd shaped located in the R-40 Rural residential zoning district and is not in the city's Overlay District. To the Front Lot Line it is 1,514 feet; to the Rear Lot Line it is 470 feet; to the Closest Side Lot Line is 183 feet which is undeveloped property. The height of the tree canopy is between 30 to 70 feet which on average is considered low.
- C-2, Abutters Map shows distances from existing structures and building. The tower is noted to be far away from anyone living in the area.
- Alternative Sites – Rejected by AT&T's RF Engineer: No existing tower structures, tall water tanks, utility structures to attach to available and so 247 and 260 Concord St., as well as 11 Whale Rock Road were

- viewed and rejected as a lower elevation than 250 Concord St. requiring a higher tower height. The Sprint tower at 50 New Way Lane is 1.98 miles away from 250 Concord Street.
- Real Estate Appraiser Expert – George Valentine Report (Tab 6 of SCP Application, Page 3) concluded there was no negative impact on property values in the surrounding area.
  - Compliance with FCC (U.S. Federal Communications Commission) Regulations: The proposed wireless facility is at 1.8 percent of FCC maximum of emissions. The tower would not have to be lit for Federal Aviation Administration (FAA) regulations, and complies with the noise requirement under local ordinance.
  - A petition is on file signed by 80 residents in support of the tower as well as endorsements by the city's public safety agencies that are expected to attach their equipment to the proposed tower were presented (on file). SBA is providing tower space and ground space for city radio equipment rent free.
  - It was noted by way of comparison that the Coast Guard Tower at Harbor Loop is about 150 feet and three wind turbines at the Blackburn Industrial Park are over 400 feet. Many of these structures are visible already from the city beaches and waterways.
  - Recap of Zoning Relief Sought: The complication is that there are no sites in the wireless overlay district which could function (Tab 10 of SCP application). Without a site in the overlay district the Applicant had to fashion a solution to provide service and first went before the Zoning Board of Appeals (ZBA) with a full application. The ZBA chose not to address the tower itself but decided they could vary the ordinance and granted a variance to allow the Applicant to appear before the Council to receive a Special Council Permit pursuant to the Zoning Ordinance as though the location were in the overlay district. The Applicant argued that restricting cell towers to overlay districts would prohibit coverage and service. The ZBA agreed allowed the applicant to seek a Special Council Permit.
  - Highlights of Application Process: April 8: P&D Committee Meeting initial presentation; Balloon Test conducted April 10 and 11. It was noted that on the first day of the balloon test the Applicant's attorney received calls that people couldn't view the balloon although aloft at the heights of 150 and 130 feet. The test was described as successful. The test was noticed and published in the newspaper. It was noted that a unique aspect of the tower is that it wouldn't be very visible from the immediate neighborhood. Typically opposition is from the closest neighbors, but in this situation, most of the objection comes from residents living farther away from the site.

SBA and AT&T applied for a 150-foot monopole. The personal wireless service facility is not intended solely for so-called 4G service, **Mr. Pare** pointed out, but provides both 3G and 4G service. The 150-foot monopole will provide maximum flexibility. Antennas will be on the outside of the monopole so they can be adjusted and added to. There has been lot of discussion with neighbors and P&D where the preference is to bring the equipment inside the pole. This would still be considered a monopole, but the antennas are lodged in the interior on a pole and then covered with fiberglass appearing as a pole with nothing on the exterior. It was pointed out that with the antennas on the interior of a pole complicates the coverage and limits flexibility. They can't move the antennas which all must fit in a very small space. All of the ancillary equipment has to go up there with the antennas. The more that is inside, the more they lower the height, the less coverage will be gained from the facility. In discussion with the P&D Committee, the Applicant obtained a unanimous positive recommendation at for a height of 130 feet with a monopole.

Photo renderings based on the Balloon Test were presented. A rendering was shown of a 150-foot monopole with exterior antennas; a 130-foot monopole with exterior antennas and a 130-foot unipole-style with interior antennas which is a more pleasing look visibly but it will limit the utility on the pole itself.

**Mr. Pare** concluded his presentation by saying that based on the zoning relief, the application is properly before the Council. He said they comply with the entire requirement for a personal wireless service facility except for the 500-foot setback that is not a public safety issue. He stressed that the Applicant had worked cooperatively with the city through the Planning & Development Committee and prior to that with the ZBA. There are no sites in the wireless overlay district which could address gaps in coverage which prohibits the Applicant's service. The ZBA granted the Applicant the relief and he suggested that the Council take a proactive stance with respect to the monopole and maximize the opportunities so that AT&T and its competitors can use the facility. He noted that shorter facilities might require additional facilities to service the entire area.

**The Council recessed at 7:37 p.m. and reconvened at 7:39 p.m.**

**Those speaking in opposition:**

**Peter Radochia**, 259 Concord St., and **Jim McTiernan**, 14 Coles Island Road, came before the Council representing “NoTallTower.org,” a group of 98 residents of Ward 5 who are in opposition to the erection of a personal wireless service facility that is 150 feet high made a Power Point Presentation (on file).

**Mr. Radochia** said the 98 residents he represented are not opposed to a cell tower, but rather are opposed to a 150-foot tower and would prefer a tower that fits in to the Zoning Ordinance that is currently in place. He expressed the group’s concern to preserve the rural and scenic vistas in that area. He highlighted the area’s beautiful trails, old cemeteries, horseback riding, horse farms, and the fact that most of the NoTallTower.org group lives in this area. He said they realize with the advent of technology there will be cell towers, and that their objective is to help the city get it right. They have worked with the P&D Committee and the Applicant. He noted that SBA is a \$15.2 billion company that has operating profits of \$9.9 billion that is looking to put a tower in Gloucester. The NoTallTower.org group requested the city hire a consultant which the Committee did, Isotrope LLC, who did a study for the city.

The Applicant is proposing a tower of 150 feet. **Mr. Radochia** said that the group believes that local zoning only supports a tower 10 feet above the tree canopy with the highest tree at about 70 feet and would make the tower no higher than 80 feet-- a significant difference between the Zoning Ordinance and the 150-foot tower the Applicant proposed, he pointed out. The purpose of the ordinance as written was to minimize the visual and environmental impacts of personal service wireless facilities, he said. **Mr. Radochia** said this group lives in a special quiet place with coastal vistas and wish to preserve that. He suggested that the Kyrouz Auditorium ceiling was at about 40 feet high and the tower would be three times higher. The Applicant is proposing to be twice as high as the allowed Zoning which will have major impacts on views from the water and the land.

He said they spoke to people involved with the writing of the original ordinance and said they were concerned that they preserve the natural beauty of Cape Ann and didn’t want to have to deal with the trade-off of functionality and visual impact. The ordinance was written and concerned with not optimizing engineering outcomes or corporate profits but to ensure the views, vistas, scenic areas and rural nature of the area are preserved, he said.

He added many folks in the area came to know about the tower from the first balloon test last fall. He said he saw the cell tower balloon showing rendering of what it would look like from the Tompson Reservation. He said the tower will be plainly seen. He noted the view from Sunset Mountain and that the beauty of these areas and others will be marred. He showed a view from Crane’s Beach as well. NOTE: All depictions of a unipole made in the NoTallTower.org presentation were indicated by a rectangular red line.

**Councilor Ciolino** clarified with **Mr. Radochia** that the balloon was flown at 150 feet with a second balloon at 130 feet, but they show all the images in the presentation represented a 150-foot tower.

He discussed the posited benefit to the city at the proposed height. He said the coverage justification was based on providing 4G LTE wireless service. He said that 4G is the high-end service which promotes wireless internet access for computers, tablets, alarm systems, and that the signal is not as strong as 3G. He said to take advantage of the 4G signals for AT&T (a single carrier on the cell tower), the only people who benefit are those with AT&T 4G high- end LTE cell phones, iPhones and Androids. He suggested the tower may not provide improved service for many people.

He said Isotrope LLC, the city’s consultant, did studies on the area and part of that was to make a determination if the proposed height was necessary to support better cell coverage in the area. The answer is no, he said. The report shows the difference in coverage areas among 110-foot, 130-foot and a 150- foot towers. He said, “There was no real appreciable difference in reducing the height of the tower” (quoted from the initial Isotrope Report, on file). He said that the Applicant’s maps showed little gain from 110 feet to 150 feet. A lot of the area is marshland and wooded. He said also quoted the Isotrope study as saying that the population counts presented need to be discounted because of the way they were calculated. The Isotrope report, he said, supports a tower at 110 feet for coverage for an AT&T 4G LTE tower. It may not support SBA’s bottom line for business, he suggested. Those other co-locators may never come, he said.

Different options for tower appearances were highlighted by **Mr. Radochia**. He said SBA noted a Sprint tower which he said isn’t visible which is 75 feet high and is seen from nowhere and has only Sprint antennas. There is a low tree canopy at that location about two miles from 250 Concord St., he noted. He said the group appreciates SBA’s offering a different design. He said a fake tree design doesn’t fit this area because there aren’t a lot of pine trees. A single unipole-style facility with equipment internally located is appropriate, and that it is appreciated by the group, he said.

**Mr. Radochia** said that emergency services repeaters are at issue as well. He noted that SBA has offered for use on the tower by the city’s Police and Fire Departments. He said the original proposal presented needs to be tweaked in that Police and Fire will work on a tower of 110 feet which is in the Isotrope report and will provide the city with adequate emergency services coverage.

He concluded the NoTallTower.org presentation by saying that the group recommends that the design be a unipole of 110 feet which satisfies the mandate under the Zoning Ordinance to balance functionality and visual impact. They believe the process to date has not yielded the lowest workable tower height. They believe that the tower can come down significantly in height. A tower height of 110 feet meets the coverage needs according to the City Council's Isotrope study. The unipole provides the cleanest, least visually intrusive appearance. They don't know who else might collocate on this tower, and that what is front of the Council is one tower company looking to put up a single tower for its use. At 110-foot tower of unipole construction is more acceptable than a taller tower with multiple tenants. The NoTallTower.org group doesn't think as a group that a best possible option has been achieved for the city.

**Rebuttal:**

**Mr. Pare** said the following: that the Applicant provides 4G and 3G service. The analysis of requirements is based on sales of phones and other devices. If people didn't want cell phones and smart devices the vendors wouldn't sell them and provide coverage to use them. It is wrong that the personal wireless service facility is only for AT&T, SBA's goal is to maximize the utility of the site.

As to the height of the tower, he said the facility is a piece of steel with antennas attached. It needs to be up above the trees. He disputed the assertion that the canopy height of the trees in the area was 70 feet. There are 70-foot trees and 30-foot trees, meaning the "average height" of the canopy would be 50 feet which would be insufficient to penetrate neighboring trees. There is no utility to building a one-carrier facility because everybody will end up needing coverage on the site. It was pointed out that initially Verizon was the Applicant's co-applicant and a direct competitor. **Mr. Pare** assured they would eventually attach to whatever the Council allows at the site.

It was noted that if the Applicant goes to a unipole design the carriers need twice the vertical space to locate antennas, so the unipole needs to be higher. He said he offered at P&D a solution of a 140-foot unipole so that AT&T could take its 12 antennas and combine them down to six placing them at 140 feet and 130 feet. A 110 foot unipole gets AT&T the same coverage as is same as 100 foot monopole. As explained at P&D at the last meeting, if they went to the compromise height of 130 feet with a unipole design the comparable for a monopole is at 120 feet. He said they can't get all those antennas in the chambers of a unipole and provide the same coverage as though a monopole at 110 feet and they have said that it doesn't make sense at 110 feet. He said a unipole at 110 feet is really a 100 foot tower because they have to take two slots. This was also gone through with the P&D Committee, it was noted.

