

L.L. Hansen Legal Professional Association

P.O. Box 1115
Portsmouth, New Hampshire 03802-1115
603.436.7240

May 30, 2014

Leaseholder H&H Investments
P.O. Box 519
Antrim, NH 03440

Leaseholder Michael Oeschger
380 Lakeview Heights
Alexandria, NH 03222-6562

Leaseholder EXPx2, LLC
German Morales, CEO and President
6975 Union Park Center, Suite 525
Salt Lake City, UT 84047

RE: Alexandria Community Bill of Rights Ordinance/CARE

To All Leaseholders:

As an attorney working with Community Environmental Legal Defense Fund, I am writing on behalf of Citizens of Alexandria Rights Effort (CARE) to inform all leaseholders on properties related to the Wild Meadows wind project and the Spruce Ridge wind project that you will, upon renewal of such leases, be in violation of the Alexandria Community Bill of Rights Ordinance (hereafter, the Ordinance).

Any land acquisition for development of a wind facility in the Town of Alexandria, New Hampshire, is in direct violation of the Ordinance, which was enacted by town residents on March 11, 2014 with overwhelming community support.

The CARE group is asserting its rights under the Ordinance and considers this your formal notice to cease and desist all further action, including renewal of any lease agreement(s) with Iberdrola Renewables USA, Ltd; Atlantic Wind, LLC, an Oregon limited liability company; or EDP Renewables North America Ltd., all of whom currently have lease agreements with property owners in the Town of Alexandria. These lease

agreements are up for renewal. A renewal would constitute "land acquisition," which is in violation of the Ordinance.

Sincerely,



Lorraine L. Hansen

LLH/jt

Attachments: Town Warrant 2014
"Alexandria Community Bill of Rights Ordinance"

cc: Citizens of Alexandria Rights Effort (C.A.R.E.)
Town of Alexandria Board of Selectmen
47 Washburn Road, Alexandria, NH 03222
Iberdrola Renewables USA, Ltd.,
1125 NW Couch St., Suite 700, Portland, Oregon 97209
Atlantic Wind, LLC
1125 NW Couch Street, Suite 700, Portland, Oregon 97209
Iberdrola Renewables, LLC, Attn: Project Manager Ed Cherian
PO Box 326, Concord, NH 03302
EDP Renewables North America, LLC, Corporate Headquarters,
808 Travis, Suite 700, Houston, TX 77002;
Attn: Derek Rieman, Project Manager
Commissioner Thomas Burak, Department of Environmental Services,
Site Evaluation Committee,
29 Hazen Drive, PO Box 95, Concord, NH 03302-0095
Site Evaluation Committee, Timothy W. Drew, Administrator,
Public Information and Permitting Unit,
NH Department of Environmental Services,
29 Hazen Drive, PO Box 95, Concord, NH 03302-0095
Ronald and Donna Olszak,
717 Mayhew Turnpike, Bridgewater, NH 03222
Stephen Garron and Paula Carter,
425 Raymond Road, Chester, NH 03036
Mike Corliss,
334 Mount Cardigan Road, Alexandria, NH 03222
Nelson R. Shaller,
506 Bayside Drive, Osprey, FL 34229-9580



Town of Alexandria

Town Clerk / Tax Collector
47A Washburn Road
Alexandria, NH 03222
Phone: 603-744-3288
Fax: 603-744-8577

This is to certify that on March 11, 2014 the Warrant Article # 16 passed by
SB2 ballot vote as written with
320 YES and 119 NO.

Barbara M. Emery
Alexandria Town Clerk

Town of Alexandria, Grafton County, New Hampshire
Ordinance No. _____ of 2014

AN ORDINANCE TO PROTECT THE HEALTH, SAFETY, AND WELFARE OF RESIDENTS AND ECOSYSTEMS OF ALEXANDRIA, NEW HAMPSHIRE BY ESTABLISHING A COMMUNITY BILL OF RIGHTS; AND BY PROHIBITING THE SITING OF NEW ENERGY PROJECTS THAT WOULD VIOLATE THOSE RIGHTS.

