

**MINUTES OF A COMMITTEE OF THE WHOLE MEETING  
OSWEGO VILLAGE PRESIDENT AND BOARD OF TRUSTEES  
OSWEGO VILLAGE HALL  
100 PARKERS MILL, OSWEGO, ILLINOIS  
March 18, 2024**

**CALL TO ORDER**

President Ryan Kauffman called the meeting to order at 6:06 p.m.

**ROLL CALL**

Board Members Physically Present: President Ryan Kauffman; Trustees Tom Guist, Kit Kuhrt, Karin McCarthy-Lange, Karen Novy, Jennifer Jones Sinnott, and Andrew Torres.

Staff Physically Present: Dan Di Santo, Village Administrator; Jean Bueche, Asst. Village Administrator; Tina Touchette, Village Clerk; Michael Barajas, Commander; Jennifer Hughes, Public Works Director; Andrea Lamberg, Finance Director; Rod Zenner, Development Services Director; Joe Renzetti, IT Director; Kevin Leighty, Economic Development Director; Madeline Upham, Management Analyst; and Dave Silverman, Village Attorney.

**PUBLIC FORUM**

Public Forum was opened at 6:06 p.m. There was no one who requested to speak. The public forum was closed at 6:06 p.m.

**OLD BUSINESS**

**E.1 Short Term Rentals**

Director Zenner addressed the Board regarding short term rentals. In 2022, the Village Board began a review of short-term rentals. Over the past 10-years, the popularity of short-term rentals has greatly increased through websites like Airbnb and VRBO that made it easier and more accessible to rent residential properties. Several residents have raised concerns regarding short term rentals within the community. The Village has received three calls for service for police assistance from short-term rental properties. Some residents have requested that the Village consider some sort of regulations regarding short term rentals within the Village. On the other hand, residents have also stated that they want the ability to short-term rent their homes or to rent from others. Some residents have indicated that they do not support the Village restricting property owner rights or investments.

**Village Regulations**

The Village currently does not specifically regulate short term rentals. It is estimated that there are approximately six (6) short term rental units within the Village. Most neighboring communities currently do not have specific regulations regarding short-term rentals. The results of a survey are summarized here:

<b>Municipality</b>	<b>Specific Regulations</b>	<b>Notes</b>
Aurora	No	
Batavia	No	Consider short term rentals as Bed and Breakfast
Geneva	No	
Kendall County	Yes	Allowed if registered
Montgomery	No	
Naperville	Yes	Requires a minimum 30-day rental period
North Aurora	No	

Plainfield	No	They consider short-term rentals a hotel and require a special use permit
Plano	No	
South Elgin	No	
Sugar Grove	No	Considers short-term rentals a hotel and are not permitted in residential zoning districts
Yorkville	No	

Communities that have looked to ban short-term rentals have faced constitutional challenges for taking of property without due process, interfering with property rights and privacy rights without due process and in violation of equal protection. The courts are still reviewing the legalities of the levels of restrictions. Therefore, the options that the Village has regarding these uses may be somewhat narrow in scope. Staff is proposing three changes to the Village’s Zoning Ordinance regarding short term rentals:

1) Minimum Length of Stay

During the Village Board discussions, some residents and Board members suggested that a minimum length of stay should be implemented. A minimum length of stay would deter the rental of the home for a one-night event. Though a regulation of this nature has not been fully tested in court, the regulation, if implemented, should not be of a length that would prohibit the short-term nature of the rental use of the property. Staff is recommending a minimum of a 3-day rental for every short-term rental in the Village.

2) Definition

Staff is proposing a definition of short-term rentals to provide clarity in defining the term and to differentiate it from a bed and breakfast/hotel or a property owner who rents their property for an extended period of time. The proposed definition is as follows:

- *SHORT TERM RENTAL*: A dwelling, one family or multi-family with residentially allowed occupancy permits that are rented for a minimum of three (3) days and a maximum thirty (30) days. Rentals less than three (3) days are prohibited. Short term rentals establishments shall not include bed and breakfast establishments, motels, or hotels.

