

WARRANT FOR 2011 SPECIAL TOWN MEETING

To: Robin Crandall, a resident of the Town of Oakfield

GREETINGS:

In the Name of the State of Maine you are hereby requested to notify the inhabitants of Oakfield, qualified to vote in Town affairs to meet at the Community Center, at the 250 Oakfield Smyrna Road, on Monday, November 21, 2011 at 7:00 p.m. to act on the following articles to wit:

Article 1

To choose a moderator to preside at said meeting.

Article 2

To see if the town will vote to transfer from available funds for the below purposes?

Administration (Legal Funds)	\$40,000 from TIF Funds
Public Works (Vehicle Repairs)	\$15,000 from General Fund

Article 3

Shall the ordinance entitled "Wind Energy Facility Operations Ordinance" attached to this Warrant be enacted?

Article 4

To see if the Town will vote to adopt the Oakfield Wind Energy Review Committee's Final Report dated October 19, 2011, that is on file in the Town Clerk's office, relating to the Revised Oakfield Wind Energy Facility Project.

Article 5

To see if the Town will vote to accept the proposed 2011 Community Benefit Fund Gift as a tangible benefit pursuant to the Maine Department of Environmental Protection amended permit application filed by Evergreen Wind Power II, LLC in June 2011, and in accordance with 30-A M.R.S. § 5654 (conditional gifts), and to authorize the Board of Selectmen to sign the "2011 Community Benefit Agreement" with Evergreen Wind Power II, LLC that is on file in the Town Clerk's office.

Article 6

To see if the Town will vote to authorize the Board of Selectmen to sign the "2011 Road Repair Authorization and License Agreement" with Evergreen Wind Power II, LLC, that is on file in the Town Clerk's office, relating to the Revised Oakfield Wind Energy Facility Project.

Article 7

To see if the Town will Vote to amend the designation of a municipal tax increment financing district to be known as the "AMENDED TOWN OF OAKFIELD WIND PROJECT MUNICIPAL DEVELOPMENT AND TAX INCREMENT FINANCING DISTRICT" and adopt the first amendment to the Development Program for the District as presented to the Town Meeting, such designation and adoption to be pursuant to the following findings, terms, and

provisions: **(To be voted by Written Ballot)**

WHEREAS, the Town of Oakfield (the "Town") as authorized pursuant to Chapter 206 of Title 30-A of the Maine Revised Statutes, as amended, to designate and amend specified areas within the Town as a municipal development and tax increment financing district (the "District") and to adopt a Development Program or amendment to a Development Program for the District (the "Development Program"); and

WHEREAS, Evergreen Wind Power II, LLC has proposed to construct a portion of a commercial wind farm project, consisting of forty (40) 3 megawatt generating turbines and associated improvements and facilities (the "Project"), within the Town of Oakfield, (this represents a new configuration to the Project since the original TIF district was designated) and has requested an amendment to the designation of the existing District to assist development of the Project; and

WHEREAS, the Project is anticipated to result in approximately \$200,000,000 of new taxable development within the Town; and

WHEREAS, the Project will provide benefits to the Town through the Town's portion of the proposed Development Program, and will contribute to the economic growth and well being of the Town and the surrounding region, including a broadened and improved tax base and economic stimulus, and therefore constitute a good and valid public purpose; and

WHEREAS, pursuant to the state statute, the Town Meeting has considered all evidence, if any, presented to it with respect to any adverse economic effect on or detriment to any existing business and has found and determined that such adverse economic effect on or detriment to any existing business, if any, is outweighed by the contribution expected to be made through the District and Development Program; and

WHEREAS, the Town desires to designate the District as the "TOWN OF OAKFIELD AMENDED WIND PROJECT MUNICIPAL DEVELOPMENT AND TAX INCREMENT FINANCING DISTRICT", and to adopt a Development Program for the District; and

WHEREAS, it is expected that approval will be sought and obtained from the Maine Department of Economic and Community Development, approving the designation of the District and adoption of the Development Program for the District; and

WHEREAS, the Town has held a public hearing on the question of establishing the District in accordance with the requirements of 30-A M.R.S. § 5226, upon at least ten (10) days prior notice published in a newspaper of general circulation within the Town;

Now, therefore/ be it hereby voted by the Town:

Section 1. The Town hereby finds and determines that;

A. At least twenty-five percent (25%), by area, of the real property within the District, as hereinafter designated, is suitable for commercial sites as defined in 30-A M.R.S. § 5223; and