Whereas, this community finds that certain commercial energy projects are economically and environmentally unsustainable, in that they damage property values and the natural environment, place the health of residents at risk, threaten the quality of natural systems within the Town, while failing to provide real benefits to the people of this community; and

Whereas, this community finds that unsustainable energy projects violate the rights of Alexandria residents, including our right to make decisions about what happens to the places where we live; and

Whereas, current environmental laws allow state-chartered corporations to inflict damage on local ecosystems that cannot be reversed, violating the rights of residents to protect their community and the rights of ecosystems to exist; and

Whereas, private corporations engaged in the siting of unsustainable energy projects are wrongly recognized by the federal and state government as having more "rights" than the people who live in our community, and that recognition of corporate "rights" is therefore, a denial of the rights of the residents of Alexandria; and

Whereas, such a denial violates the New Hampshire Constitution's recognition that "all government of right originates from the people, is founded in consent and instituted for the general good;" and the Declaration of Independence's recognition that governments are instituted to secure and protect the rights of people and communities;

Therefore, We the People of Alexandria hereby adopt this Community Bill of Rights Ordinance.

Section 1 - Definitions

(a) "Corporations," for purposes of this Ordinance, shall include any corporation, limited partnership, limited liability partnership, business trust, business entity, public benefit corporation, or limited liability company organized under the laws of any state of the United States or under the laws of any country.

(b) "Ecosystem" shall include but not be limited to, wetlands, streams, rivers, aquifers, and other water systems, as well as all naturally occurring habitats that sustain wildlife, people, flora and fauna, soil dwelling or aquatic organisms.

(c) "Energy Systems" means those systems producing, generating, distributing, transmitting, or transporting energy and power.

(d) "Unsustainable energy systems" means those systems that are controlled by state and federal energy policies, rather than community controlled energy policies; hydroelectric power and industrial scale wind power when it is not locally or municipally owned and operated; energy systems using fossil fuels, including but not limited to coal, natural gas, petroleum products, nuclear and radioactive materials, and other fuel sources that are non-renewable, or which produce toxins and substances that cause injury to humans or ecosystems, or that are in violation of residents' right to a sustainable energy future. The phrase shall also include any energy system which violates the rights secured under this Ordinance or under other laws. The term shall not include combustion of wood and wood products or the use of propane, kerosene, heating oil, coal, or natural gas when combustion of those fossil fuels is used solely to generate on-site heat or power and the energy produced is not commercially sold, transmitted, or distributed.

Section 2- Statements of Law - Rights of Residents and the Natural Environment

(a) Right to a Sustainable Energy Future. All residents of Alexandria have a right to a sustainable energy future in which energy decisions are made by the community, and in which fuel sources used to generate energy are renewable and sustainable.

(b) Right to Scenic Preservation. All residents of the town of Alexandria possess a fundamental and inalienable right to protect and preserve the scenic, historic and aesthetic values of the town, including clean air, pure water, healthy soil, and unspoiled vistas that provide the foundation for tourism and economic sustainability for local businesses. Residents and local representatives have the authority to enact and enforce legislation that guarantees an exercise of local self-government that is protective of these rights.

(c) Right to Water. All residents and ecosystems of the Town of Alexandria possess a right to sustainably access, use, consume, and preserve water drawn from natural water cycles that provide water necessary to sustain life within the Town.

(d) Rights of Ecosystems. Ecosystems, including but not limited to, wetlands, streams, rivers, aquifers, and other water systems, possess rights to exist and flourish within the Town of Alexandria. Residents of the Town shall possess legal standing to enforce those rights on behalf of those ecosystems.

(e) Right to Self-Government. All residents of Alexandria possess the right to a form of governance where they live which recognizes that all power is inherent in the people, that all free governments are founded on the people's authority and consent. Use of the "Town of Alexandria" municipal corporation by the sovereign people shall not be deemed, by any authority, to eliminate or reduce that self-governing authority.

(f) Rights as Self-Executing. All rights delineated and secured by this Ordinance are inherent, fundamental, and inalienable, and shall be self-executing and enforceable against both private and public actors.

Section 3--Statements of Law--Prohibitions Necessary to Secure Bill of Rights Protections

(a) It shall be unlawful within the Town of Alexandria for a corporation or any person using a corporation, to engage in land acquisition necessary for the construction of an unsustainable energy system, or to engage in construction or siting of any structure to be used in the operation of an unsustainable energy system.