As to the city's emergency services, the Applicant has offered solutions that would allow the city to attach radio antennas on the pole. Where they are positioned isn't a concern of the Applicant, he said, as long as they are located below the prime co-location spots. **Mr. Pare** expressed his assurance to the Council that the other co-location carriers will come. He suggested if AT&T is the only entity that can use the facility then another entity will come forward looking for a second facility. He also suggested that the Council maximize their opportunities. When they talked to P&D they felt they could compromise and work with the neighborhood. The neighborhood group suggested a 110-foot unipole which is the same as a 100 foot monopole (antennas on the exterior) but for the Applicant's needs, to achieve the same coverage as a 12-foot monopole, the unipole with internally mounted antennas would have to be 130 feet high. A 110-foot monopole will not provide the service. The opponents don't want to see it, but this technology requires that it has to be over the tree line which will require that it be visible from somewhere. Based on the balloon test and hundreds of renderings provided to the Council and P&D, the visibility is quite limited for the size of the structure and the accommodation that the tower can make for all the carriers.

**Rebuttal of the Rebuttal:**

**Chris Klem**, 11 Totten Lane, said that NoTallTower.org is not opposed to the pole, but are a group of citizens that recognize the need for coverage in this area and have worked hard and tried to work within the Zoning Ordinance the intent of which is to minimize the visual impact of the pole. As to the 3G/4G point he said his group is confused by the adamancy because they heard earlier this was a 4G facility in various meetings. They don't oppose the Special Permit or ask that the facility be limited to a very low height but are trying to get to the right height for the facility. He said that some of the factors espoused by the Applicant related to co-locators, but he pointed out that there are none at this time, and posed a question of what is the price of possible future co-location.

He said they have it on very good information that the city's emergency services whip antennas only need to be at a height of 50 feet. The maximizing is about SBA and their convenience.

He noted an example of a tower permitting process in the town of Milton, Mass., for an application proposing a tower of 140 feet, where during the course of a tower permitting, the two co-applicants, carriers merged during the permitting process and then stayed with the 140 feet in height. The Milton Land Use Authority said they would prefer 120 feet because a carrier was lost, but the applicant said there is a possibility to have a co-locator. Litigation established there is no co-location as a matter of right, and that Milton was appropriate to make the judgement that

120 feet was the likely height. He then suggested if the city permitted a higher tower on possibility of co-location they will regret it. He said they've already heard that the tower could be 120 feet because of the equivalence between 100 foot unipole and 110 foot monopole which suggests a 120 foot unipole would succeed but the group believes the height could go down further. It is the height factor that is important and he asked that the Council look at the lowest possible height for functionality which his group has said is 110 feet.

**PUBLIC COMMENT:**

**Dennis McGurk**, 283 Concord St., said he is not opposed to the cell tower and couldn't see it from anywhere in his neighborhood. He suggested it would not likely help him any in that the coverage will likely not reach his home but also that he is not an AT&T customer. He said he didn't understand the statement of the competitive nature that AT&T would want to share a tower with another carrier. He is opposed to the height requested which he said is far outside the limits in the city Zoning Ordinance. The city worked very hard on a cell tower ordinance, and the city planned and thought about and agreed about 10 feet over the canopy height would be the maximum height. He said the Applicant's height request is outrageous, and by permitting such a height, the Council is losing the spirit of the intent of the ordinance. He said after reviewing the Isotrope report of June 16, he was suspicious of the credibility of the population numbers SBA put forward, which Isotrope systematically rebutted. He questioned the practicality of the tower at all given such low numbers of population served. He said there has to be a balance between functionality and visual impact.

**Carrie Fryklund**, 250 Concord St., noted she had submitted a letter summarizing to the Council in April (on file) the reasons she was allowing the Applicant to place a tower on her property. She said her family had been approached numerous times over the years to allow a cell tower due to the property's location and the size of the parcel. She said that cell phone coverage in that area is very poor, and cited an occasion when she had difficulty trying to call the Fire Department when she had an electrical fire. She also noted that the cable television network, HBO, has filmed numerous times on her property and had been frustrated by the lack of cell coverage.

She said she operates an orchard and composting business which creates biodiversity and supports the environment and wildlife on her property. The income from the tower lease, she said, will help her to maintain the open space by offsetting the significant costs of keeping the property in its current condition. She contended that the tower won't disturb existing vegetation and will not be visible to her neighbors. From such a distance, they all have views of other towers, water tanks, utility structures and wind turbines. She asked that the City Council approve the Special Council Permit.

**Jennifer McTiernan**, 14 Coles Island Road, said that Gloucester is known for its pristine views drawing tourists, which helps its economy. She expressed concern that the cell tower will cause less people to come to the city because these views will be marred from Essex Bay and from her own property and for the long-term impact of the pristine views from many areas. She asked the Council not pass this proposal.

**Marge Bishop**, 159 Concord St., said that she has lived in the area for 79 years and that West Gloucester isn't like it used to be -- she can't walk on Concord Street any more due to it being dangerous for pedestrians now. The view is not like it used to be, she said, and supported the tower adding that West Gloucester isn't pristine any more.

**Chris Covington**, 125 Coles Island Road, said he would look directly at the cell tower. He is not opposed but is trying to minimize the tower. He related that in 1992 he purchased a 270-acre plot on Coles Island Road taking it from a developer who wanted to build 100 homes, and placed most of that property in a conservation restriction. He said he received a Letter of Commendation from the City Council for that action as well as a standing ovation. He said he feels betrayed as he was trying to preserve the beauty of that area but added he is also a pragmatist. Bigger is not better, he said, and he asked the Council to keep the tower to the minimum height.

**Roland Hadley**, 257 Concord St., an abutter to 250 Concord St., spoke in favor of the tower, saying that it would only be able to be seen from the water through minor glimpses through the trees. He said he supported a tower at 150 feet or 130 feet. He said some have argued for building a 100-foot tower and then building five other towers around it. He quoted the caveat on the Kyrouz Auditorium wall, "Build not for today alone but for tomorrow as well." He noted that as SBA has said that if they put a tower up others will come. He said this is good for the city's tax base, and will be good for the Fire and Police who operate on two different frequencies who need antennas located between 70 and 126 feet for their equipment to work. He suggested that if they could define what the city's emergency services need, it would help to define the height of the tower. He also noted that the telephone lines on Concord Street are 70 years old, cracked with water incursion. He said they need a service in this area that is dependable.

**Robin Hubbard**, 5 Roberts Court, said she is a new neighbor and proponent of the proposed personal wireless facility and supports a tower height of 150 feet. She said that Ward 5, Precinct 2 has long been overlooked by the city, particularly regarding investment. The Applicant wants to build a tower at its own expense to provide cell phone coverage to an area that is vastly underserved, increasing no one's property tax bill. She said that begrudging

the Applicant 20 feet of height harms the coverage for area residents, too, by limiting the space for other co-locators by whom residents may have their cell phone service provided. She added that she sees this as a gift and prefers that no one interfere with anyone who provides a city service and that the city not accept a tower of less than 150 feet. She said the Fryklunds are great neighbors who provide a good service to the business community, helping many people in need. She noted Mrs. Fryklund, recently widowed, and her daughter wish to have a joint venture with SBA to provide an essential service in Ward 5, good cell phone coverage. The federal Telecommunications Act ensures this, she pointed out. She asked the Council to consider the residents of the coverage area first, and to not compromise with a small group of 98 people who prefer the tower to be shorter than 150 feet and erasing some of its effectiveness at the expense of over 2,500 people in the larger coverage area, many of whom are voters. She urged the Council not to consider the Essex County Greenbelt Association areas as they pay no taxes and has no standing on this matter. She said the city shouldn't negotiate downward the value of any tower that is offered for the benefit of residents, a structure that will enable many people to obtain a higher standard of living in West Gloucester. She concluded that this isn't a discretionary service but an essential one.

**Keith Miller**, 30 Jebeka Lane (formerly 171 Concord St.), pointed out that his family has been there since 1963 and said he is an opponent of the tower at a high height. The City Council might set a precedent because the ZBA granted a variance so that SBA can be allowed to seek a Council permit. He expressed that if the variance is granted, at a height the opponents consider unreasonable, there will be others coming before the Council for similar requests. If passed people will come in and say you have done this and we want you to do the same thing and the Council won't be able to say no until the Zoning Ordinance is changed. He said the Council must think through what it means in the larger context.

**Michael Pollison**, 5B Pooles Terrace, Rockport, said he works for Lothian Park at 260 Concord St., which directly abuts the proposed cell tower. He noted Ms. Park was unable to attend and while not having any proof to show the Council he conveyed that Ms. Park is not in opposition of this project and wants to see it go through having no objection to 150 feet in height. He pointed out that the cell tower would only be seen from Ms. Park's garage. He recounted that he was on the property at the time of the balloon test and observed it at 150 feet. There were no leaves on the trees at that time, he said, and that in order to see the balloon, he had to stand in one specific spot between two trees where the tower would be. He said during that test he also drove all the way round Concord Street in both directions and couldn't see the balloon from one end to the other. The only possible neighbor who will be able to see the tower is Ms. Park, a direct abutter. He noted the opponents saying the tower will cloud the pristine views of the city, but he contended that was already done with the three wind turbines. Those can be seen from tens of miles -- from all city beaches and most everywhere else in between. This cell tower will work 24/7, he said, and that 150 feet is the proper height for the best coverage which means his AT&T phone will work as right now he has no coverage when on the abutting property. If the Council allows the open array antennas, other carriers will go on that tower so that there wouldn't be six towers in the immediate area, he suggested. He also pointed out that from the water along the North Shore, most of the towers that are visible, the towers have exterior antennas.

**Earl Falk**, 22 Penny Lane, he is for and against the tower. He said the Council should get the best out of it, but there will be a precedent set and appreciated the tough position the Council was in. They should permit the tower but limit the size, he said.

**Patrick McTiernan**, 14 Coles Island Road, said that he is 16 years old, that when he thinks of where he lives it means Wingersheek Beach to him and didn't wish to remember it as a place for a cell tower. He said it will be seen.

**Communications:** **Ms. Lowe** gave a summary of the communications on file with the City Council from:

- Christine Rasmussen, Woodward Avenue, to comply with the zoning ordinance;
- Susan Klem, 11 Totten Lane, two emails, one listing 99 residents for a cell tower but to comply with the zoning ordinance
- Shelly A. Marks, MD and Eric Gaensler, MD, Two Penny Lane, supporting a tower that complies with the Zoning Ordinance;
- Duane Roberts, 125 Bray St., in opposition;
- Debe Holland and Nicholas Holland, 11 Jebeka Lane, in opposition;
- Gale Guild, 23 Jebeka Lane, in opposition;
- Nubar Alexanian, 11 Sumner St., in favor of the cell tower;
- Roger D. Torre, 5 Skipper Way in favor; and
- Dennis McGurk, 283 Concord St., in favor.

**Councilor Verga** reviewed that several months ago that the City Clerk brought to his attention the federal Telecommunications Act which he said supersedes the city's 17-year-old Personal Wireless Service Facility

ordinance. He said it doesn't just allow the Council to say no, and in the course of the P&D Committee's due diligence they sought outside expert help to update not only the Personal Wireless Service Facility ordinance as it currently stands, but to also obtain the services for the Committee's benefit, an engineering consultant, David Maxson, of Isotrope LLC, Medfield, Mass., to assess the Applicant's submissions.

**Councilor Questions for city's Engineering Consultant:**

**Councilor Verga** asked about the federal Telecommunications Act and how it restricts the city. **Mr. Maxson** said the section of the Telecommunications Act that refers to Personal Wireless Services says specifically it doesn't supersede local zoning except that local zoning can't effectively prohibit personal wireless services facilities. The first thing to be reviewed, as P&D did, was whether there was there is a gap in service. He noted the Applicant provided data, coverage maps and other information about their coverage and their claim for the need for coverage. He said he had evaluated that information and had no significant disagreement with the description of existing conditions. He pointed out P&D had the opportunity to decide whether that constitutes a significant gap in service.