B. The total area of the District does not exceed two percent (2%) of the total acreage

of the Town, and the total area of all development districts within the Town (including the district) does not exceed five percent (5%) of the total acreage of the Town; and

D. The original assessed value of the proposed District plus the original assessed value of all existing tax increment financing districts within the Town as of April 1, 2007 does not exceed five percent (5%) of the total value of equalized taxable property within the Town as of April 1, 2011; and

E. The aggregate value of municipal general obligation indebtedness financed by the proceeds from tax increment financing within Aroostook County, including the proposed District, does not exceed \$50 million, as adjusted in accordance with 30-A M.R.S. § 5223(3)(D); and

F. The designation of the District and pursuit of the Development Program will generate substantial economic benefits for the Town and its residents, including employment opportunities, broadened and improved tax base and economic stimulus, and therefore the district will contribute to the economic growth and well-being of the municipality.

Section 2. Pursuant to Chapter 206 of Title 30-A of the Maine Revised Statutes, as amended, the Town hereby designates an amended Municipal Tax Increment Financing District to be known as the “TOWN OF OAKFIELD AMENDED WIND PROJECT MUNICIPAL DEVELOPMENT AND TAX INCREMENT FINANCING DISTRICT” designated and described as more particularly set forth in the First Amendment to the Development Program for such District presented to Town Meeting in the form attached hereto and such First Amendment to the Development Program is hereby incorporated by reference into this vote, together with the original Development Program, as the Development Program for the District.

Section 3. Pursuant to the provisions of 30-A M.R.S. § 5227, the percentage of captured assessed value to be retained in accordance with the Development Program is to be established as set forth in the Development Program.

Section 4. The Board of Selectmen or their duly-appointed representative, are hereby authorized, empowered and directed to submit the proposed designation of the District and the proposed Development Program for the District to the State of Maine Department of Economic and Community Development for review and approval pursuant to the requirements of 30-A M.R.S. § 5226.

Section 5. The Board of Selectmen or their duly-appointed representative, are hereby authorized and empowered, from time to time, to make such revisions to the Development Program for the District as the Board of Selectmen or their duly-authorized representative deem reasonably necessary or convenient in order to facilitate the process for review and approval of the District by the Department of Economic and Community Development, or for any other reason, so long as such revisions are not inconsistent with these resolutions and the basic structure and intent of the Development Program.

Section 6. The foregoing designation of the District and the adoption of the Development Program for the District shall automatically become final and shall take full force and effect upon receipt by the Town of approval of the designation of the District and

adoption of the Development Program by the Department of Economic and Community Development, without requirements of further action by the Town, the Board of Selectmen, or any other party.

Section 7. The Board of Selectmen be and hereby are authorized and directed to enter into the Credit Enhancement Agreement contemplated by the Development Program with Evergreen Wind Power, II, LLC in the name of and on behalf of the Town, such agreement to be in such form and to contain such terms and provisions, not inconsistent with the Development Program, as the Board of Selectmen may approve, such approval to be conclusively evidenced by his/her/their execution thereof.

Given under our hands at Oakfield, Maine this 11th day of November 2011.

Willis Green

Cathy Briggs

James Sholler

Linnwood Hersey

Dennis Small

Pursuant to the within warrant, I have notified the voters of the Town of Oakfield, Maine, qualified as therein expressed, to meet at the time and place and for the purpose therein named, by posting attested copies this day of the within warrant on the Bulletin Board at the Municipal Office Building, at the Oakfield Post Office, and at the local grocery store the same being conspicuous public places in said Town.

Robin Crandall
Resident of Oakfield, ME

I attest that this is a true copy,

Dale Morris, Town Manager

WIND ENERGY FACILITY OPERATIONS ORDINANCE

1. AUTHORITY

The Town of Oakfield hereby adopts a Wind Energy Facility Operations Ordinance [“Ordinance”] consistent with its power to adopt laws for the general welfare of the inhabitants of the Town of Oakfield. 30-A M.R.S. § 3001.

2. APPLICABILITY

This Ordinance applies to any wind energy facility that requires an approval pursuant to the Maine Site Location of Development Act, 38 M.R.S. § *et. seq.* [“Site Law”].

3. AUTHORITY REQUIRED

Operational authority is required before commencement of operations of any wind energy facility covered by this Ordinance. Operation of a wind energy facility that is subject to this Ordinance without operational authority shall be a violation of this Ordinance.