(b) It shall be unlawful for any corporation or government to violate the rights recognized and secured by this Ordinance.

(c) No permit, license, privilege, charter, or other authority, issued by any State or federal agency, which would violate the prohibitions of this Ordinance or deprive any Town resident, of any rights, privileges, or immunities secured by this Ordinance, the New Hampshire Constitution, the United States Constitution, or other laws, shall be deemed valid within the Town of Alexandria.

Section 4---Enforcement

(a) Any corporation that violates any prohibition of this Ordinance shall be guilty of an offense and, upon conviction thereof, shall be sentenced to pay the maximum fine allowable under State law for that violation. Each day or portion thereof, and violation of each section of this Ordinance, shall count as separate violations.

(b) The Town of Alexandria may enforce this Ordinance through an action in equity brought in any court possessing jurisdiction over activities occurring within the Town of Alexandria. In such an action, the Town of Alexandria shall be entitled to recover all costs of litigation, including, without limitation, expert and attorney's fees.

(c) Any Town resident shall have the authority to enforce this Ordinance through an action in equity brought in any court possessing jurisdiction over activities occurring within the Town of Alexandria. In such an action, the resident shall be entitled to recover of all costs of litigation, including, without limitation, expert and attorney's fees.

(d) Any person who brings an action to secure the rights of natural communities or ecosystems within the Town of Alexandria shall bring that action in the name of the ecosystem in any court possessing jurisdiction over activities occurring within the Town of Alexandria. Damages shall be measured by the cost of restoring the ecosystem to its state before the injury, and shall be paid to the Town of Alexandria to be used exclusively for the full and complete restoration of the ecosystem.

Section 5 – Corporate Powers

(a) Corporations and other business entities which violate this Ordinance, or which seek to violate this Ordinance, shall not be deemed to be "persons", nor possess any other legal rights, privileges, powers, or protections which would interfere with the enforcement of rights or prohibitions enumerated by this Ordinance. Such powers shall include the authority to assert state or federal preemptive laws in an attempt to overturn this Ordinance, and the authority to assert that the people of the Town lack the authority to adopt this Ordinance.

(b) All laws adopted by the legislature of the State of New Hampshire, and rules adopted by any State agency, shall be the law of the Town of Alexandria only to the extent that they do not violate this Ordinance.

Section 6---Sustainable Energy Policy

The Town shall implement a Sustainable Energy Policy following the adoption of this Ordinance that provides a plan for the community's reduction in use of power from unsustainable energy systems, within a time frame agreed to by the residents, to be decided by popular vote.

Section 7---Effective Date and Existing Permit Holders

This Ordinance shall be effective five (5) days after the date of its enactment, regardless of the date of any applicable local, state, or federal permits.

Section 8---People's Right to Self-Government

Use of the courts or the legislature to attempt to overturn the provisions of this Ordinance shall require community meetings focused on changes to Town government that would insulate the Town from interference with the right of residents to local self-government.

Section 9--New Hampshire Constitutional Changes

The people of the Town of Alexandria call for changes to the New Hampshire Constitution to secure within it explicitly a community right to local self-government free from preemption by State government. The people of Alexandria also call for a state constitutional amendment and federal constitutional changes that explicitly elevate community rights above corporate property rights, and that recognize the rights of nature enforceable by the residents of a community.

Section 10---Severability

The provisions of this Ordinance are severable. If any court of competent jurisdiction decides that any section, clause, sentence, part, or provision of this Ordinance is illegal, invalid, or unconstitutional, such decision shall not affect, impair, or invalidate any of the remaining sections, clauses, sentences, parts, or provisions of the Ordinance. The Town of Alexandria hereby declares that in the event of such a decision, and the determination that the court's ruling is legitimate, it would have enacted this Ordinance even without the section, clause, sentence, part, or provision that the court decides is illegal, invalid, or unconstitutional.

Section 11---Repealer

All inconsistent provisions of prior Ordinances adopted by the Town of Alexandria are hereby repealed, but only to the extent necessary to remedy the inconsistency.

ENACTED AND ORDAINED this _____ day of _____, 2014, by the Town of Alexandria, in Grafton County, New Hampshire.