**Councilor Verga** said opponents noted this evening that Mr. Maxson's report noted there was no significant coverage difference at 110 feet and 150 feet. **Mr. Maxson** said, "Yes," because the applicant provided a coverage map with gradation of coverage as the antenna height was reduced from 150 feet to 110 feet. He said the Applicant's engineer and he had some minor disagreements over the extent of that reduction. There is a section of Bray and Fernald streets where there is a reduction of coverage at a tower height of 110 feet. But the dominant service area, the facility, the streets and residences that it touches upon are not significantly changed with that reduction of height.

**Councilor Verga** asked about the 4G service versus 3G service versus traditional cell service. **Mr. Maxson** said he agreed with Mr. Pare, by explaining that what the applicant has done in order to show their coverage need they provided coverage maps of their new 4G LTE service which doesn't mean they are going to abandon providing 3G service, because many people don't have smart phones yet. The reason why they need wide antenna racks on a monopole or the two ten-foot spaces in a unipole is because they have all these antennas operating on different frequencies they have been licensed for that supports both the 4G and 3G services.

**Councilor Verga** noted the coverage had been noted by Mr. Maxson as not significant from 150 feet to 110 feet, but noted that if the design is for a unipole, then the 110 feet height needs to be raised. **Mr. Maxson** pointed out that in his most recent report he had wished to clarify some interpretations of some of his opinions. He said they have data down to 110 feet, and there is a difference but not so material as to be fatal for a wireless company to use 110 feet. But if the facility is a unipole at 110 feet and AT&T is required to occupy the slots located between 110 and 100 feet and 100 and 90 feet, the antennas are required to be below 110 feet. He said he was comfortable at 110 feet for antenna heights but has no reason to trust that antennas going lower will provide solid service. If focused on a unipole because of its clean appearance, is if the unipole is 110 feet, AT&T's antennas goes below 110 feet he can't support that from an engineering standpoint. If they split the difference at 100 to 110 feet and 110 feet to 120 feet and make AT&T occupy that, they might be able to live with that, but there is no expectation for benefit for a co-locator in the future. The applicant is saying if the unipole is 130 feet, they occupy 130 to 120 feet and 120 to 110 feet, AT&T now has antennas above 110 feet. They are in essence conforming to what they agree with the applicant in terms of the coverage analysis, and at that height, SBA will take the risk of a co-locator being mounted on the next slot down and they have no data on that.

**Councilor Ciolino** asked what then is the recommendation for the height as it sounds like 110 feet isn't enough. **Mr. Maxson** said this is a personal community decision, and what he is recommending is a range. He pointed out that in his first report he said that if the Council can grant the full height requested by the Applicant that will allow the tower to provide the most coverage possible to the most carriers possible. To the extent the Council wants to back off on 150 feet in order to mitigate visual impact, and then the compromise at 130 feet seems to be a reasonable compromise. He said he is uncomfortable at 110 feet. If it were a full open frame monopole AT&T could have their antennas between 110 and 120 feet and get the minimum coverage they're looking for, but a unipole at 120 feet pushes AT&T's antennas below 110 feet and he reiterated he is uncomfortable with that. He said he is comfortable at 130 feet.

**Councilor LeBlanc** said that they heard earlier about the pristine views. He asked about approving the 150 feet then multiple co-locators could be on that pole. He suggested four possible other applicants could come forward over the next year coming at or around 110 feet, which he said was highly likely if the Council doesn't permit the full height requested. **Mr. Maxson** said co-locators will do everything they can to occupy an existing pole. The next carrier may be willing to sacrifice location. He said carriers often take less than ideal space to get up and running, planning to deal with the next facility down the road. This proposed facility that doesn't connect to coverage with any other facility. He said there are more areas they may see proposals for in West Gloucester that would tie into the overlap of this overlap coverage of the proposed facility. **Councilor LeBlanc** suggested more applicants would

come to them if they approve a shorter tower. **Mr. Maxson** said within the target area of this application, first applicants will try to make the most of the proposed height of the tower. If an applicant sees a gap or this tower doesn't work for them, they might shift to a site a mile away. While they can't be certain that every carrier will want to be on the proposed tower, the gap in coverage is enough that carriers will want to occupy it. Another option is to permit tower for certain height and condition it so that the Applicant designs it so the pole can be extended if it is the will of the city at a time in the future.

**Councilor LeBlanc** said the Council heard earlier about the land and trees obstructing the service from the tower's antennas in the area. He said he spends a lot of time in the woods in West Gloucester and pointed out that it is very hilly with valleys, and asked how foliage and terrain affects the service. **Mr. Maxson** said in such a situation once a pole is reasonably above the tree canopy the dominant factor is the terrain. With greater antenna height the signal will reach into the pockets. If there are residences in the dales, better service will get to the residences low in the pockets. **Councilor LeBlanc** advised there are residences in the pockets.

**Councilor Stewart** asked about the amount of degradation of service from a 150-foot tower to a 130-foot tower and going much lower has been ruled out. **Mr. Maxson**, reiterating the definitions of a tower styled as a monopole said it is any tower is not an open structure tower but a pole. In the family of monopoles, there is a standard monopole which has the exposed antenna racks 12-14 feet wide, and the unipole which has the concealed antennas internally. **Councilor Stewart** said that assuming the Council went with the unipole approach, he noted the Applicant's attorney had said there is a degradation of coverage by going from a monopole to a unipole design. He asked what the degradation of coverage is going from a 150 foot height to a 130 foot height. **Mr. Maxson** explained the following: That it is not so much degradation of coverage but the requirement to occupy two 10-foot slots on a unipole (per carrier) versus one 10-foot slot on a monopole (per carrier). Therefore, it is a matter of compensation to raise the height of the tower to avoid minor degradation of coverage because half the antennas are being placed in a lower position. The difficulty in working with a clean slate, as they are for this proposed facility, the proposed facility proposes a new area of coverage at 150 feet and is not connecting significantly to any existing cell sites. Rather, this proposed tower will create an island of coverage based on the coverage maps. Because of that a 150-foot tower will be better than a 130-foot one. The 150-foot proposal is the reference and if you lower the height there is going to be degradation. The question is: is that degradation material? He said he is suggesting that if there is a significant reason visually for pushing the tower height down, the greatest impact is on an approximately 1/2 mile section of Bray Street with a dozen residences that would fall from slightly above to slightly below the threshold -- they might still have service but might not meet the reliability standard that AT&T is targeting for that area. **Mr. Maxson** pointed out that as you continue on Bray Street it goes into white space on the map, and it's not as if it is maintaining a connection to the next cell site. The Council can adjust the height to what makes sense for the Applicant and the community, and then in the future the wireless companies can come in and figure out how to connect the coverage in the future.

**Councilor Stewart** said the material that surrounds the antennas doesn't reduce the coverage or the strength of the signal. **Mr. Maxson** confirmed it doesn't. **Councilor Stewart** said it is not a question of a cell phone getting bars, but certain areas in this particular overall area would lose service altogether but the number of residents who would be affected by that is a very small number. **Mr. Maxson** said small in proportion to the total footprint of that facility. He pointed to a coverage map with various colors representing reductions of coverage at different heights and said the reduction would affect roughly a one-half mile stretch of Bray Street. In order to maximize coverage and co-location the height of the tower would be 150 feet. Even at 130 feet, he said, service will be improved but not good enough to be called AT&T reliable grade service for that particular area.

**Councilor Whynott** said normally when a company puts up a cell tower they try to sell space to other carriers. **Mr. Maxson** said it is particularly true when there is a tower company, SBA (and AT&T, the co-applicant will be a tenant on that tower) has a strong interest in co-location. **Councilor Whynott** advised that most of the towers he's seen start with one and many co-locators come on after. He noted a Sprint tower that no one wants to go on is because it is so small. **Mr. Maxson** said by testimony he understood that tower it was 75 feet tall, which means it is essentially a one-carrier tower, unless it is on a very high place.

**Councilor Cox** said there has been a lot of talk about emergency services being on the pole. At 130 feet, she asked, where would emergency services be co-located? **Mr. Maxson** said above 50 feet but below the space the carriers would find most useful. Slots, possibly at 90 feet and definitely above 110 feet would be reserved. This is one of the difficulties when the public safety question comes into these public hearing processes because they get there is a lot of engineering data from wireless services in part because of the federal Telecommunications Act that says the carriers have to look for the gap in service and have to document it. He said then public safety comes forward saying they need better coverage but we don't have all the same data sets as the Applicant. There is testimony by the Applicant on the record, he pointed out, that their understanding is that the city needed to locate its

antennas 90 feet above ground. But additional research found the two way antennas can be as low as 50 feet because their services go through vegetation better. He said there is plenty of room between 50 feet and higher frequency cell services locations for the first wireless carrier to accommodate two public safety departments to put their two-way antennas.

**Councilor Fonvielle** said he understood the latest iteration of the regulations, if someone approaches for a co-location spot on the antenna, the owner of the tower can add at least 10 feet to the tower without coming back for any approvals from the Council or anyone else. If permitted and a unipole design is chosen, he asked how easy is it for a tower company to add 10 to 20 feet to the pole. **Mr. Maxson** said that under Sec. 6409 of the 2012 Middle Class Tax Relief and Job Creations Act, which has this clause about co-location. The FCC has since clarified the terminology there is a concept of a substantial modification. The FCC said that if a tower company adds 20 feet to the breadth or the height of the tower it is not a substantial modification. He said there is an acknowledgement now that if there is a stealth design where adding 20 feet to the height or breadth of the structure would violate the purpose and intent of the stealth design they should come back to the city for approval. A unipole is a little bit more defended from unfettered expansion in a regulatory sense because there will be conditions about that stealth characteristic and there may be conditions the Council may wish to put forward to help manage future expansions.

**Mr. Maxson**, in response to the second part of the Councilor's question said that as to adding to the height, if the structure is designed today with appropriate foundation and steel to be expanded tomorrow vertically, then structurally the tower company will be able to do that. He suggested that it might be very complicated to make the structure taller later on and the Council, again, could put conditions into the permit related to that fact. He said he's seen that happen in other cases, and where a tower can be extended sometime in the future at the pleasure of the city.

**Council President McGeary** asked to confirm if it is true in looking in the coverage gaps in the area of Mount Ann, in that area of Route 128 (128) is not covered by the proposed tower-- there would remain a gap. **Mr. Maxson** confirmed that would be the case saying that the projected coverage doesn't come close to Route 128. **Council President McGeary** noted that in Mr. Maxson's memorandum of June 16 (on file) following the June 3 P&D meeting it specifically said that he would recommend against a 110-foot tower based on the logic that because he didn't have any data on what happens below 110 feet he couldn't make a recommendation for that height or lower. **Mr. Maxson** said that was his primary reason but also looking at the progression of signal reduction as tower height is reduced, at 110 feet you start to see the effects of terrain -- in getting closer to the ground it is more difficult to fill in the pockets. If the tower went to a 90-foot height, there would be a greater increase in the reduction, but he pointed out that he didn't have data to say one way or the other. **Council President McGeary** said in the discussion of a unipole versus a monopole, in the case of a unipole the antennas work reliably, but that it requires more space and therefore affects the potential profitability of the tower because each installation requires more vertical space. **Mr. Maxson** said he imagined it would affect profitability of the tower for a company such as SBA that leases tower space for a profit. He pointed out that the other trade-off may be that it reduces the co-location potential from a planning and land use perspective and is that an impact material for the community.