4. SUBMISSION REQUIREMENTS

In order to operate a wind energy facility within the Town of Oakfield, a person intending to operate the wind energy facility [“Operator”] must provide the following information:

- A. Name of Operator. The Operator’s name, address and phone number.
- B. Primary Representative of Operator. The name, address, and phone number of the primary representative of the Operator.
- C. Permits. Copies of all state and/or federal permits obtained by the Operator to operate the wind energy facility. This submission must include the Operator’s Maine Site Law permit [“Site Law Permit”].
- D. Agreements. A list of the name, address, Tax Map and Lot Number(s), and phone numbers for all properties that are the subject of agreements with the Applicant relating to the proposed wind energy facility, including, but not limited to, any noise easements granted to the Applicant that are necessary to comply with 06-096 CMR Ch. 375 § 10 “Control of Noise.”
- E. Compliance. A signed statement from the Operator agreeing to comply with all terms and conditions of its Site Law Permit. In addition, the Operator shall agree to assume all duties and obligations stated in the “Oakfield Wind Project Sound Complaint and Resolution Protocol” [“Sound Complaint Protocol”] a copy of which is attached in Appendix A of this Ordinance.
- F. Fee. A fee in the amount of \$5,000 for administration of this Ordinance.

5. OPERATIONAL AUTHORITY

Upon submission of the items listed above, the Operator may operate the wind energy facility for as long as the Operator maintains a valid Maine Site Law Permit, and subject to the Town's enforcement rights herein.

6. ENFORCEMENT

Ordinance Enforcement. The Complaint Review Officer shall have the authority to enforce the provisions of this Ordinance by issuance of a Notice of Violation ["NOV"] to the Operator and, if necessary, by referring any unresolved NOV to the Oakfield Board of Selectmen for any further action.

Site Law Permit Enforcement. Upon any failure of the Operator to maintain compliance with the Site Law Permit, the Complaint Review Officer may issue a written Notice of Violation to the Operator describing the alleged violation and penalties imposed, if any. With respect to compliance with Site Law Permit conditions governing sound, all sound complaints shall first be processed and administered in accordance with the Sound Complaint Protocol. If the Complaint Review Officer determines that the Sound Complaint Protocol has not satisfactorily resolved a sound complaint and the wind energy facility is not in compliance with the Site Law Permit conditions, the Complaint Review Officer may issue a written NOV to the Operator.

Upon issuance of a written NOV, the Complaint Review Officer may informally meet with the Operator to address any violation. If the violation has not been abated or corrected within the specified time, the Complaint Review Officer shall report same to the Board of Selectmen for enforcement.

Legal Action. When the above actions do not result in the correction or abatement of the violation, the Board of Selectmen may, upon notice from the Complaint Review Officer, institute any and all actions and proceedings, either legal or equitable, that may be appropriate or necessary, in the Board of Selectmen's discretion, to enforce the provisions of this Ordinance in the name of the Town of Oakfield. If it does so, the Board of Selectmen shall hold a hearing within 60 days after receiving a NOV referred by the Complaint Review Officer. The Operator, the Board of Selectmen, and the Complaint Review Officer shall be made automatic parties to a NOV hearing. The Board of Selectmen shall also allow any interested person with a reasonable opportunity to be heard in a NOV hearing.

After a hearing on a NOV, the Board of Selectmen shall either (a) dismiss the NOV, (b) remand the NOV back to the Complaint Review Officer for further action, or (c) issue a final NOV to the Operator. Enforcement of such a NOV shall be pursuant to 30-A M.R.S. § 4452, Rule 80K of the Maine Rules of Civil Procedure, and any other remedy available at law.

Consent Agreement. The Board of Selectmen or its authorized agent are hereby authorized to, and may enter into, administrative consent agreements for the purpose of eliminating violations of this Ordinance and, if appropriate, recovering fines without court action.

7. APPEALS

In the event the Board of Selectmen, after opportunity for hearing as described above, issues a final NOV to an Operator, the Operator may appeal the Board of Selectmen's decision to Superior Court in accordance with Rule 80B of the Maine Rules of Civil Procedure. A decision by the Board of Selectmen to remand a NOV to the Complaint Review Officer or to dismiss a NOV is not judicially reviewable.

No person, other than the Operator, has standing to file an appeal of any final action of the Board of Selectmen under Rule 80B of the Maine Rules of Civil Procedure and this Ordinance (adopted pursuant to 30-A M.R.S. § 3001).

8. SEVERABILITY

The invalidity of any section or provision of this Ordinance shall not be held to invalidate any other section or provision of this Ordinance.