RESOLUTION NO. 2008-R-45

RESOLUTION OPPOSING THE CONTINUED PREEMPTION OF MUNICIPAL REGULATION OF CERTAIN INTRA-STATE GAS UTILITIES; URGING LEGISLATIVE ACTION TO PERMIT GREATER LOCAL REGULATORY OVERSIGHT; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Village of Volente, Texas is a Type General B municipality located in Travis County, and created in accordance with the provisions of Chapter 8 of the Local Government Code and operating pursuant to the enabling legislation of the State of Texas; and

WHEREAS, the Legislature has vested regulatory authority in the State and has largely preempted the local regulation of so-called "midstream" intra-state natural gas pipeline utilities ("gas utilities") on the basis that such companies are affected with a public interest; and

WHEREAS, the preemption of local regulation constrains the ability of the public to participate through their locally elected officials to tailor policies to meet their needs and demands; and

WHEREAS, with the recent development of mineral reserves within the Barnett Shale, oil and gas operators have become dependant on a comprehensive pipeline infrastructure to deliver the produced hydrocarbons to market; and

WHEREAS, in order to ensure the maximum profitability of natural gas production, oil and gas operators have refused to cooperate with unaffiliated third party gas utilities or coordinate pipeline efforts with other producers in the region and instead are each opting to form their own affiliated gas utility company; and

WHEREAS, each gas utility company serves not as a public-minded "utility" accepting produced hydrocarbons from "competing" operators but operates exclusively as the alter ego and servant of the utility's affiliated oil and gas operator greatly blurring the line between gas utility and oil and gas operator; and

WHEREAS, the numerous gas utilities, frequently managed and exclusively operated by the affiliated oil and gas operators' own employees, work aggressively to install a network of permanent gas lines across private property creating extensive "no-build" zones many dozen feet in width and many miles in length, with little regard for the availability of existing unaffiliated pipelines in the vicinity; and

WHEREAS, in order to rapidly accomplish the installation of duplicative and redundant pipeline networks, local citizens and business owners are quickly threatened with eminent domain proceedings by the gas utilities and are intimidated into executing one-sided permanent easements for nominal consideration; and

WHEREAS, the proliferation of duplicative and redundant pipeline networks, installed with regard only for the shortest and most cost-effective route, causes the unnecessary fragmentation of land and the creation of unusable slivers, chipping away at the long term economic potential of the land; and

WHEREAS, municipalities, rendered virtually ineffective by the preemption language of §121.202 of the Texas Utilities Code, are unable to respond to the plight of their constituent citizens and business owners and are without the necessary authority to safeguard the long-term economic viability of the region.

NOW THEREFORE, BE IT RESOLVED BY THE VILLAGE OF VOLENTE, TEXAS THAT:

SECTION 1.

The Village Council of the Village of Volente, Texas, respectfully requests and urges the Legislature to revisit the prudence and continued appropriateness of preempting municipalities from regulating the practices of midstream gas utilities and respectfully requests that the Legislature confer additional regulatory authority upon municipalities over the activities described herein in order to safeguard the interests of the public and the long term economic viability of private property.

SECTION 2.

This Resolution shall be effective from its date of adoption.

PASSED AND APPROVED ON THIS 21ST DAY OF OCTOBER, 2008.

MAYOR

ATTEST:

CITY SECRETARY

EFFECTIVE: 10-21-08