**Councilor Fonvielle** asked about the provision of telephone lines to the tower. He pointed out that the land line service to West Gloucester is not much better than cell service coverage at this time. Given the Police Department need for a connection that they originally proposed as a microwave dish at 125 feet or higher, he asked if it would be mitigated by a high-quality, land-based telephone line and will the applicant need that for its own purposes. **Mr. Maxson** said, "Yes." He said that when developing a cell site land lines are typically brought in. When a company such as AT&T is trying to provide the data quality and speed that smart phone owners expect, the Applicant will need a solid data connection over land lines to the cell site. He said it means either a phone company, a cable company or some other company that provide services will have to bring in what is necessary to serve the cell site. He described that once the telecommunications utilities are installed at the cell site, they're typically installed in such a way that is not unlike an apartment building where there are additional terminals available for other customers to tap onto that system and pay a lease fee for a connection. He suggested that Public Safety would be able to take advantage of that service brought in for the wireless companies to lease a voice-grade line to relay the voice communications. **Councilor Fonvielle** asked if this was a potential benefit to the area's residents (who maintain land lines). **Mr. Maxson** said there is that potential. He suggested extra terminals may be brought in that could improve residential lines. Since major companies are less interested with home telephone service it isn't something that can be promised, he said.

#### **Further Questions by the Council:**

**Councilor Ciolino** asked about the recommendations from NoTallTower.org and asked where they got the 110 feet recommendation. **Mr. Klem** said their group is mindful of the need for coverage and degradation along the road is expected, but they are raising the height of the tower. What the Council heard from SBA's lawyer is that the monopole at 110 feet works which suggests that a unipole is 120 feet works, he said. He said their group has been

trying to get the height of the proposed tower lowered because that is what the Zoning Ordinance says. They said they are dismayed that 110 feet doesn't work because they don't have data and are working on that data, but the group does want functionality and that there is a level at 120 feet, he said.

**Councilor Stewart** asked where is it in the Personal Wireless Service Facility Zoning Ordinance section that gives the Council the ability by Special Permit to increase a cell facility height to 150 feet or 130 feet when the location isn't in a Personal Wireless Service Facility Overlay District, and where is the authority to do that. **Mr. Pare** said, "It is not." He said the Council received the authority in a backward way from the ZBA. He said they showed the ZBA that the facility at 10 feet above the average tree canopy at 60 or 70 feet would not function which he pointed out was on file with the Special Council Permit application. He said SBA is above the height no matter what the Council does. He added that ultimately, to avoid violating federal law the ZBA said they are varying the provisions of the Zoning Ordinance so that the Council can consider it because they are better able to determine the necessary height and design and can hire the necessary consultants. He confirmed that the city's General Counsel agreed with that approach, and the ZBA approved the varying of the terms of the city's Zoning Ordinance so that the Applicant could proceed before the Council. **Councilor Stewart** reconfirmed that the ZBA approved a variance to the Personal Service Wireless Facility Zoning Ordinance to allow a 150-foot tower. **Mr. Pare** added up to 150 feet and said that is what the city's Zoning Ordinance provides in the Overlay District. He said that the ZBA has said that the Council now has the authority to give this consideration under the Ordinance, which is why the Applicant chose that route in order to satisfy that provision. Without it the Council wouldn't have had that authority, he said. Without it, the Applicant would have asked the ZBA to make a determination, which they were unwilling to do. They would have denied their application and suggested that the matter would then have had to be resolved in court. The tack taken was a cooperative effort, and he said that it is clearly within the ZBA's purview to grant that relief. **Councilor Stewart** said he agreed with Mr. Pare's analysis, but commented that it was unusual that the ZBA grants the City Council authority to grant a Special Permit that the Zoning Ordinance on its face doesn't. He said that they seemed to be governed by ordinance, and that they seem to set the rules for what the ZBA can do. **Mr. Pare** said the city can't effectively prohibit the Applicant from providing coverage. He cited that the other option was to come to the City Council to ask for a Zoning Ordinance change but the issue was that there is no administrative remedy if the Council declines to do so. If the Applicant came to the Council to add 250 Concord St. to the Personal Wireless Facility Overlay District, it might have been denied and would have no remedy. He said the Applicant spoke with the city's General Counsel. The ZBA by federal mandate, which is recognized by state and federal courts, has the authority to grant relief and therefore are the relief "valve." **Councilor Stewart** confirmed the ZBA granted a variance for up to 150 feet and passed it on to the Council. **Mr. Pare** confirmed the ZBA varied the terms of the Zoning Ordinance in order not to violate federal law. He also confirmed had the ZBA denied the variance, that it would have been a considerable problem for both the ZBA and the Applicant. **Councilor Stewart** spoke to the photos that Mr. Pare submitted that showed the 130 foot line versus the 150 foot line showing a red and a yellow balloons and one which has a line pointing to it and that the balloons represented 130 and 150 feet. He asked how far away the photos were taken (on file). **Mr. Pare** pointed out at the bottom of the photographs it lists the particulars the Councilor was inquiring about. He noted that Coles Island Road is some distance away. **Councilor Stewart** and **Mr. Pare** briefly discussed the enhancements of the photographs of the balloon test.

**Councilor LeBlanc** said the NoTallTower.org presentation showed a red line to show the height of a unipole. He asked about the width and suggested that wouldn't be representational of the actual width of a unipole. **Mr. Pare** said he said the Applicant's photographs take into account the actual width of a unipole which is a 42 inch diameter. **Councilor LeBlanc** requested that representatives of NoTallTower.org show again a photograph of their representation of a unipole which was shown in red in the area's landscape. **Mr. Klem** off mike responded the group was representing the height of a unipole but didn't take into account the width of a tower at all.

**Council President McGeary** asked for a show of hands of those residents assembled in the auditorium at what tower height would they be able to live with. The results of polling the 23 residents who indicated by a show of hands present were:

- At 150 feet – 9
- At 130 – 0
- At 120 feet – 11
- At 110 feet – 3
- Not at all – 0

**Councilor LeBlanc** reiterated that the NoTallTower group showed a unipole as a wider rectangular line in placement of a unipole in the area's landscape at various points, but he pointed out that the balloons that were used for the testing were seven feet wide, and that a unipole is in actuality is 42 inches in diameter. **Mr. Pare** said the

Applicant's photographic renderings showing a monopole and unipole design at varying heights from varying aspects were to scale.

**Mr. Pare** offered that his statement since the P&D Committee of June 3 that if the Council opts for a unipole design that he said he didn't think AT&T would challenge a unipole at 130 feet because to the Applicant it is equivalent to a 120-foot monopole. He asked that the Council hear from the engineer who designed the network for AT&T in this area, Dan Goulet, as there are some aspects the Council should hear from the Applicant who has to consider any conditions the Council might place.

**Councilor LeBlanc** briefly discussed with **Council President McGeary** the value of having the Applicant's engineering consultant address the Council and determined it would be worthwhile in a limited manner.

**Council President McGeary** asked about a very recent court case in the federal district court, "PI Telecom Infrastructure LLC vs. The City of Jacksonville in which the court appears to hold that the mere denial of an application as long as it is in conformance with the zoning regulations, in this case by the city of Jacksonville, is not in and of itself a denial of service. **Mr. Pare** said he agreed that was the law in the First Circuit. He recalled the P&D Committee discussions about the court case of T-Mobile vs. the city of Cranston, R.I. He pointed out that in the Florida court case, there were two areas that the claims were brought under federal Telecommunications Act -- one was substantial evidence, which is not relevant to this discussion. The one difference he said, in this case and ones he puts on, is the Applicant was asked to review an alternative location, but for some reason it refused or didn't do it. He said it would be his duty if the Council had said to him that they think the adjoining property to 250 Concord Street and was available was completely appropriate and compatible, that it would be his duty to assess it. He pointed out that the Applicant looked at existing (telecommunication) structures and raw land sites with no structures. If the abutting property was the same in all aspects as 250 Concord St., he said they would be sited there, but the Applicant's position is nothing else is feasible, he said. He added that he knew the P&D Committee agreed with the Applicant because that is what they found. He said the difference with the Florida case is that it wasn't on the substantial evidence, it was, was there a gap, and the Florida court found that there was. Was it the only feasible location -- they didn't say the alternative location was feasible, they just said that for whatever reason, they didn't bother to look at it.

**Mr. Klem** said he was a lawyer but this is not his area of expertise, but he addressed Councilor Stewart's remarks on how this application got to the Council, saying he didn't understand how the ZBA could grant a variance so the Applicant could come before the City Council for a Special Council Permit. He said under GZO 5.13.3.3(f) the City Council can apply [approve] service facilities of up to 150 feet by Special Permit in an Overlay District, and under Sec. 5.13.3.4(d) the City Council may from time to time add other Overlay Districts to this list which he said seems to be the proper route. He said he was not trying to take the tower down or make it worse but to press for a good result. In the view of the members of NoTallTower.org, he said, that SBA constrained the process by not testing coverage below 110 feet. He offered an overlay district would be narrow and be site specific to the property and said they he didn't understand why it wasn't done in that manner. **Councilor Stewart** responded that the ZBA grants variances all the time in order to get cases before the Council because the Council has concurrent jurisdiction over certain kinds of required changes. The overlay approach is an approach, he said, but if the ZBA grants this project a variance from the [Zoning] Ordinance for this project, he said the Council doesn't have the authority to ungrant the variance. He pointed out that, as explained by Mr. Pare, whom he said he believed was correct in his legal analysis, that is the way the Zoning Ordinance works. The state Zoning Law has the ability to require one board that has variance authority and another board that is a Special Permit granting authority who actually make the Ordinance, but they can't grant variances at this level even though they can change the Ordinance to do the same thing. **Mr. Clem** said he didn't think the ZBA had the authority to grant the variance in the first place as they have very little authority under the [Zoning] Ordinance in that regard and is the difficulty the Council is dealing with and was the ZBA's issue as well.

**Council President McGeary** asked to hear from the Applicant's expert on the matter of the height of the Personal Service Wireless Facility at 150, 130, 120 and 110 feet and the technical trade-offs on a unipole at those various heights

**Dan Goulet**, Engineering Consultant, C-Squared Systems, Auburn, N.H., said that overlooked in the discussion of height and monopole versus a unipole was the nature of the equipment differences in the two options. He explained the following:

The antennas are effectively each eight feet long. The vertical separation between two antenna arrays is 10 feet center line to center line. When speaking of a 130-foot monopole or unipole, the antennas can't go above the top of the pole. If a pole is permitted at 130 feet, the center line of the antenna is at 126 feet on a monopole. With a unipole design, instead of taking 12 antennas at 126 feet, there are only three antennas placed inside the pole at 126 feet, and another three antennas 10 feet below or 116 feet, which is close to the 110-foot mark. When antennas are

placed in the pole, the nine remote radio head have to be mounted below the antennas. If there was a platform (on a monopole) the radio heads would be mounted behind the antennas, and fiber optic cables would be run from the base station on the ground to the remote radio heads. If placed in a unipole, the 27 remote radio heads are located at the base. Coaxial cable -- 16 runs of it -- is run up the tower from the remote radio head units to the antennas. Coaxial cable introduces a loss of signal that is greater than fiber optics. Therefore the effective power coming from the antennas providing the coverage the Applicant in the coverage plots (on file) is less. He said he thought Mr. Maxson would agree that when using coaxial cable that loss of signal is introduced.

**Mr. Goulet** pointed out that another difficulty between a monopole with external mounts and a unipole with internal mounts occurs when technology changes. As the network improves and other sites in surrounding areas get added, carriers constantly optimize the network by changing the azimuth or compass direction of their antennas which can't be done with a unipole design. Unipole-mounted antennas are limited in how much they can be rotated to maximize the signal.

**Councilor Stewart** asked whether, from the standpoint of optimal coverage, a 130-foot monopole with external antennas give better coverage than a 150-foot unipole. **Mr. Goulet** said from an engineering perspective he would prefer the 130-foot monopole over the 150 foot unipole. He said that a 130-foot unipole would require AT&T antennas be located at 126 feet center line and 116 feet center line. Their next tier of antennas would be at 106 feet and the one after that at 96 feet, which is getting close to the tree line. He indicated that instead of having four co-locators, it is more likely there would be not more than two co-locators on a 130-foot unipole. Responding to further questions from **Councilor Stewart**, **Mr. Goulet** indicated that the Council permitted and they built a 150-foot unipole, the second co-locator would be at a height of 126 feet and 116 feet.

