

**LENT TOWNSHIP  
CHISAGO COUNTY, MINNESOTA  
Resolution No. 2009-3**

**RESOLUTION DETERMINING TO APPROVE AND ENTER INTO  
A DEVELOPMENT AGREEMENT AND HOST FEE AGREEMENT  
WITH CHISAGO COUNTY AND SUNRISE RIVER ENERGY, LLC**

**WHEREAS**, Sunrise River Energy, LLC (“Developer”) is proposing to construct a 150-780 megawatt (summer rating) electric generation facility fueled primarily with natural gas with fuel-oil backup (“Project”) in Lent Township, Chisago County, Minnesota (“Town”);

**WHEREAS**, the Minnesota Legislature adopted Minnesota Statutes, section 272.02, subdivision 92 providing an exemption from personal property taxes conditioned on a number of factors, including the Developer entering into a development agreement with the host township to address noise and visual impacts of the Project. Towns typically play no direct role in the development of a power plant project as the State is the sole permitting authority for such projects and expressly preempts local controls. Minnesota Statutes, section 216E.10, subdivision 1. However, the inclusion of requirement to enter into a development agreement with the host township in the personal property tax exemption created a limited opportunity for the Town to have a direct impact on the Project at least with respect to its eligibility to benefit from the exemption granted by the legislature;

**WHEREAS**, Town representatives have for months worked closely with representatives of Chisago County (“County”) to negotiate a development agreement (“Agreement”) and a host fee agreement (“Host Fee Agreement”) with the Developer. The agreements have gone through numerous revisions and the Town Board has reviewed and provided input as the agreements were developed;

**WHEREAS**, the Town, County, and School District need to enter into an agreement to divide the annual payment in lieu of personal property taxes the Developer will be required to make under the Host Fee Agreement. An agreement is being prepared between the three entities to divide the required \$600,000 payment. The current proposed division of annual payment in lieu of personal property taxes has the Town receiving \$180,000 of the payment annually;

**WHEREAS**, there has been a great deal of public discussion and input related to the Project and the Agreement. The Town held a well attended public information meeting on July 22, 2009 to discuss the Town’s limited role regarding this Project and to hear those who chose to speak regarding the Project. The County held a public information meeting on October 19, 2009 to again allow the public to learn more about the Project and provide input. The Agreement and related exhibits were discussed with the Town Planning Commission on October 14, 2009 and at joint meetings of the Planning Commission and Town Board held on November 9, 2009 and December 9, 2009. The public also offered comments at various regular Town Board meetings. The Town posted a draft of the Agreement on its website and solicited written comments on the Agreement; and

**WHEREAS**, the Town Board has received a great deal of public comment and information regarding the Project and hereby finds and determines as follows:

- a. The Town Board understands there have been a number of concerns expressed regarding the Project. Many of the most significant concerns have been addressed by revisions the Developer made to the proposed Project, including no use of ground water for generation purposes and no water discharge. The changes made to the Project to address those concerns are reflected in the Agreement.
- b. The Town Board recognizes that the Agreement does not, and could not, address every issue or concern raised by the public. The best forum and method for addressing the siting, environmental, and other concerns expressed by the public and not addressed in the Agreement are through the state review and permitting procedures the legislature has made the exclusive method for permitting such projects. There will be a number of opportunities for the public to provide further input regarding the Project, to learn more specifics about the Project as they are developed, and to raise their remaining concerns with the state permitting authorities. Entering into the Agreement and Host Fee Agreement is only a preliminary step in what is likely to be more than a two-year state permitting process;
- c. Even though the personal property tax exemption only mentions the Town addressing visual and noise impacts in the Agreement, the Town has been able to negotiate provisions to address a number of other issues such as compliance with zoning performance standards, development and compliance with plans, protection of the Town's roads, and protection of the Town's taxpayers by requiring reimbursement of the Town's costs. The public encouraged the Town Board to address a number of other issues within the Agreement, including limiting the height of the Project's stacks to the height of the surrounding trees, requiring an environmental impact statement be prepared, imposing million dollar fines, establishing a water use charge, requiring the purchase of a number of private properties, paying millions to construct a public project, and to prohibit a third party from exercising its eminent domain powers to locate a gas line. However, there are both practical and legal limits to what the Town is able to negotiate into a development agreement related to a project over which it has no regulatory authority. Even if the Town was a regulatory authority, a number of the suggested provisions exceed any reasonable scope of the Town's authority;
- d. The Town Board determines the terms of the Agreement are reasonable and within the scope of what the Town can reasonably negotiate into a development agreement of this type;
- e. A special town meeting was petitioned for in an attempt to require the Town Board to hold a referendum vote on whether it should enter into the Agreement and to bind the Town Board to the results of the election. However, the Town Board determines, based on the opinion letter drafted by the Town's attorney, that the actions taken at the special town meeting have no legal effect and do not effect the Town Board's authority to act on the agreements;
- f. The Town was encouraged to not act on the Agreement until the specifics of the Project have been finalized. However, the Town Board recognizes that the Developer, as a practical matter, needs to secure the Agreement before it commits hundreds of thousands of dollars to finalize and submit specific plans to the state as part of the permitting process.

The Town will receive copies of those plans as they are developed and the Developer is required to consult on final visual and noise mitigation measures based on those plans;

- g. The Host Fee Agreement will provide a payment to the County, Town, and School District in lieu of personal property taxes totaling \$600,000 annually. In addition, the Host Fee Agreement provides for a \$100,000 annual payment to the School District. The Agreement also provides for an annual payment of \$100,000 to a County environmental fund and an annual payment of \$25,000 to the Town for Town operations. These payments, in addition to the property taxes the local governments will receive from the Project, will bring valuable dollars to the host entities and reduce property taxes;
- h. The Developer has reported the Project could bring as many as 500 construction jobs to the area and provide approximately 25 permanent jobs. These jobs are important to the community and to those who have lost jobs as a result of the recession; and
- i. If the County makes any amendments to the Agreement after the Town Board adopts this Resolution, the amended Agreement will need to come back before the Town Board for review and approval of the amended provisions.

**NOW, THEREFORE, BE IT RESOLVED**, that, based on the information presented and its findings and determinations, the Town Board hereby:

- 1. Approves the Development Agreement as presented and authorizes the Town Chairperson and Town Clerk to sign it on behalf of the Town;
- 2. Approves the Host Fee Agreement as presented and authorizes the Town Chairperson and the Town Clerk to sign it on behalf of the Town; and
- 3. Approves an agreement between the Town, County, and School District for the division of the annual payment made by the Developer pursuant to the Host Fee Agreement, provided the Town's share of the payment is no less than \$180,000 annually. Furthermore, the Town Chairperson and the Town Clerk are hereby authorized to sign the agreement on behalf of the Town once it is in a form approved by the Town's attorney.

Adopted this 15<sup>th</sup> day of December, 2009.

**BY THE TOWN BOARD**

\_\_\_\_\_  
Gene Olson, Chairperson

Attest: \_\_\_\_\_  
Laura LeVasseur, Clerk