ORDINANCE NO. 2014-1752

AMENDMENT OF THE INTERIM ORDINANCE
PROHIBITING ESTABLISHMENT OF ANY NEW COMMERCIAL WIND
TURBINE GENERATOR, COMMERCIAL SOLAR ENERGY FACILITY,
OR WIRELESS COMMUNICATION FACILITY GREATER THAN 200 FEET,
TO ALLOW APPROVAL OF A MINOR REVISION TO A USE PERMIT FOR AN
EXISTING COMMERCIAL WIND TURBINE GENERATOR,
ADOPTED AS AN URGENCY MEASURE

The Board of Supervisors of the County of Solano ordains as follows:

SECTION 1. Findings

A. On September 24, 2013, the Board of Supervisors authorized the submittal of a
grant application with the U.S. Department of Defense Office of Economic
Adjustment requesting matching funds to assist with the costs of preparing a
Joint Land Use Study for the area surrounding Travis Air Force Base. One of the
main areas of concern leading the County to seek preparation of a Joint Land
Use Study is the potential for additional commercial scale wind energy and solar
energy projects to adversely impact on the mission at Travis AFB.

B. On November 5, 2013, the Board of Supervisors adopted as an urgency
measure Ordinance No. 2013-1743, an interim ordinance prohibiting the
establishment of any new commercial wind turbine generator, commercial solar
energy facility, or wireless communication facility greater than 200 feet AGL
within the unincorporated territory of the County of Solano.

C. Pursuant to Section 65858 of the California Government Code, the interim
ordinance was effective for an initial term of 45 days, through December 20,
2013. On December 3, 2013, the Board adopted Ordinance No. 2013-1747,
extended the effective term of the interim ordinance through October 19, 2014,
and on October 7, 2014, the Board adopted Ordinance No. 2014-1751, further
extending the effective term of the interim ordinance through October 18, 2015.

D. Section 2 of the interim ordinance, as initially adopted and as extended, prohibits
the approval of any use permit or any other entitlement for use allowing the
establishment, construction, or operation of a commercial wind energy generator,
as defined in Section 28.01 of the Solano County Code, unless a use permit was
approved for the generator prior to November 5, 2013. Solano County has
approved use permits for eight commercial wind farms prior to November 5, 2013,
with each wind farm consisting of numerous wind turbine generators and related
equipment.

E. A catastrophic mechanical failure has destroyed a wind turbine generator at the
High Winds Power Project (Use Permit No. U-01-18). The operator of the High
Winds Power Project wishes to replace the destroyed generator with a generator
of equivalent capacity in order to maintain its contractual energy delivery
commitments with electric utilities. Because a replacement generator equivalent
in height and power generating capacity to the destroyed generator is not
available, the operator seeks to replace the destroyed generator with one that is
taller.
F. As authorized by Section 28.106(l) of the Solano County Code, the Director of the Department of Resource Management has determined that the increased height of the proposed replacement generator is not in substantial conformance with the terms and conditions of Use Permit No. U-01-08 and that construction and operation of the proposed replacement generator would require a minor revision of the use permit.

G. Section 28.106(l)(b) of the Solano County Code authorizes the Zoning Administrator to approve a minor revision to a use permit if the Zoning Administrator determines that the revision does not constitute a substantial change in the use and does not require a substantial alteration in the use permit or any element thereof. Pursuant to Section 28.106(l)(c), any use permit revision that would allow a significant change in the use or the size or intensity of the use must be processed as a use permit amendment rather than a minor revision.

H. The interim ordinance, as initially adopted and as extended, supersedes Sections 28.106(l)(b) and 28.106(l)(c) and prohibits the approval of either a minor revision or an amendment to a use permit for a commercial wind turbine generator approved prior to November 5, 2013.

I. Because a minor revision to a use permit may be approved only if the proposed revision would not constitute a significant change in the previously-approved use, exempting the use permit minor revision process from the effect of the interim ordinance, as initially adopted and as extended, would not conflict with the purpose of that interim ordinance.

J. Exempting the use permit minor revision process from the effect of the interim ordinance is necessary to ensure that previously-approved commercial wind turbine generator facilities are able to meet their preexisting contractual energy delivery commitments to electric utilities and contribute to supplying California's electric energy demand, and is therefore necessary as an urgency measure in order to protect the public safety, health, and welfare.

SECTION 2. Amendment of the Interim Ordinance

Section 2 of the interim ordinance prohibiting establishment of any new commercial wind turbine generator, commercial solar energy facility, or wireless communication facility greater than 200 feet, adopted on November 5, 2013 through Ordinance No. 2013-1743 and as that interim ordinance has been extended by the adoption of Ordinance No. 2014-1751 on October 7, 2014, is amended to read:

From and after the date of enactment of the interim ordinance, no use permit, use permit amendment, variance, building permit, business license, or any other entitlement for use shall be approved or issued for the establishment, construction, or operation of a commercial wind energy generator, as defined in Section 28.01 of the Solano County Code, for any location or property within the unincorporated territory of Solano county, unless a use permit was approved prior to November 5, 2013, authorizing the establishment, construction, and operation of the commercial wind energy generator.

A minor revision to a use permit approved or revised prior to November 5, 2013, may be approved in accordance with Section 28.106(l)(b) of the Solano County Code, provided the Zoning Administrator makes the following findings:

a) The permit revision is necessary in order to replace equipment that has been damaged or destroyed;
b) The operator is unable to replace the damaged or destroyed equipment with substantially similar equipment;

c) Approval of the permit revision would not allow any significant changes in the use or the intensity of the use;

d) The replacement turbine height as measured above mean sea level will not exceed 698 feet; and

e) Approval of the permit revision would not foreclose implementation of any recommendations likely to be developed during the Joint Land Use Study process.

SECTION 3. Effective Period

This amendment of the interim ordinance is needed for the immediate preservation of the public health, safety, and welfare. It shall take effect immediately upon adoption and shall be of no further force and effect following the expiration of the interim ordinance on October 18, 2015, in accordance with the provisions set forth in California Government Code section 65858.

SECTION 4. Severability

If any provision of this ordinance or the application of it to any persons or circumstances is held invalid, such 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 the interim ordinance are declared to be severable.

PASSED AND ADOPTED by the Solano County Board of Supervisors at its regular meeting on October 28, 2014, by the following vote:

AYES: SUPERVISORS: Hannigan, Spering, Thomson, Vasquez and Chair Seifert

NOES: SUPERVISORS: None.

EXCUSED: SUPERVISORS: None.

LINDA J. SEIFERT, Chair
Solano County Board of Supervisors

ATTEST:
BIRGITTA E. CORSELLO, Clerk
Solano County Board of Supervisors

By: Jeanette Bellinder, Chief Deputy Clerk