**Councilor Verga** mentioned that the Council had yet to address a choice of the color of a possible unipole design.

**This public hearing was closed at 9:41 p.m.**

COMMITTEE RECOMMENDATION: On a motion by Councilor Lundberg, seconded by Councilor Fonvielle, the Planning & Development Committee voted 3 in favor, 0 opposed to recommend that the City Council grant the Special Council Permit (SCP2015-001) under Gloucester Zoning Ordinance, Sec. 5.13 for a Personal Wireless Service Facility (PWSF) to SBA Towers V, Inc. ("SBA") and New Cingular Wireless PCS, LLC by and through its Manager, AT&T Mobility Corporation (the "Applicants") at 250 Concord Street, Map 248, Lot 13, zoned R-40 with the following FINDINGS AND CONDITIONS:

1. Based on the evidence submitted by the Applicants, as reviewed by the independent consultant (the "Consultant") retained by the City to review the Special Permit application, the Committee finds that AT&T currently has significant gaps in its wireless coverage in West Gloucester including the area of 250 Concord Street.
2. Based on the evidence submitted by the Applicants, as reviewed by the Consultant, the Committee finds a tower at the proposed site is the only feasible and least intrusive means to satisfy those coverage gaps.
3. Based on the evidence submitted by the Applicants, as reviewed by the Consultant, the Committee finds that those coverage gaps may be resolved with a tower constructed at a height of 130 feet.
4. The Committee recommends that the tower be a unipole design as depicted on the renderings submitted by the Applicants.
5. The Committee finds that the public safety agencies in the City also have gaps in communications in West Gloucester which is an ongoing public safety issue. A Memorandum of Agreement (MOU) with SBA which provides the City's public safety agencies with space on the tower and on the ground for communications was presented by the previous Mayor to the Zoning Board of Appeals. That MOU is not executed. The Committee recommends that the public safety equipment be located as agreed to in a final executed MOU between the Applicant and the City of Gloucester.
6. Under Section 5.13.11 of the Zoning Ordinance, or as amended, term of the Special Council Permit shall be 25 years.
7. The applicants shall be subject to the monitoring and maintenance requirements of Section 5.13.8 of the Zoning Ordinance, or as amended.
8. The applicants shall be subject to the provisions of Sec. 5.13.9 of the Zoning Ordinance, or as amended, concerning abandonment or discontinuance of use.
9. The applicant shall be subject to the provisions of Sec. 5.13.12 of the Zoning Ordinance "Provision for Fire Safety and Rescue." The Applicant shall contribute to the Fire Department Revolving Fund #293012 High Angle Training for this permitted Personal Wireless Service Facility on a pro-rated basis.

**DISCUSSION:**

**Councilor Verga** immediately offered to the Council an amendment to the main portion of the main motion to insert after "...R-40," *"based on plans filed with the City Clerk on March 4, 2015 with the City Clerk on March 4, 2015 drawn by Paul Mucci, PE of EBI Consulting to be further amended as necessary at the adoption of the Decision..."* and to delete Condition 5 in its entirety and to replace it with: *"The Committee finds that the public safety agencies in the City also have gaps in communications in West Gloucester which is an ongoing public safety issue. The City, working with the Applicants, shall determine a reasonable and appropriate location for the City's public safety equipment on the tower and shall locate said public safety equipment at said reasonable and appropriate location on the Tower. Failure to reach an agreement under this section is a violation of the conditions set forth by the Council in granting the special permit."* **The motion to amend the main motion was seconded by Councilor Ciolino.**

**Councilor Verga** said that for the first part of the amendment, that, due to an oversight, the P&D Committee omitted the information on the plans on file with the application for a Special Council Permit, and on the advice of General Counsel, Condition No. 5 should be replaced in its entirety as proposed because a Memorandum of Understanding will not be signed by the current Administration, and this new language will be acceptable from the city's perspective.

**By a vote of 9 in favor, 0 opposed the amendments to include the submitted plans and replacing Condition No. 5 in its entirety as recommended by General Counsel passed.**

**Councilor Verga** said the P&D Committee members did their due diligence on this Special Council Permit, but that an outstanding issue is the height. He remarked he was surprised to hear this sudden opposition from the Applicant on the unipole design as at the P&D Committee meeting of June 3 there didn't seem that kind of push back. He said he also was surprised to hear the information on the coaxial cable being externally mounted. He said he stands by the unipole design. He said as to the height it comes down to the balance and functionality and the visual impact. It will be a compromise, and he said he thought that the height of 130 feet was just that. He said he stood by the amended motion and would support it.

**Councilor Cox** inquired as to adding a condition to the main motion about the color of a unipole. **Mr. Pare** said the tower can be painted any color. He pointed out that the usual color is white, and when he met with the neighborhood group the consensus was white and suggested they don't do anything to try to match trees or sky. The neighbors said they prefer white, he said, and added that the color didn't matter to the Applicant.

**Councilor Verga moved to amend the main motion by adding Condition No. 10 that the unipole be painted white, seconded by Councilor Cox.**

**Councilor Fonvielle** said having Googled unipole images, most of them were white, and he would support the unipole painted a white color.

**By a vote of 9 in favor, 0 opposed the Council accepted an amendment to put on a Condition No. 10 for a color of white for the unipole design.**

**Councilor Whynott** said that in the past Legal Counsel has said that Special Council Permits do not form precedent that each one is taken up on its own merits and doesn't matter what went before. He said any time there is progress there are trade-offs. The Council made the decision about the wind turbines and while many people don't care for them, he said he hadn't heard anyone say they didn't come to Gloucester because of them. The Council thought that the benefits outweighed the looks. He pointed out around the country water towers are found in forests and along the water, and they live with them painted different colors and look okay. He also pointed out that the communities of Wellesley and Newton have tall television transmission towers because there is a trade-off to have television service and put up with the towers. The city needs more cellular coverage not just for AT&T but for other carriers, and suggested once this tower is built it will have co-locators.

**Councilor Ciolino** offered his support of the application. He agreed there is a property owner who wants a best use for their property and there is a need as well. He noted the city hired a consultant is because the Councilors aren't experts, and they need to listen to him. One hundred and thirty feet is the minimum to have an effective cell tower, he said, noting the added plus of improved Public Safety coverage. The monopole will be ugly and doesn't belong there, he said. He indicated SBA will have co-locators and the highest array will go to AT&T. He said he

was sure that the Applicant will get takers for the remaining space. He said in the Applicant's presentation that Slide 15 notes no negative impact on real estate in the area. It does have a negative effect, he said. The Council came up with conditions that have to be performed. He suggested that the neighbors obtain copies of the conditions of this Special Council Permit and put it with their property deeds. The due diligence is up to the property owners, he pointed out. This is a good compromise, he said.

**Councilor LeBlanc** offered an amendment to *delete a height of 130 feet in Condition No. 3 and replace it with a height of 150 feet*. **Councilor Whynott** seconded the amendment.

**Councilor LeBlanc** said they should put the tower at 150 feet. He pointed out his parents have lived in West Gloucester for 30 years and he has spent hundreds of hours in that area hiking and hunting and there is very little cell coverage. He said he has met many people there while in the woods and that if someone is hurt, there is no coverage in these pockets and no way to contact emergency services for help. He added that he would rather see one taller tower than four or five others at a lower height.

**Councilor Stewart** said he has a second home in Vermont in the middle of the Green Mountains in a valley and right on top of the mountain immediately behind his home is an AT&T cell tower, a monopole with external antennas. He said it was about 15 minutes away by foot. He said one of that monopole's eight-foot antennas looks smaller than a buoy he pointed out that was hanging from the Kyrouz Auditorium balcony. The idea that even a monopole with external antenna from some distance away will not be that discernible. They had testimony tonight that a 130-foot unipole is roughly equivalent to a 115-foot monopole because of the math involved. There is no question based on the city's expert's opinion the antenna height would be too low. A unipole at 130 feet is a significant reduction in service. Whether that is defined as range, by number of bars, or wiping out certain areas, he would support the amendment to put the tower at 150 feet based on what he has heard and his experience living near a cell tower.

**Councilor Fonvielle** said that the Committee and the Applicants have reached a reasonable compromise with good service and minimal impact on the viewscape and that he would vote in opposition to the amendment. It was unfortunate that the information on the difficulties of a unipole came up at the last moment and should have been introduced sooner, he pointed out.

**Council President McGeary** said he would vote against the amendment to raise the height to 150 feet. The applicant said they can live with it, and the city's expert said that it is a good height, and so he would support the 130-foot height.

**Councilor Ciolino** said he wouldn't support the amendment.

**Councilor Whynott** said that he supports 150 feet because there is a need for co-locators for those people in the area who use different cell phone carriers.

**By ROLL CALL VOTE 3 (LeBlanc, Stewart, Whynott) in favor, 6 opposed the amendment to increase the height of the personal service wireless facility to 150 feet failed.**

**Councilor Stewart** moved to amend the main motion to *add Condition No. 11 that the applicant may not increase the height of the personal service wireless facility without returning to the City Council for a change in the conditions of the Special Council Permit*, seconded by **Councilor Fonvielle**.

**By a vote of 9 in favor, 0 opposed the amendment was accepted to include Condition No. 11 that the applicant may not increase the height of the personal service wireless facility without returning to the City Council for a change in the conditions of the Special Council Permit.**

**Councilor Cox** said the Council comes across ordinances that are outdated which don't keep up with the changes with real life and don't keep up with technology. She said moving forward that she liked Councilor Verga's idea about updating and amending the Personal Wireless Service Facility ordinance. She said she would support a tower at 130 feet.

**Councilor Lundberg** noted he didn't ask any questions this evening as he is a member of the P&D Committee, he had the benefit of hearing extensive scientific presentations by both the Applicant and the city's consultant. He said he was satisfied with the science part of it. He added that they need to look at this as an asset for the city, and although a for-profit situation for AT&T, this will help to provide adequate safety coverage for the city. He thanked the Applicant and the neighbors for trying to work together.

**Councilor LeBlanc** said he would support the application. Saying again that he spends a great deal of time in the woods in that area, he recalled that, while hunting, had come upon two mountain bikers who, had they not encountered him, and with no cell coverage in that area, would have been lost as they were completely unsure as to their location.

**Councilor Fonvielle** offered his thanks to the residents of Ward 5 and other areas with very astute people who did a lot of work and thinking on this matter and its citizen participation at its best.

**Councilor Stewart** said that he will vote for the application. In his lifetime, he predicted, there will be no such thing as land line telephones. The only way to communicate in a catastrophic weather event is to rely on cell communication, he said, and gave a personal example of having lived through a hurricane that devastated Rochester, Vt. At the time, the cell tower behind his home had not yet been erected and drove a one-half hour away to find cell service which is an unacceptable situation. There needs to be coverage for the elderly who must have emergency signal. On the matter of the wind turbines, he said they are beautiful and pointed out that the Varian turbine fell, it would clear his office by 1 ½ feet. As to water towers, he said that his wife was responsible for the water tower at the Blackburn Industrial Park, which was painted green and sticks out, and that a white color is better aesthetically. People need to recognize that cell phones will be the only method of communication in the future.

**Councilor Verga** then made the following statement regarding the six Special Council Permit criteria under GZO Sec. 1.8.3 of the Zoning Ordinance.

The proposed use for this Special Council Permit will be in harmony of the general purpose and intent of the ordinance and not adversely affect the neighborhood, the zoning district or the city to the extent as to outweigh the beneficial effects of said use. Specifically:

- 1) The social, economic and community needs that will be served by the proposed use;
- 2) Traffic flow and safety will not be adversely affected;
- 3) There are adequate utilities and public services;
- 4) Neighborhood character and social structure is not adversely affected;
- 5) Qualities of the natural environment are not adversely affected;
- 6) Potential fiscal impact has a positive impact on the city.