By:

**The State of New Hampshire
Town of Alexandria
2014 Town Warrant**

Session 1: Meeting opened at 4:02pm by Town Moderator Dennis Ford. The Pledge of Allegiance was said. A brief moment of silence was observed. The Select board was introduced Don Sharp Sr., Ken Hall and George Tuthill, Jennifer Dostie, Administrative Assistant, Robin Gagnon, Deputy Town Clerk, Supervisors of the Checklist, Sue Cheney, Loretta Brouillard, George Whittaker and Town Counsel, Chris Boldt, Moderator Ford stated the rules and regulations of the meeting. All questions and comments are directed to the Moderator. All requested Amendments need to be presented in writing to the Moderator. Voting will be done by hand vote or secret vote. A tie vote will be broken by the Moderator and will always be in the negative. A request for respect for speakers was also made. Motion made and seconded to accept the rules for tonight's meeting. SO VOTED.

FIRST SESSION:

To the inhabitants of the Town of Alexandria, in the County of Grafton in said State, qualified to vote in Town affairs: You are hereby notified to meet at the **Alexandria Town Hall** in said Alexandria on **Saturday, the First(1st) of February, 2014 at Four of the clock (4:00 p.m.)** in the evening. This session shall consist of explanation, discussion and deliberation of the warrant articles numbered **1 through 17**. The warrant articles may be amended subject to the following limitations: (a) warrant articles whose wording is prescribed by law shall not be amended; (b) warrant articles that are amended shall be placed on official ballot for a final vote on the main motion, as amended; and (c) no warrant article shall be amended to eliminate the subject matter of the article; but an amendment that changes the dollar amount of an appropriation in a warrant article shall not be deemed to violate this subparagraph.

SECOND SESSION:

Voting Session to act on all Warrant Articles as amended, including the proposed budget, as a result of the action of the "FIRST SESSION" will be held **Tuesday, March 11, 2014**, at the **Alexandria Town Hall**. Polls will be open from 11:00 AM – 7:00 PM.

Article 1 read as follows:

Article 1: Election of Public Officials, Newfound Area School District Items and other Articles appearing on the warrant as may be required by state law.

Article 2 read as follows:

Article 2: Operating Budget: Shall the Town vote to raise and appropriate, as an operating budget, not including appropriations by special warrant articles and other appropriations voted separately, the amounts set forth on the budget posted with the warrant or as amended by vote of the first session, for the purposes set forth therein, totaling **\$1,378,381** (as recommended by the Selectmen)? Should this article be defeated, the default budget shall be **\$1,363,131**, which is the same as last year with certain adjustments required by previous action of the Town of Alexandria or by law; or the governing body may hold one special meeting, in accordance with RSA 40:13, X and XVI, to take up the issue of a revised operating budget only. NOTE: This operating budget warrant article does not include appropriations contained in ANY other warrant articles.

Article 2 opened for debate.

Discussion followed on Bog Road dump site cleanup.

Question was raised in regards to the Police Departments budget. A motion and second was made to allow Chief Don Sullivan to speak and was approved. Chief Sullivan explained budget cuts were due to in large part in eliminating the part time coverage. He also indicated that he would have to watch his budget very closely, such as gas consumption and vehicle maintenance. If something unexpected happens, he would run out of funds. Last year, the Police Department was under budget. An amendment was presented by Edward Skroback and reads as follows:

"Request increase budget by \$10,000 for Police Department."

Motion made and seconded to move amendment to Article 2 for discussion.

Henry Hall brought to the town's attention that the Select board would not be obligated to use it for the Police Department and can only take note of the town's wishes. Discussion continued

Motion made and seconded to move Amendment to Article 2 to vote. DEFEATED.

Discussion continued on fee for elections.

Motion made and seconded to move Article 2 to the warrant. SO VOTED.

A motion made and seconded to move Article 15 forward to discussion due to secret ballot request. Moderator explained the procedure.

Article 15 was read and was opened for debate.

Article 15: To see if the Town will vote to amend Article 10 from 2008 to limit the amount of money from the land use change tax to be used by the Conservation Commission to no more than \$5,000 per year? This article presented by petition.

Article 15 opened for debate.

