

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF WYOMING

CLEAR SKIES OVER ORANGEVILLE

Petitioner,

AFFIDAVIT

v.

Index No: 42273

TOWN BOARD OF THE
TOWN OF ORANGEVILLE, and
SUSAN MAY, HANS BOXLER, JR., JAMES HERMAN,
ANDREW FLINT, and TOM SCHABLOSKI, in their
capacities as town board members,

Respondents.

STATE OF NEW YORK, COUNTY OF WYOMING) SS.:

Susan May, being duly sworn, deposes and says:

1. The information herein is based on my personal knowledge and I am competent to testify.
2. I am the Supervisor for the Town of Orangeville.
3. In a public meeting, all Town Board members reviewed and analyzed all of the WCPB's fifty-seven comments in its "Referral Response." The attention and energy invested in this analysis was extraordinary.
4. The Town's review and amendment of its zoning law was not motivated by any application, petition or request from Stony Creek Energy LLC or any other wind company. Rather, the Town amended its pre-existing zoning law, originally adopted in the year 1964, on its own accord.
5. The Town recognized itself as the proverbial "sitting duck" exposed to the influx of wind turbine projects with minimal regulatory control over them.

6. Stony Creek and the Town Board both explored anything that could be remotely interpreted as a conflict in what I would describe as a hyper-vigilant fashion. After this review, one board member — Councilman Tom Schabloski — was determined to have an “interest” within the broadest sense of the term, in the passage of the zoning law. He has recused himself from all proceedings related to passage of the amended zoning law.

7. Neither I nor any member of my family has entered into a wind lease agreement, or any other agreement, or otherwise has an interest in the Stony Creek Wind Farm or any other wind project.

8. I impartially worked and voted on the amended zoning law.

9. Regarding the amended zoning law, I had no conflict of interest and acted accordingly. This includes any conflicts arising out of a direct or indirect financial, business, commercial or other private transactions. None exist.

10. I was never, at any time, directly or indirectly involved in any transaction of any kind that in any way compromised my ability work and vote on the amended zoning law.

11. The Town of Orangeville took the required “hard look” as indicated by the extensive record.

12. The Town Board held numerous public hearings and received extensive public comments and submissions, including many by individuals associated with Petitioner.

13. The Town Board analyzed extensive evidence regarding Petitioner’s concerns, including the Minnesota report, a World Health Organization study, and other evidence.

14. The Town Board also analyzed other municipal wind energy ordinances as well as the State’s model law.

15. This hard look is documented in the extensive record, especially by the Full Environmental Assessment Form (“EAF”).

16. The Town's "reasoned elaboration" is indicated by the Negative Declaration. Significantly, the negative declaration does not approve any specific project but is reflective of a general amendment of the Town's entire zoning code and map.
17. The Negative Declaration expressly considered impacts of wind energy on land, water resources, air, plants and animals, agricultural land resources, aesthetic resources, historic and archaeological resources, open space and recreation, transportation, energy, noise and odor, public health and safety, and growth and character of the community or neighborhood.
18. In the context of wind energy, the Negative Declaration notes that a Special Use permit would be required for any future project and that the application process will include a full SEQRA review as well as numerous additional studies including submission of a full Environmental Assessment Form (and likely an Environmental Impact Statement), a Visual Impact Analysis, Avian Impact Study, and Noise Analysis (and more).
19. The Negative Declaration indicates that improper segmentation did not occur. First, there was no application for a wind energy project pending before the Town at the time. Second, the Town Board decided based on the evidence before it that it could best mitigate any potential impacts from specific projects by developing a regulatory approval process that would study any potential future project in its own context.
20. The zoning amendments are also consistent with the Town of Orangeville Comprehensive Plan, which is highly favorable to the development of wind energy. Indeed, development of alternative energy is a goal of the Plan: "Goal - Allow development of alternative energy sources to take place within the Town"

Susan C. May
Susan May

Sworn to before me March 5, 2010

[Signature]
Notary Public

DAVID M. ROACH
Notary Public, State of New York
No. 02RO6195247
Qualified in Wyoming County
Commission Expires 10/20/2012

VERIFICATION

STATE OF NEW YORK, COUNTY OF WYOMING)SS.:

SUSAN MAY, being duly sworn, deposes and says that deponent is the respondent in this action and has read this affidavit; deponent knows its content and knows that it is true to the best of deponent's knowledge, except as to those matters stated to be upon information and belief, and as to those matters deponent believes them to be true.

Susan C. May
Susan May