**Council President McGeary** commended the work of the P&D Committee. He pointed out that this was a long and difficult process especially for those who are technology challenged. He noted he had sat in on many of the P&D meetings, and said questions were perceptive and in depth. He said there was a real spirit of collaboration in an attempt to reach a compromise was reached that he said he hoped would meet the needs of both the Applicant and the surrounding community. Both sides have given some, he said, and noted that neighbors would have preferred a lower tower, and the Applicant would have liked a taller tower and a different design, but he said that the social benefits outweigh the social consequences and so he would support the Special Council Permit.

**MOTION: On a motion by Councilor Verga, seconded by Councilor Lundberg, the City Council voted by ROLL CALL 8 in favor, 1 (Whynott) opposed, to grant the Special Council Permit (SCP2015-001) under Gloucester Zoning Ordinance, Sec. 5.13 for a Personal Wireless Service Facility (PWSF) to SBA Towers V, Inc. ("SBA") and New Cingular Wireless PCS, LLC by and through its Manager, AT&T Mobility Corporation (the "Applicants") at 250 Concord Street, Map 248, Lot 13, zoned R-40 based on plans filed with the City Clerk on March 4, 2015 based on plans filed with the City Clerk on March 4, 2015 drawn by Paul Mucci, PE of EBI Consulting to be further amended as necessary at the adoption of the Decision with the following FINDINGS AND CONDITIONS:**

1. Based on the evidence submitted by the Applicants, as reviewed by the independent consultant (the "Consultant") retained by the City to review the Special Permit application, the Committee finds that AT&T currently has significant gaps in its wireless coverage in West Gloucester including the area of 250 Concord Street.
2. Based on the evidence submitted by the Applicants, as reviewed by the Consultant, the Committee finds a tower at the proposed site is the only feasible and least intrusive means to satisfy those coverage gaps.
3. Based on the evidence submitted by the Applicants, as reviewed by the Consultant, the Committee finds that those coverage gaps may be resolved with a tower constructed at a height of 130 feet.
4. The Committee recommends that the tower be a unipole design as depicted on the renderings submitted by the Applicants.
5. The Committee finds that the public safety agencies in the City also have gaps in communications in West Gloucester, which is an ongoing public safety issue. The City, working with the Applicants, shall determine a reasonable and appropriate location for the City's public safety equipment on the tower and shall locate said public safety equipment at said reasonable and appropriate location on the Tower.

Failure to reach an agreement under this section is a violation of the conditions set forth by the Council in granting the special permit.

6. Under Section 5.13.11 of the Zoning Ordinance, or as amended, term of the Special Council Permit shall be 25 years.
7. The applicants shall be subject to the monitoring and maintenance requirements of Section 5.13.8 of the Zoning Ordinance, or as amended.
8. The applicants shall be subject to the provisions of Sec. 5.13.9 of the Zoning Ordinance, or as amended, concerning abandonment or discontinuance of use.
9. The applicant shall be subject to the provisions of Sec. 5.13.12 of the Zoning Ordinance "Provision for Fire Safety and Rescue." The Applicant shall contribute to the Fire Department Revolving Fund #293012 High Angle Training for this permitted Personal Wireless Service Facility on a pro-rated basis.
10. The color of the unipole shall be white.
11. The applicant may not increase the height of the Personal Service Wireless Facility without returning to the City Council for a change in the conditions of the Special Council Permit.

*The Council recessed at 10:16 p.m. and reconvened at 10:23 p.m.*

#### Committee Reports:

##### **Budget & Finance: June 18, 2015**

*Budget & Finance Unanimous Consent Agenda addressing FY2015 interdepartmental transfer to various Accounts and Special Budgetary Transfer Request 2015-SBT-49 (Now presented as 2015-SBT-49 and 2015-SBT-49a, -49b, -49c, -49d, -49e, -49f, -49g, -49h, -49i, -49j -49k, -49l and -49m.)*

**Councilor Cox** prefaced her motioning of the Budget & Finance Committee's Unanimous Consent Agenda by explaining to the Council as follows:

The following transfers were originally presented to the Council through the Consent Agenda as being put forward for the purpose of filling the Snow and Ice deficit for FY15. However, subsequent to that Council Consent Agenda referral to the Committee on Budget and Finance, an issue arose with the city's health insurance for the FY15 calculation requiring the money be repurposed to fill this gap. About \$400,000 goes into the GIC Health Insurance account and about \$130,000 will be then internally transferred to two Worker's Comp lines -- one line for medical bills, the other for settlements. Of the total gleaned from swept departmental budgets, \$18,780.69 is being transferred for filling a Fire Department overtime FY15 deficit.

**MOTION: On a motion by Councilor Cox, seconded by Councilor Fonvielle, the City Council voted 9 in favor, 0 opposed, to accept the Budget & Finance Unanimous Consent Agenda dated June 23, 2015 as follows:**

**MOTION: On motion by Councilor Cox, seconded by Councilor Fonvielle, the City Council voted 9 in favor, 0 opposed, to approve Special Budgetary Transfer 2015-SBT-49 in the amount of \$12,693.55 from Account #101000.10.155.51400.0000.00.000.00.051, Management Information System, Salary\Wage-Longevity to Account #101000.10.152.51750.0000.00.000.00.051 Personnel, Employee-Health Insurance for the purpose of funding GIC Health Insurance expenses through June 30, 2015.**

**MOTION: On motion by Councilor Cox, seconded by Councilor Fonvielle, the City Council voted 9 in favor, 0 opposed, to approve Special Budgetary Transfer 2015-SBT-49a in the amount of \$44,489.23 from Account #101000.10.181.51400.0000.00.000.00.051, Community Development, Salary\Wage-Longevity to Account #101000.10.152.51750.0000.00.000.00.051 Personnel, Employee-Health Insurance for the purpose of funding GIC Health Insurance expenses through June 30, 2015.**

**MOTION: On motion by Councilor Cox, seconded by Councilor Fonvielle, the City Council voted 9 in favor, 0 opposed, approve Special Budgetary Transfer 2015-SBT-49b in the amount of \$4,904.73 from Account #101000.10.241.51400.0000.00.000.00.051, Inspectional Services, Salary\Wage-Longevity to Account #101000.10.152.51750.0000.00.000.00.051 Personnel, Employee-Health Insurance for the purpose of funding GIC Health Insurance expenses through June 30, 2015.**

**MOTION:** On motion by Councilor Cox, seconded by Councilor Fonvielle, the City Council voted 9 in favor, 0 opposed, to approve Special Budgetary Transfer 2015-SBT-49c in the amount of \$2,623.33 from Account #101000.10.241.52820.0000.00.000.00.052, Inspectional Services, Rent/Lease Office Equipment to Account #101000.10.152.51750.0000.00.000.00.051 Personnel, Employee-Health Insurance for the purpose of funding GIC Health Insurance expenses through June 30, 2015.

**MOTION:** On motion by Councilor Cox, seconded by Councilor Fonvielle, the City Council voted 9 in favor, 0 opposed, to approve Special Budgetary Transfer 2015-SBT-49d in the amount of \$800.00 from Account #101000.10.403.51400.0000.00.000.00.051, DPW-Solid Waste Disposal, Salary\Wage-Longevity to Account #101000.10.152.51750.0000.00.000.00.051 Personnel, Employee-Health Insurance for the purpose of funding GIC Health Insurance expenses through June 30, 2015.

**MOTION:** On motion by Councilor Cox, seconded by Councilor Fonvielle, the City Council voted 9 in favor, 0 opposed, to approve Special Budgetary Transfer 2015-SBT-49e in the amount of \$65,994.60 from Account #101000.10.403.53090.0000.00.000.00.052, DPW-Solid Waste Disposal, Educational & Testing Services to Account #101000.10.152.51750.0000.00.000.00.051 Personnel, Employee-Health Insurance for the purpose of funding GIC Health Insurance expenses through June 30, 2015.

**MOTION:** On motion by Councilor Cox, seconded by Councilor Fonvielle, the City Council voted 9 in favor, 0 opposed, to approve Special Budgetary Transfer 2015-SBT-49f in the amount of \$256.00 from Account #101000.10.421.51400.0000.00.000.00.051, DPW-Administration, Salary\Wage-Longevity to Account #101000.10.152.51750.0000.00.000.00.051 Personnel, Employee-Health Insurance for the purpose of funding GIC Health Insurance expenses through June 30, 2015.

**MOTION:** On motion by Councilor Cox, seconded by Councilor Fonvielle, the City Council voted 9 in favor, 0 opposed, to approve Special Budgetary Transfer 2015-SBT-49g in the amount of \$2,696.00 from Account #101000.10.421.53004.0000.00.000.00.052, DPW-Admin, Employee Training Seminars to Account #101000.10.152.51750.0000.00.000.00.051 Personnel, Employee-Health Insurance for the purpose of funding GIC Health Insurance expenses through June 30, 2015.

**MOTION:** On motion by Councilor Cox, seconded by Councilor Fonvielle, the City Council voted 9 in favor, 0 opposed, to approve Special Budgetary Transfer 2015-SBT-49h in the amount of \$269,005.00 from Account #101000.10.472.57350.0000.00.000.00.052, DPW-Facilities, Reimbursements of CDL Licensure to Account #101000.10.152.51750.0000.00.000.00.051 Personnel, Employee-Health Insurance for the purpose of funding GIC Health Insurance expenses through June 30, 2015.

**MOTION:** On motion by Councilor Cox, seconded by Councilor Fonvielle, the City Council voted 9 in favor, 0 opposed, to approve Special Budgetary Transfer 2015-SBT-49i in the amount of \$114,350.00 from Account #101000.10.499.53004.0000.00.000.00.052, DPW-Other, Employee Training Seminars to Account #101000.10.152.51750.0000.00.000.00.051 Personnel, Employee-Health Insurance for the purpose of funding GIC Health Insurance expenses through June 30, 2015.

**MOTION:** On motion by Councilor Cox, seconded by Councilor Fonvielle, the City Council voted 9 in favor, 0 opposed, to approve Special Budgetary Transfer 2015-SBT-49j in the amount of \$12,828.87 from Account #101000.10.510.51400.0000.00.000.00.051, Public Health, Salary\Wage-Longevity to Account #101000.10.152.51750.0000.00.000.00.051 Personnel, Employee-Health Insurance for the purpose of funding GIC Health Insurance expenses through June 30, 2015.

**MOTION:** On motion by Councilor Cox, seconded by Councilor Fonvielle, the City Council voted 9 in favor, 0 opposed, to approve Special Budgetary Transfer 2015-SBT-49k in the amount of \$196.15 from Account #101000.10.563.51400.0000.00.000.00.051, Tourist Commission, Salary\Wage-Longevity to Account #101000.10.152.51750.0000.00.000.00.051 Personnel, Employee-Health Insurance for the purpose of funding GIC Health Insurance expenses through June 30, 2015.

**MOTION:** On motion by Councilor Cox, seconded by Councilor Cox, the City Council voted 9 in favor, 0 opposed, to approve Special Budgetary Transfer 2015-SBT-49l in the amount of \$13,885.69 from Account

**#101000.10.411.53100.0000.00.000.00.052, DPW-Engineering, Professional Services to Account  
#101000.10.220.51300.0000.00.000.00.051 Fire Department, Salary/Wage Overtime for the purpose of keeping all city fire stations open through June 30, 2015.**

**MOTION: On motion by Councilor Cox, seconded by Fonvielle, the City Council voted 9 in favor, 0 opposed, to approve Special Budgetary Transfer 2015-SBT-49m in the amount of \$4,895.00 from Account #101000.10.470.53004.0000.00.000.00.052, DPW Public Property Maintenance, Employee Training Seminars to Account #101000.10.220.51300.0000.00.000.00.051 Fire Department, Salary/Wage Overtime for the purpose of keeping all city fire stations open through June 30, 2015.**

**\*\*\* END B&F UNANIMOUS CONSENT AGENDA \*\*\***

**1. Memorandum from Fire Chief and Special Budgetary Transfer Requests: 2015-SBT-45, 2015-SBT-46, 2015-SBT-47, and 2015-SBT-48**

COMMITTEE RECOMMENDATION: On motion by Councilor Fonvielle, seconded by Councilor McGeary, the Budget & Finance Committee voted 3 in favor, 0 opposed, to recommend that the City Council approve Special Budgetary Transfer 2015-SBT-45 in the amount of \$8,700 from Account #101000.10.220.53060.0000.00.000.00.052, Fire Department, Training Classes & Tuition to Account #101000.10.220.51300.0000.00.000.00.051 Fire Department, Salary/Wage Overtime for the purpose of keeping all city fire stations open through June 30, 2015.