3) Registration Requirement

The Village could require that all short-term rental units be registered. The registration would provide information such as the maximum number of people anticipated for the unit and the name and contact information of the owner in case of emergency. As part of the registration, the Village would require an annual inspection of the property to determine if there are any potential code violations; and the property owner would provide the Village the right to enter the property for additional inspections upon request by the Village.

The Village currently has a hotel/motel tax rate of 3% of gross revenues that could be applied to short term rentals. Staff is of the opinion that tracking the rentals of these properties may be difficult as the Village would have to rely on the records of the property owners. It is recommended that in lieu of the tax, an annual fee be assessed as part of the registration process to accommodate the staff time to register the properties and to equate to the potential tax revenue of the rental. Staff has determined that annual rate to be \$2,000.

Staff is proposing the following text amendment to allow for short term rentals as a permitted use in the R-1 Single Family Residence District

7.01 R-1 Single family Residence District

- A. Permitted Uses: The following uses are permitted:

9. Short Term Rentals: In addition to the requirements set forth in this Ordinance, all other provisions of the Zoning Ordinance, Municipal Code of Ordinances and Building Codes adopted by the Village of Oswego shall be complied with. An annual Registration Permit shall be required in addition to the stipulations set forth in this Ordinance. The cost of the Registration Permit shall be borne by the applicant. Said fee shall be two thousand (\$2,000) dollars annually. The Registration Permit fee shall be collected and used in lieu of the Village's Hotel Tax.

#### Planning and Zoning Commission

The Planning and Zoning Commission held a public hearing on April 7, 2022. Two residents spoke during the public hearing stating their concerns with allowing short-term rentals within the Village. The Commission was in favor of allowing short-term rentals and discussed the benefits and drawbacks with charging a registration fee. The Commission discussed potential code violations for users of the short-term rentals and determined that three adjudicated violations on a property was an appropriate level of violations that could constitute denying a request for a registration renewal. After some discussion, a motion was made and seconded to recommend approval of the proposed text amendment with the following conditions: 1) registration with a \$2,000 annual fee; 2) minimum three-day length of stay with a maximum of 30 days; 3) less than three adjudicated violations annually to maintain registration.

#### License Requirement

If the Village Board is looking to implement the Planning and Zoning Commission's recommendation of setting the violation limit to three instances, then staff would recommend that in lieu of a registration, the applicants would have to apply for an actual license from the Village. The license procedure would be similar to the registration application procedure, but the license would have to be granted by a vote of the Village Board. Since it is a granted license, the Board would then have the ability to revoke the license due to not meeting the requirements, such as having three violations in a single year. A license would also allow the Village to inspect the property.

Board and staff discussion focused on currently six short-term rentals; doubt all would pay a \$2,000 fee; fee was determined by looking at a typical stay, rate and staff costs; three day would mean a three night stay; violations would include noise, parking, and anything else that would need police and/or code enforcement involvement; room rental would also be required to register, or be licensed, and be inspected; Kendall County does not supersede us; unincorporated is handled through Kendall County; difference between registration and license; licenses would come to the Board for approval; would be incorporated into the UDO; registrations would not require inspections and we would not issue violations; violations would follow the Village's fine schedule; no regulations right now; licensing is more involved and would include hearings with the Board; three levels of control; licensing seems excessive; \$2,000 seems like a lot; safety issues; majority have HOA's that may not allow short-term rentals; businesses renting homes for employees; fears in neighborhoods; Naperville has a 30-day rental period; don't see this being viable in Oswego; longer minimum stay; case law has supported complete prohibition up to 30 days; can't rent unless 30 days or more; don't think homes should be mini hotels; setting a precedence; cut down on partying; \$2,000 is high enough to eliminate; homeowner will market the home to cover the fee; three or more violations then the license can be revoked; policy decision; whether we can say no to all; appearance of operating a business in a residential area; home based business requirements; zoning requires 25% or less as business use in the home; Sugar Grove does not permit in residential districts; should not promote; concerns with licensing taking staff time; neighbor concerns; how many HOA's prohibit or ban; wouldn't have to do license or registration if implementing a 30 day rule; more people renting if it's a family unit; use is the concern; whether it is really that bad; how often they are rented; Naperville has the potential to have more rentals, but still chose 30 days; whether HOA's are going to fight against rentals; current short term rentals will be notified on whatever the Board decides. Consensus was not determined. Staff will bring the item back for further discussion at a future Committee of the Whole meeting. There was no further discussion.