Discussion followed in regards to the amount of funds added and length of time held by Conservation Committee. A motion was made and seconded to allow Jennifer Dostie to speak on this subject and future subjects. SO VOTED.

Jennifer spoke to the average amount collected by Land Use Change Taxes.

Dennis Ford clarified the yes and no voting and procedure on Article 15.

A motion was made and seconded to allow Chris Boldt to speak. SO VOTED.

Chris Boldt clarified the dollar amount only could be amended on Article 15.

Discussion continued.

Jennifer Tuthill made a motion and was seconded to amend the dollar amount to no more than \$20,000 a year on Article 15.

Chris Boldt explained further the "intent" purpose of the amendments. Discussion continued about the secret ballot for the amendment and the Article 15. Jennifer Tuthill and second rescinded the amendment.

Secret ballot vote for Article 15 opened at 5:06pm and poll closed at 6:06pm.

Results of the secret ballot vote on Article 15 is 63 Yes, 3 No. Article 15 is moved to the warrant as is. SO VOTED.

A motion was made and seconded to move forward during the secret ballot voting. SO VOTED.

A motion was made and seconded to move Article 11 forward. SO VOTED.

Article 11 was read as follows:

Article 11: Are you in favor of the adoption of the Alexandria Land Use and Zoning Ordinance as proposed by the Planning Board? (As discussed at the public hearings of September 18, 2013, November 20, 2013 and January 15, 2014) (Recommended by Selectmen)

Article 11 opened for debate.

Discussion followed. Chris Boldt indicated no changes can be made to this article due to the process involved and language dictated by law and no dollar amount is involved.

Discussion continued in regards to zoning.

Motion and seconded to move Article 11 forward to the warrant. SO VOTED.

Article 3 read as follows:

Article 3: Shall the Town vote to raise and appropriate the sum of \$17,200 for the Alexandria Volunteer Fire Department for the provision of fire fighting and prevention services and to continue the lease of the 1999 International Tanker and the 2012 Ford F550 to the AVFD, all pursuant to an agreement between the Town and the AVFD? (Recommended by Selectmen)

Article 3 opened for debate.

No Discussion.

Motion and seconded to move to Article 3 to the warrant. SO VOTED.

Article 4 read as follows:

Article 4: Shall the Town vote to raise and appropriate the sum of \$30,000 to be put into the Highway Department Capital Reserve Fund? (Recommended by Selectmen)

Article 4 opened for debate.

Discussion followed.

Motion made and seconded to move Article 4 to warrant. SO VOTED.

Article 5 read as follows:

Article 5: Shall the Town vote to raise and appropriate the sum of \$10,000 to be put into the Fire Equipment Capital Reserve Fund? (Recommended by Selectmen)

Article 5 opened for debate.

Discussion followed.

Motion made and seconded to move Article 5 to the warrant. SO VOTED.

Article 6 read as follows:

Article 6: Shall the Town vote to raise and appropriate the sum of \$73,000 for the replacement of Washburn Road Bridge? (Recommended by Selectmen)

Article 6 is opened for debate.

Discussion followed. Gary Patten gave the bid amounts obtained. Lucy Ford inquired the traffic flow during the repair. Gary indicated that they have a temporary bridge available for about a week.

More discussion followed.

Motion made and seconded to move Article 6 to the warrant. SO VOTED.

Article 7 read as follows:

Article 7: Shall the Town vote to raise and appropriate the sum of \$34,600 for a new vehicle for the Police Department with \$24,600 raised by taxation and \$10,000 withdrawn from the Police Special Detail account? (Not recommended by Selectmen)

Article 7 opened for debate.

Chief Sullivan gave a breakdown of the current conditions of the existing cruisers and which one would be replaced and explained the reason for this article. The Select board addressed why they didn't recommend this article. The Chief indicated that the replaced cruiser would be disposed of at the Selectboard's discretion.

Discussion continued.

Motion made and seconded to move Article 7 to the warrant. SO VOTED.

Article 8 read as follows:

Article 8: Shall the Town vote to raise and appropriate the sum of \$54,000 for a new one ton truck with plow and sander with \$34,000 raised by taxation and \$20,000 from the Highway Equipment Capital Reserve fund? (Recommended by Selectmen)

Article opened for debate.