**DISCUSSION: None.**

**MOTION: On motion by Councilor Cox, seconded by Councilor Fonvielle, the City Council voted 9 in favor, 0 opposed, to approve Special Budgetary Transfer 2015-SBT-45 in the amount of \$8,700 from Account #101000.10.220.53060.0000.00.000.00.052, Fire Department, Training Classes & Tuition to Account #101000.10.220.51300.0000.00.000.00.051 Fire Department, Salary/Wage Overtime for the purpose of keeping all city fire stations open through June 30, 2015.**

COMMITTEE RECOMMENDATION: On motion by Councilor Fonvielle, seconded by Councilor McGeary, the Budget & Finance Committee voted 3 in favor, 0 opposed, to recommend that the City Council approve Special Budgetary Transfer 2015-SBT-46 in the amount of \$2,000 from Account #101000.10.220.53065.0000.00.000.00.052, Fire Department, Fire Prevention Class/Seminars to Account #101000.10.220.51300.0000.00.000.00.051 Fire Department, Salary/Wage Overtime for the purpose of keeping all city fire stations open through June 30, 2015.

**DISCUSSION: None.**

**MOTION: On motion by Councilor Cox, seconded by Councilor Fonvielle, the City Council voted 9 in favor, 0 opposed, to approve Special Budgetary Transfer 2015-SBT-46 in the amount of \$2,000 from Account #101000.10.220.53065.0000.00.000.00.052, Fire Department, Fire Prevention Class/Seminars to Account #101000.10.220.51300.0000.00.000.00.051 Fire Department, Salary/Wage Overtime for the purpose of keeping all city fire stations open through June 30, 2015.**

COMMITTEE RECOMMENDATION: On motion by Councilor Fonvielle, seconded by Councilor McGeary, the Budget & Finance Committee voted 3 in favor, 0 opposed, to recommend that the City Council approve Special Budgetary Transfer 2015-SBT-47 in the amount of \$4,300 from Account #101000.10.220.57300.0000.00.000.00.057, Fire Department, Dues & Subscriptions to Account #101000.10.220.51300.0000.00.000.00.051 Fire Department, Salary/Wage Overtime for the purpose of keeping all city fire stations open through June 30, 2015.

**DISCUSSION: None.**

**MOTION: On motion by Councilor Cox, seconded by Councilor Fonvielle, the City Council voted 9 in favor, 0 opposed, to approve Special Budgetary Transfer 2015-SBT-47 in the amount of \$4,300 from Account**

**#101000.10.220.57300.0000.00.000.00.057, Fire Department, Dues & Subscriptions to Account**  
**#101000.10.220.51300.0000.00.000.00.051 Fire Department, Salary/Wage Overtime for the purpose of keeping all city fire stations open through June 30, 2015.**

COMMITTEE RECOMMENDATION: On motion by Councilor Fonvielle, seconded by Councilor McGeary, the Budget & Finance Committee voted 3 in favor, 0 opposed, to recommend that the City Council approve Special Budgetary Transfer 2015-SBT-48 in the amount of \$5,000 from Account #101000.10.220.58700.0000.00.000.00.058, Fire Department, Replacement of Equipment to Account #101000.10.220.51300.0000.00.000.00.051 Fire Department, Salary/Wage Overtime for the purpose of keeping all city fire stations open through June 30, 2015.

**DISCUSSION: None.**

**MOTION: On motion by Councilor Cox, seconded by Councilor Fonvielle, the City Council voted 9 in favor, 0 opposed, to approve Special Budgetary Transfer 2015-SBT-48 in the amount of \$5,000 from Account #101000.10.220.58700.0000.00.000.00.058, Fire Department, Replacement of Equipment to Account #101000.10.220.51300.0000.00.000.00.051 Fire Department, Salary/Wage Overtime for the purpose of keeping all city fire stations open through June 30, 2015.**

2. *Memorandum from Director of Finance & Operations for the Gloucester Public Schools Re: Request permission to raise the revenue and spending limit on Fund 22300, School Food Service from \$1,199,134 to \$1,324,124*

COMMITTEE RECOMMENDATION: On a motion by Councilor McGeary, seconded by Councilor Fonvielle, the Budget & Finance Committee voted 3 in favor, 0 opposed, to recommend that the City Council accept an amendment of the appropriation for the FY2015 operating costs of the Gloucester School Food Service Program from \$1,199,124 to \$1,324,124 and an amendment from \$1,199,124 to \$1,324,124 for estimated receipts in accordance with MGL c44, §53E.

**DISCUSSION:**

**Councilor Cox** explained the Director of Finance and Operations for the Gloucester Public Schools is requesting to increase the Gloucester School Food Service Program revenue and expense. Each year it is an estimate based on historical data. The cost of food has gone up significantly and participation in the school lunch program is up overall.

**MOTION: On a motion by Councilor Cox, seconded by Councilor Fonvielle, the City Council voted 9 in favor, 0 opposed, to accept an amendment of the appropriation for the FY2015 operating costs of the Gloucester School Food Service Program from \$1,199,124 to \$1,324,124 and an amendment from \$1,199,124 to \$1,324,124 for estimated receipts in accordance with MGL c44, §53E.**

3. *Special Budgetary Transfer Request 2015-SBT-50 from the Treasurer/Collector*

COMMITTEE RECOMMENDATION: On motion by Councilor McGeary, seconded by Councilor Fonvielle, the Budget & Finance Committee voted 3 in favor, 0 opposed, to recommend that the City Council approve Special Budgetary Transfer 2015-SBT-50 in the amount of \$20,000 from Account #101000.10.145.59100.0000.00.000.00.059, Treasurer/Collector, Debt Service-Principal to Account #101000.10.543.57710.0000.00.000.00.057 Veterans Services, Ordinary Benefits for the purpose of funding Veterans Benefits through June 30, 2015.

**DISCUSSION:**

**Councilor Cox** said that this transfer is needed to cover a shortfall in funding veterans' benefits for the month of June. He said there was money available from refunding of debt service out of the Treasurer's Department, and this money to Veterans' Services will be reimbursed at 75 percent next year from the state. She noted that Veterans' benefits have been on an upward track with better outreach.

**MOTION: On motion by Councilor Cox, seconded by Councilor Fonvielle, the City Council voted 9 in favor, 0 opposed, to approve Special Budgetary Transfer 2015-SBT-50 in the amount of \$20,000 from Account #101000.10.145.59100.0000.00.000.00.059, Treasurer/Collector, Debt Service-Principal to Account #101000.10.543.57710.0000.00.000.00.057 Veterans Services, Ordinary Benefits for the purpose of funding Veterans Benefits through June 30, 2015.**

**5. *Supplemental Appropriation-Budgetary Request 2015-SA-28 from the Mayor's Office***

COMMITTEE RECOMMENDATION: On a motion by Councilor Fonvielle, seconded by Councilor McGeary, the Budget & Finance Committee voted 3 in favor, 0 opposed, to recommend that the City Council approve Supplemental Appropriation 2015-SA-28 in the amount of \$94,435 (Ninety Four Thousand Four Hundred Thirty Five Dollars) from General Fund – Unreserved Fund Balance - (“Free Cash”) , Account #101000.10.000.35900.0000.00.000.00.000 to Regional School Assessments, Vocational School Assessments, Account # 101000.10.942.56200.0000.00.000.00.056 for the purpose of funding the actual Essex North Shore Agricultural & Technical School District Assessment which exceeded appropriation due to an increase in enrollment and other adjustments made in the first year of the school’s operation.

**DISCUSSION:**

**Councilor Cox** explained this transfer relates to the FY15 Regional Vocational School assessment. Last year the Regional Vocational School was still merging both Essex Agricultural and Technical Institute and North Shore Regional Vocational School. The city received a preliminary assessment based on that merger and on enrollment. In actuality the enrollment was higher than the preliminary assessment.

**MOTION: On a motion by Councilor Cox, seconded by Councilor Fonvielle, the City Council voted 9 in favor, 0 opposed, to approve Supplemental Appropriation 2015-SA-28 in the amount of \$94,435 (Ninety Four Thousand Four Hundred Thirty Five Dollars) from General Fund – Unreserved Fund Balance - (“Free Cash”) , Account #101000.10.000.35900.0000.00.000.00.000 to Regional School Assessments, Vocational School Assessments, Account # 101000.10.942.56200.0000.00.000.00.056 for the purpose of funding the actual Essex North Shore Agricultural & Technical School District Assessment which exceeded appropriation due to an increase in enrollment and other adjustments made in the first year of the school’s operation.**

**6. *Memorandum from CFO re: Norseman Ave. Extension Road repairs & an Order related to repurposing the remaining funds of a completed capital project to Norseman Avenue Extension Road***

COMMITTEE RECOMMENDATION: On a motion by Councilor McGeary, seconded by Councilor Fonvielle, the Budget & Finance Committee voted 1 in favor, 1 (Cox) opposed, to recommend that the City Council approve the repurposing the remaining balance of funds for a total of \$23,456 in Fund #300074-CIP10 Off-Site Road Improvements – Atlantic/Bray Streets of a completed road repair project for the purpose of the completion of a capital project for the repair of the Norseman Avenue Extension.

**DISCUSSION:**

**Councilor Cox** said she would like to continue this matter to the next Council meeting. With the assent of the Council, this matter was continued to the July 14 City Council meeting.

**This matter is continued to the July 14 City Council meeting.**

**7. *City Council vote of August 27, 2013 re: Renewal of Rogers Street Parking Lot at 65 Rogers Street (14-C2)***

**Councilor Cox** noted that the B&F Committee took no action on this matter viewing it as informational only as it had already been reviewed and voted on by the P&D Committee and would come forward out of their Committee Report.

**8. *Raising the ceiling on the city's Snow & Ice debt***

COMMITTEE RECOMMENDATION: On a motion by Councilor McGeary, seconded by Councilor Fonvielle, the Budget & Finance Committee voted 3 in favor, 0 opposed, to recommend that the City Council accept the provisions of MGL c. 44, §31D Snow and Ice Removal, Emergency Expenditures not to exceed \$3,550,000. The increase of emergency expenditure authority is \$2,900,000 added to the original FY2015 DPW Snow and Ice Removal appropriation budget of \$650,000.

**DISCUSSION:**

**Councilor Cox** explained that the Council needs to raise the ceiling one last time, hopefully, for the Snow & Ice deficit in this fiscal year due to a late invoices for snow removal from school roofs totaling \$30,000.

**MOTION: On a motion by Councilor Cox, seconded by Councilor Fonvielle, the City Council voted 9 in favor, 0 opposed, to accept the provisions of MGL c. 44, §31D Snow and Ice Removal, Emergency Expenditures not to exceed \$3,550,000. The increase of emergency expenditure authority is \$2,900,000 added to the original FY2015 DPW Snow and Ice Removal appropriation budget of \$650,000.**

**9. Funding FY15 DPW Overtime Account to June 30**

**Councilor Cox** said that as the Budget and Finance Committee has done in the past, they took up several financial matters at their last meeting without their having been referred to the Committee by full Council. This was done in order to close out any deficits prior to the close of the fiscal year. She asked for unanimous consent of the Council to suspend its rules and allow these matters to come before the Council tonight without having followed their usual procedures. **Council President McGeary** asked that the Council suspend its rules and without objection **Councilor Cox** was invited to proceed.