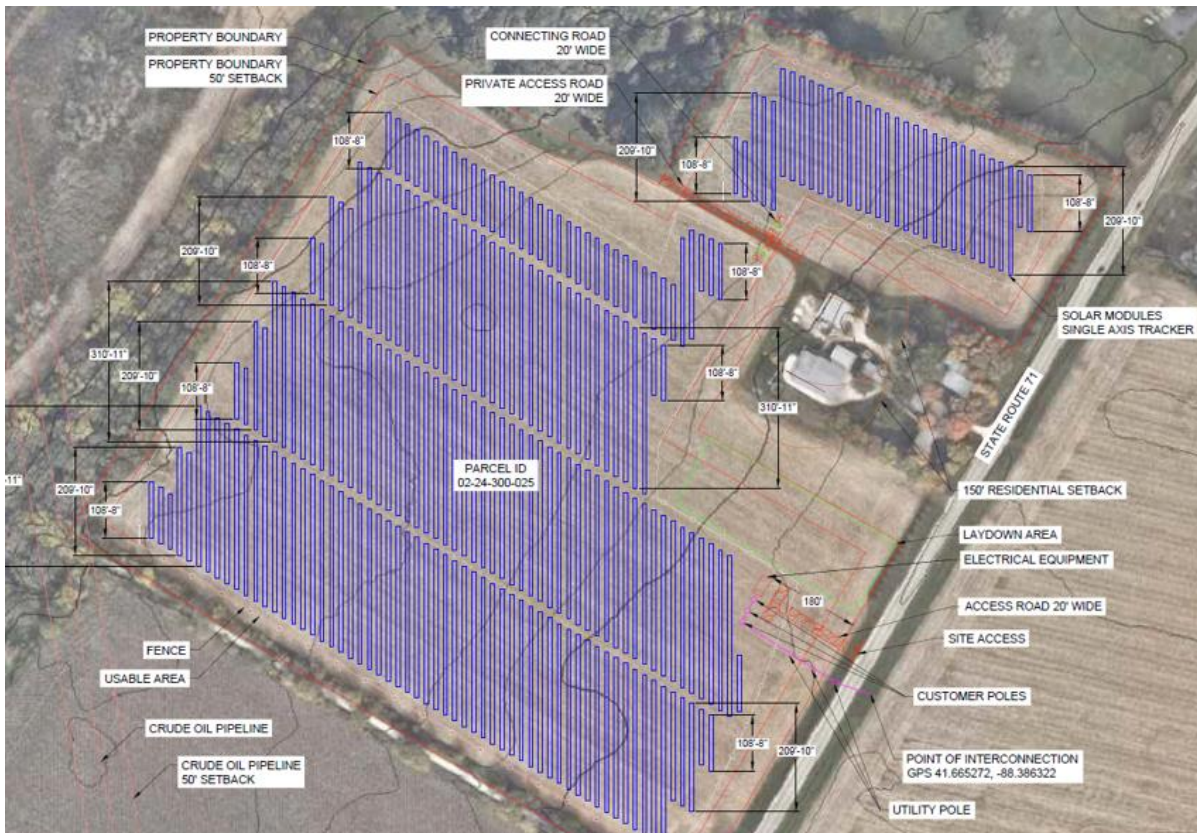
#### NEW BUSINESS

F.1 Discuss Community Solar Farm Proposal at 6908 B Route 71.

