ORDINANCE NO. 2008-O-93

AN ORDINANCE OF THE VILLAGE COUNCIL OF THE VILLAGE OF VOLENTE IMPOSING A TEMPORARY SIX-MONTH MORATORIUM ON THE PERMITTING AND CONSTRUCTION OF WIND ENERGY SYSTEMS WITHIN THE VILLAGE OF VOLENTE; PROVIDING FOR PUBLICATION OF INFORMATION ON THE VILLAGE'S WEB SITE; TEMPORARILY SUSPENDING ENFORCEMENT OF INCONSISTENT ORDINANCES; AND PROVIDING FOR PUBLIC NOTICE AND OPEN MEETING REQUIREMENTS; SEVERANCE; AND EFFECTIVE DATE

WHEREAS, a "Wind Energy System" is an electricity generating facility consisting of one or more wind turbines under individual or common ownership, or operation or control, and includes substations, MET Towers, cables/wires and other buildings accessory to such facility, whose main purpose is to generate and supply electricity to one or more off-site customers; and

WHEREAS, a "Wind Turbine" is a wind energy conversion system that converts wind energy into electricity through the use of a wind turbine generator; and

WHEREAS, interest has been expressed in constructing and operating Wind Energy Systems within the Village of Volente; and

WHEREAS, the construction and operation of Wind Energy Systems raises many potential health and safety issues, including but not limited to, electrical connections, electric and magnetic fields, tower failure (falling turbines), tower climbing, falling ice, blade throw, flicker or shadow flicker, and noise; and

WHEREAS, the Village currently lacks regulations that adequately establish public health and safety standards and a review and permitting process for Wind Energy Systems; and

WHEREAS, the Village is beginning the process of developing and adopting an ordinance that would establish a review and permitting process and health and safety standards for Wind Energy Systems; and

WHEREAS, the Village Council previously conducted a public hearing on April 15, 2008 regarding the process by which the Village should study and develop a Wind Energy System ordinance; and

WHEREAS, at the May 20, 2008 hearing, the Village Council concluded that it would be in the Village's best interest to impose a temporary moratorium on the construction and operation of Wind Energy Systems within the Village while a Wind Energy System ordinance is developed and adopted; and

WHEREAS, a temporary moratorium ~~stay~~ on the construction and operation of Wind Energy Systems will provide the Village with the time and opportunity to develop and adopt an appropriate ordinance; and

WHEREAS, a temporary moratorium will, in the meantime, protect the public from Wind Energy Systems which might otherwise be built and operated with inadequate public health and safety protections;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF VOLENTE, TEXAS:

Section One. Legislative Findings.

The recitals above made in the Preamble are hereby deemed to be the Factual and Legislative Findings of the Village Council, and are hereby incorporated within this Ordinance.

Section Two. Purpose and Scope.

The temporary stay provided by this Ordinance is to protect the health, safety, welfare, convenience and enjoyment of the citizens of Volente, and it applies throughout the entire corporate limits of the Village of Volente.

Section Three. Publication of Information.

The Village shall publish on its web site (a) information concerning its authority to regulate Wind Energy Systems; (b) a discussion of the Village's intent to develop appropriate regulations with substantial public input; (c) and information about the Village's need for volunteers from the public to serve on a special advisory commission to study and make recommendations to the Planning and Zoning Commission concerning the Wind Energy System ordinance and applicable zoning ordinances.

Section Four. Temporary Stay on Construction and Operation of Wind Energy Systems.

There is hereby established a six-month stay on the construction and operation of Wind Energy Systems in the Village. During this temporary stay, it shall be unlawful to install, construct, or operate any wind energy system or part thereof within the Village's corporate limits, and the Village shall not accept or process any applications relating to the proposed construction of any Wind Energy System.

Section Five. Duration.

This temporary stay shall begin on the Effective Date of this ordinance and shall expire at 11:59 p.m. on November 20, 2008.

Section Six. Enforcement of Inconsistent Ordinances Temporarily Suspended.

All ordinances or provisions of ordinances inconsistent with or contravening the provisions of this ordinance are hereby temporarily voided and shall have no legal force or effect during the temporary moratorium established by this ordinance.

Section Seven. Public Notice and Meeting.

The meeting at which this ordinance was passed was open to the public as required, and public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act.

Section Nine. Severability.

If any provision of this ordinance or the application of any provision to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared to be severable.

Section Ten: Effective Date.

This ordinance shall become effective upon adoption and publication or posting, as provided by law.

PASSED AND APPROVED this, the 30th day of May 2008, by a vote of the Volente Village Council of 5 in favor to 0 opposed with 0 abstentions.

Jan Yenawine, Mayor

ATTEST:

Jennifer Zufelt, Village Secretary