COMMITTEE RECOMMENDATION: On motion by Councilor Fonvielle, seconded by McGeary, the Budget & Finance Committee voted 3 in favor, 0 opposed, to recommend that the City Council approve Special Budgetary Transfer 2015-SBT-51 in the amount of \$3,000 from Account #101000.10.472.51100.0000.00.000.00.051, DPW Facilities, Salary/Wages - Permanent Positions to Account #101000.10.470.51300.0000.00.000.00.051 DPW Public Property Maintenance, Salary/Wage- Overtime for the purpose of funding overtime costs through June 30, 2015.

**DISCUSSION:**

**Councilor Cox** noted this is covering overtime for the Department of Public Works through the end of FY15.

**MOTION: On a motion by Councilor Cox, seconded by Fonvielle, the City Council voted 9 in favor, 0 opposed, to approve Special Budgetary Transfer 2015-SBT-51 in the amount of \$3,000 from Account #101000.10.472.51100.0000.00.000.00.051, DPW Facilities, Salary/Wages - Permanent Positions to Account #101000.10.470.51300.0000.00.000.00.051 DPW Public Property Maintenance, Salary/Wage-Overtime, for the purpose of funding overtime costs through June 30, 2015.**

COMMITTEE RECOMMENDATION: On motion by Councilor McGeary, seconded by Councilor Fonvielle, the Budget & Finance Committee voted 3 in favor, 0 opposed, to recommend that the City Council approve Special Budgetary Transfer 2015-SBT-52 in the amount of \$9,298.76 from Account #101000.10.499.51200.0000.00.000.00.051, DPW - Other, Temporary Positions to Account #101000.10.470.51300.0000.00.000.00.051 DPW Public Property Maintenance, Salary/Wage - Overtime for the purpose of funding overtime costs through June 30, 2015.

**DISCUSSION: None.**

**MOTION: On motion by Councilor Cox, seconded by Councilor Fonvielle, the City Council voted 9 in favor, 0 opposed, to approve Special Budgetary Transfer 2015-SBT-52 in the amount of \$9,298.76 from Account #101000.10.499.51200.0000.00.000.00.051, DPW - Other, Temporary Positions to Account #101000.10.470.51300.0000.00.000.00.051 DPW Public Property Maintenance, Salary/Wage - Overtime for the purpose of funding overtime costs through June 30, 2015.**

COMMITTEE RECOMMENDATION: On motion by Councilor Fonvielle, seconded by Councilor McGeary, the Budget & Finance Committee voted 3 in favor, 0 opposed, to recommend that the City Council approve Special Budgetary Transfer 2015-SBT-53 in the amount of \$2,000.00 from Account #101000.10.563.53500.0000.00.000.00.052, Tourism-Purchased goods and services to Account #101000.10.563.51200.0000.00.000.00.051 Tourism-Salary/Wage, Part-Time Position for the purpose of funding the volunteer coordinator and assistant volunteer coordinator positions through June 30, 2015.

**DISCUSSION:**

**Councilor Cox** said that this transfer deals with an issue where a part-time person started working at the Stage Fort Park Welcome Center earlier than had been originally budgeted for.

**MOTION: On motion by Councilor Cox, seconded by Councilor Fonvielle, the City Council voted 9 in favor, 0 opposed, to approve Special Budgetary Transfer 2015-SBT-53 in the amount of \$2,000.00 from Account #101000.10.563.53500.0000.00.000.00.052, Tourism-Purchased goods and services to Account #101000.10.563.51200.0000.00.000.00.051 Tourism-Salary/Wage, Part-Time Position for the purpose of funding the volunteer coordinator and assistant volunteer coordinator positions through June 30, 2015.**

**Ordinances & Administration: June 15, 2015**

There were no matters for Council action from the O&A June 15 meeting.

**Planning & Development: June 17, 2015**

COMMITTEE RECOMMENDATION: On a motion by Councilor Fonvielle, seconded by Councilor Lundberg, the Planning & Development Committee voted 3 in favor, 0 opposed, to recommend that the City Council accept a Utility Easement for the property at 44 Whittemore Street and as shown on the plan entitled, "Easement Plan, 44 Whittemore Street in Gloucester, Massachusetts (Essex County)" dated April 15, 2015 by BSC Group, Inc., from John D. McNiff, Jr., Trustee, Cape Ann Forge Trust and containing an area of 4,862 square feet.

**DISCUSSION:**

**Councilor Verga** explained that there are two easements for the Council this evening to be accepted by the city – the first is to memorialize the utilities locations that are on private property on 44 Whittemore St., by John D. McNiff, Jr., Trustee, Cape Ann Forge Trust, and the second is an easement if and when the utilities are relocated that all public utilities and roadway will be within the existing Whittemore Street layout of this offered easement. This is cleaning up issues from the late 1980s and ensures adequate access to utilities for the existing neighborhoods connected by this roadway and the subdivision now being constructed on the Cape Ann Forge property, he said.

**Councilor LeBlanc** expressed his thanks to the Administration and Mr. McNiff in reaching a compromise with the neighborhood with everyone satisfied with the resulting easement.

**MOTION: On a motion by Councilor Verga, seconded by Councilor LeBlanc, the City Council voted by ROLL CALL 9 in favor, 0 opposed, to accept a Utility Easement for the property at 44 Whittemore Street and as shown on the plan entitled, "Easement Plan, 44 Whittemore Street in Gloucester, Massachusetts (Essex County)" dated April 15, 2015 by BSC Group, Inc., from John D. McNiff, Jr., Trustee, Cape Ann Forge Trust and containing an area of 4,862 square feet.**

COMMITTEE RCOMMENDATION: On a motion by Councilor Fonvielle, seconded by Councilor Lundberg, the Planning & Development Committee voted 3 in favor, 0 opposed, to recommend that the City Council accept a Utility and Access Easements for the property at 44 and 52 Whittemore Street and as shown on the plan entitled, "Easement Plan, 44 & 52 Whittemore Street in Gloucester, Massachusetts (Essex County)" dated April 15, 2015 by BSC Group, Inc., from John D. McNiff, Jr., Trustee, Cape Ann Forge Trust containing an area if 1,450 square feet +/- and of 1,606 square feet +/-.

**DISCUSSION:**

**Councilor Verga** said the original plan was a city-owned road which ran into someone's driveway, and in the 1980's it was discovered that the public utilities were run underground through private property without an easement and the point was to shift them over to the city road that ended in this resident's yard. There was an agreement to leave the utilities where they lay and instead to seek out an easement in order to let that happen.

**Council President McGeary** clarified that there was a utility easement and an access easement so that the city can get to the utilities.

**Councilor LeBlanc** said there was talk of moving the Whittemore Street extension where it circles round to Riverside to move that 20 to 30 feet away from the Forge property because the utilities and road are actually on the Forge properties, but the Administration and the McNiff representatives came through on this.

**MOTION: On a motion by Councilor Verga, seconded by Councilor LeBlanc, the City Council voted by ROLL CALL 9 in favor, 0 opposed, to accept a Utility and Access Easements for the property at 44 and 52 Whittemore Street and as shown on the plan entitled, "Easement Plan, 44 & 52 Whittemore Street in Gloucester, Massachusetts (Essex County)" dated April 15, 2015 by BSC Group, Inc., from John D. McNiff, Jr., Trustee, Cape Ann Forge Trust containing an area of 1,450 square feet +/- and of 1,606 square feet +/-.**

COMMITTEE RECOMMENDATION: On a motion by Councilor Fonvielle, seconded by Councilor Lundberg, the Planning & Development Committee voted 3 in favor, 0 opposed, to recommend that the City Council renew an amendment to GCO Sec. 22-288 "Off Street Parking Areas" by ADDING Rogers Street Parking Lot at #65 Rogers Street and a description of the lot as 74 parking spaces and 4 handicapped parking spaces for a total of 78 parking spaces as shown on a plan submitted by the Department of Public Works for the 65 Rogers Street Parking Lot dated 7/29/13 to expire one year from June 23, 2015 and to be followed by two separate one-year renewals subject to the City Council review.

#### **DISCUSSION:**

**Councilor Verga** said this is the I4-C2 parcel, and when the city purchased the property and turned it into a parking lot, the Council set it up so that it would have to come back for renewal, and is why this matter is before them now. He expressed that he didn't vote to spend \$1 million for a parking lot. He noted that at the last P&D meeting they received assurances from the Administration through CAO, Jim Destino, that a new Request for Proposal will be forthcoming in the very near future to get the property back on the market.

**Council President McGeary** inquired if the Administration had forwarded the information on the total FY15 revenue from the parking lot as requested by the P&D Committee. **Councilor Verga** indicated the information hadn't been received, and **Council President McGeary** said he would make that request on behalf of the Council.

**MOTION: On a motion by Councilor Verga, seconded by Councilor LeBlanc, the City Council voted by ROLL CALL 9 in favor, 0 opposed, to renew an amendment to GCO Sec. 22-288 "Off Street Parking Areas" by ADDING Rogers Street Parking Lot at #65 Rogers Street and a description of the lot as 74 parking spaces and 4 handicapped parking spaces for a total of 78 parking spaces as shown on a plan submitted by the Department of Public Works for the 65 Rogers Street Parking Lot dated 7/29/13 to expire one year from June 23, 2015 and to be followed by two separate one-year renewals subject to the City Council review.**

**For Council Vote: None.**

**Unfinished Business: None.**

**Individual Councilor's Discussion including Reports by Appointed Councilors to Committees: None.**

**Councilors' Requests to the Mayor:**

**Councilor Fonvielle** noted that the West Gloucester Yard Sale will be held Saturday 9:00 a.m. to 12 noon at the West Gloucester Trinitarian Congregational Church. He highlighted the Magnolia Farmer's Market held on Mondays 4 to 7 p.m. on Lexington Avenue and is a neat little event. He also announced that the Cape Ann Amateur Radio Association is having a 24 hour demonstration from Saturday starting at 2:00 p.m. ending Sunday at 2:00 p.m. at the Fuller Field.

**Councilor Ciolino** wished everyone a Happy Fiesta.

**Councilor Stewart** said he donated five cases of wine to a charity, and only 1 ½ cases was used, and so that if anyone needs it for a charity event, he would offer it up.

**Councilor LeBlanc and Councilor Cox** wished everyone a Happy and Safe Fiesta with **Councilor Cox** adding she hoped everyone had a Happy and Safe 4<sup>th</sup> off July.

**Councilor Lundberg** wished Councilor LeBlanc the best of luck in walking the Greasy Pole during Fiesta which prompted a round of applause from his colleagues. He added that on Friday afternoon at Wellspring House there would be a reception for Kay O'Rourke who is retiring after eight years as Executive Director. The Board has chosen a new Executive Director, Melissa Diamond, and welcomed well-wishers to stop by.

**Councilor Verga** also wished good luck to Councilor LeBlanc noting that he will make his History Channel debut as they'll be on the Greasy Pole platform filming the event this weekend.

**Councilor Whynott** sent well wishes to former Councilor Foote who is recovering at home.

**Council President McGeary** announced there would be a meeting of the Starknaught Heights neighborhood the following evening at 3 Starknaught Heights about the paving of roads in that area, and a meeting of the Traffic Commission on Thursday at 6 p.m. in City Hall where matters of parking changes for Plum Street and Atlantic Road would be considered. He noted that this evening prior to the start of the Council meeting that he and Councilor Verga and Mayor Theken were at the North Shore Health Project for the unveiling of a new sign and that they all honor the work that the Health Project does.

**A motion was made, seconded and voted unanimously to adjourn the meeting at 10:49 p.m.**

**Respectfully submitted,**

**Dana C. Jorgensson**  
**Clerk of Committees**

**DOCUMENTS/ITEMS SUBMITTED AT MEETING:**

- **Written statement of testimony of Carrie Fryklund under Public Hearing #4**