Director Zenner addressed the Board regarding a community solar farm. The Village has been approached by Turning Point Energy, who proposes to install community solar farm on the farmland surrounding 6809 B Rt. 71 in unincorporated Oswego. While staff has been approached with solar farm projects in Oswego's planning area in the past, previous proposals were in key development areas. This is the first proposal that is on the outskirts of town that is unlikely to develop in the near future.

### Proposed Use

The proposed site is approximately 39-acres in size located on the west side of Route 71 on the western edge of the Village's planning boundary. The property, and all adjacent properties, are currently zoned A-1 Agricultural District in unincorporated Kendall County. Turning Point Energy would be leasing the property from the owner, with an initial lease term of 25 years along with three five-year extensions; total of 40 years.



### Existing Conditions

The property is currently used for farming and, while it is unincorporated, it is within the Village's planning boundary. The Comprehensive Plan (2015) designates this property as partially residential and partially open space. While this property is currently in unincorporated Kendall County, the State of Illinois (§55-5/5-12020) preempts county regulations on commercial solar energy facilities. Kendall County cannot impose regulations on solar farms that are more restrictive than the state regulations. As a Home Rule Unit, the Village can place more requirements on the proposed development if the property were to annex to the Village.

### Zoning

Under the current zoning code, solar facilities are only permitted as accessory uses, such as solar panels on the roof of a home or business. Those types of solar facilities typically provide power for use on site only. Under the Unified Development Ordinance (UDO), as currently proposed, utility-scale solar energy systems are only allowed by Special Use Permit in A-1 Agricultural District and M-1 General Manufacturing District. Utility-scale solar energy systems are designated as a principal use and usually sell energy back to the power grid. As with any Special Use, this provides the Village Board with the opportunity to place conditions on the use. If there is support for this use generally, staff may consider conditions such as:

- Screening requirements (fencing/landscaping)
- Minimum Setbacks/separation from buildings
- Groundcover requirements, such as encouraging native, pollinator-friendly plantings
- Decommissioning plan requirement in the event that the solar farm is abandoned

Staff is open to suggestions from the Village Board regarding other concerns or conditions to consider. These items, along with a restriction on project size, may also be included in a future text amendment.

Board, staff, and representative for Turning Point Energy, discussion focused on lease agreement with landowner; 25 year lease; located on private land; how Oswego residents will benefit; paying a set amount on the assessed value; Village would receive \$7,500 in taxes over a 25 year period; site is in the Yorkville School District; trees left alone; add screening; property owner would be staying; power lines and poles constructed to connect to others; no utility tax; no benefit to residents, only to the grid; if owner is ok, then the Village should be also; how Kendall County would approve; special use and letter from the Village showing we do not want; future planning for the site; not a lot of utilities on the site; whether it is advantageous because it's on Rt. 71; widening Rt. 71 in the future; great area for development; after 25-40 years, the site will revert back to it's original state; landowner could renew the lease; land can only revert back to residential because it couldn't be farmed on; it's the farmer's land, who are we to tell him what to do; can add additional regulations; County could approve as is; don't know if County will approve; what the downside is to approving; misconceptions of solar fields; could restrict future development because utilities would not be on the property; not sure a developer would build across from a solar field; glare study needs to be done; State does not regulate; screening; asking County if they will do a study and plans; will need annexation agreement, but can't have total control until contiguous; homeowner can go to court if the Village and County says no; north, south and west side covered with trees; types of screening; Turning Point has not done berms, but would be willing to do them; 3-4 sites not approved out of 15 sites; unknown the percentage of solar impact on the grid; can get stats; bring back for review on screen rendering and glare study. There was no further discussion.

### F.2 Consider Adding Student Members to Advisory Commissions

Item was moved to Staff Reports at the March 18, 2024 Regular Village Board Meeting.

### **CLOSED SESSION**

There was no closed session.

### **ADJOURNMENT**

The meeting adjourned at 7:21 p.m.

Tina Touchette  
Village Clerk