Gary Patten spoke on this Article and explained the conditions of the current equipment and truck it will replace. Discussion followed in regards to warranties, road conditions and the way the equipment is treated.

Polls are officially closed on Article 15 at 6:06pm. Supervisors will count the ballots.

63 YES, 3 NO. Article 15 moved to ballot as written. Results recorded above on Article 15 as well.

Discussion continued on Article 8.

Motion made and seconded to move Article 8 to the warrant. SO VOTED.

Article 9 read as follows:

Article 9: Shall the Town vote to raise and appropriate the sum of \$150,050 for a new 35000 GVW truck with plow and sander with \$120,050 raised by taxation and \$30,000 from the Highway Equipment Capital Reserve fund? (Not recommended by Selectmen)

Article 9 opened for debate.

Discussion followed. Gary explained the particulars on the truck.

Discussion continued about the type, price and estimates of the truck purchase. A highway advisory committee was discussed.

Motion made and seconded to move Article 9 to the warrant. SO VOTED.

Article 10 read as follows:

Article 10: Are you in favor of requiring that the annual budget and all special warrant articles having a tax impact, as determined by the governing body, shall contain a notation stating the estimated tax impact of the article? If passed, the determination of the estimated tax impact shall be subject to approval by the governing body pursuant to RSA 32:5, V-b. (Recommended by Selectmen)

Article 10 opened for debate.

Discussion followed.

Motion made and seconded to move Article 10 to the warrant. SO VOTED.

Article 12 read as follows:

Article 12: Shall the Town vote to raise and appropriate the sum of \$4,500 as requested by the Haynes Library Association? This article presented by petition.

Article 12 opened for debate.

Discussion followed on library repairs, budget item confusion, State requirements, trust fund and volunteers.

Motion made and seconded to move Article 12 to the warrant. SO VOTED.

Article 13 read as follows:

Article 13: To see if the Town will vote to accept the private road now known as Lynn Avenue as a Class V road and assume the responsibility and the expense for the maintenance of said road. Lynn Avenue is approximately 2400 feet long including the extension. This article presented by petition.

Article 13 opened for debate.

Discussion followed on the location, maintenance of Bristol portion of the road, and tax base to sustain. It was noted that wording of article cannot be amended.

Motion made and seconded to move Article 13 to the warrant. SO VOTED.

Article 14 read as follows:

Article 14: Shall we rescind the provisions of RSA 40:13 (known as SB2), as adopted by the Town of Alexandria on March 9, 2010 so that the official ballot will no longer be used for voting on all questions, but only for the election of officers and certain other questions for which the official ballot is required by state law? This article presented by petition. A 3/5 majority vote is required.

Article 14 is opened for debate but cannot change wording.

Discussion continued on the merits of Town Meeting.

Motion made and seconded to move Article 14 to the warrant. SO VOTED.

Article 16 read as follows:

Article 16: Shall the town of Alexandria adopt the Community Bill of Rights Ordinance; an Ordinance to Protect the Health, Safety, and Welfare of Residents and Ecosystems of Alexandria, New Hampshire by Establishing a Community Bill of Rights and by Prohibiting the Siting of New Energy Projects that would Violate those Rights? This article presented by petition.

Article 16 opened for debate.

Chris Boldt, the intent cannot be changed, so therefore cannot be amended. Michelle Sanborn spoke on this Article and its intentions. Discussion continued on and whether this article can be enforced and who would enforce it. Chris Boldt indicated that the principle is good, but the Town is limited to what the State law allows. He also brought up the question of the constitutionality of the Article and the litigation challenges.

Motion made and seconded to move Article 16 to the warrant. SO VOTED.

Dennis Ford indicated that this is one of the largest attendances for a deliberative session and was very pleased that everyone conducted themselves passionately and appropriately.

Article 17 read as follows:

Article 17: To transact any other business that may legally come before this meeting.

Article 17 opened for debate.

No discussion.

Motion made and seconded to adjourn the meeting at 7:08pm.

Respectfully submitted Robin Gagnon, Deputy Town Clerk

Signed this _____ day of January, 2014

Kenneth Hall

George Tuthill

Donald Sharp

Selectmen of Alexandria, NH