

**Village President**

Jennifer Konen

**Village Administrator**

Scott Koeppel

**Village Clerk**

Tracey R. Conti



**Village Trustees**

Matthew Bonnie

Sean Herron

Heidi Lendi

Sean Michels

Michael Schomas

James F. White

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**AGENDA  
VILLAGE OF SUGAR GROVE  
BOARD MEETING  
APRIL 16, 2024, 6:00 P.M.  
VILLAGE HALL BOARD ROOM  
10 S MUNICIPAL DRIVE**

**1. Call to Order**

President Konen called the meeting to order at 6:00 pm.

**2. Pledge of Allegiance**

Chief Rollins let the Pledge of Allegiance.

**3. Roll Call**

On April 16, 2024, the Village Board meeting was held in person at the Village Board room at the Police Department.

**Present:** President Jennifer Konen, Trustee Sean Herron, Trustee Matthew Bonnie, Trustee Michael Schomas, Trustee Sean Michels, Trustee James F. White, Trustee Heidi Lendi.

**Absent:** None

**Additional Attendees:** Administrator Koeppel, Attorney Julien, Finance Director Anastasia, Community Development Director Magdziarz, Planning and Zoning Administrator Marion, Economic Development Director Cassa, and Village Clerk Tracey Conti.

**4. Public Hearing - None**

**5. Appointments and Presentations**

The following proclamations were read and or entered into the record.

1. Proclamation Honoring Volunteer Week and Mary Ochsenschlager.
2. Proclamation Honoring Arbor Day.
3. Proclamation Honoring National Telecommunicator Week.
4. Proclamation Honoring National Work Zone Safety Week.

**6. Airport Report**

Anthony Speciale noted that the Airport Advisory Board met on April 8, 2024. And reported the following:

The airport has received a grant to renovate the auto parking lot, but it is waiting for agency agreements before starting the repaving work. Additionally, it has received funds to repave the

perimeter road, but final approval is still pending because it is waiting for the agreements to be signed.

The hangar addition and fuel farm are under FAA review.

New snow equipment should be arriving soon to assist with winter operations.

The solar farm is under review.

The airport sign is part of a City of Aurora sign package that is under review.

## 7. Public Comment on Scheduled Action Items

- Perry Elliott commented about setting the date for the Public Hearing for proposed TIF #3.
- Daniel Entile commented about Community Solar 1 & 2.
- Scott Allen commented about residential solar.
- Mike Rayburn commented about residential solar.
- Beck Brocker commented about residential solar.
- Denise Feltes commented about residential solar.
- John Feltes commented about residential solar.
- Allen Burns commented about residential solar.
- Brian Kish commented about residential solar.
- Mike Seville commented about residential solar.

## 8. Consent Agenda

- a. **Approval:** Minutes of the April 2, 2024, Board Meeting.
- b. **Approval:** Vouchers.
- c. **Approval:** Treasurer's Report.
- d. **Resolution:** Approving an Agreement between the Village of Sugar Grove and Sugar Grove Corn Boil.
- e. **Resolution:** Approving an Intergovernmental Agreement between the Village of Sugar Grove and Sugar Grove Public Library District for Shared Space & Services.
- f. **Resolution:** Approving a PSA with HR Green for Phase II Engineering for US-30 & Municipal Dr. Crosswalk Improvements.

Motion by Trustee Schomas, second by Trustee Herron, to approve the Consent Agenda as presented.

**Ayes: Schomas, Herron, Michels, Lendi, Bonnie, White; Nays: None; Abstain: None; Absent: None**

## 9. General Business

- a. **Ordinance: Approving a Special Use Permit – Community Solar 1 (Aurora Airport).**

*At 6:43 p.m., Trustee Bonnie recused himself from voting on items 9a and 9b—Community Solar 1 and Community Solar 2—and left the room.*

Director Magdziarz stated that the ordinance presented affirms the Plan Commission's recommendation to approve the special use permit for Solar 1.

Attorney Daniel J. Kramer, the representative for Sun Code Aurora Airport Solar Community System, stated that the solar farms installed at the airport would directly benefit the community. Not just because it's green energy but because it financially benefits the community. The Village of Sugar Grove, Aurora, and Kaneland School District will all benefit from this. The applicant did everything they could to submit a complete application. There are things in the Village Ordinance that don't happen until the construction phase. The Plan Commission and staff have attached those conditions for special use. Other than requesting runway expansion, the City of Aurora hasn't had any other proposals for M1 use of the property.

There is an example of a residential community right next to a solar facility behind a nice subdivision in Yorkville. There have been no complaints at the county or city level, and the homes sell between \$350,000 and \$450,000. If you took advantage of the site tour or just drove by, you will not see where the panels are due to the growth on the perimeter.

At the meeting on March 5, there were two critical issues:

1. Burying the ComEd lines: If approved, the lines will be buried underground at the applicant's cost.
2. Glare: The consultant who did the glare study used a specific average tree site but did not have the trees measured. Sun Code was able to have a different consultant do a drone over and calibrate the height of the trees. That study showed no glare affecting any residents. There is one home on Snow Street that would have a site line between the trees. Sun Code has agreed to meet with the homeowner and plant landscaping at their cost to improve the aesthetics of their property.

The Plan Commission is the fact-finding body, and they recommended both petitions unanimously. The staff report, plan commission recommendation, and residents in favor of solar should be considered. Attorney Kramer stated that several people from Sun Code were there who could answer questions.

President Konen pointed out that the Plan Commission vote was not unanimous and that there was one no vote. President Konen explained that two Solar items are on the agenda, and the discussion may include both items.

Attorney Kramer explained that the solar field in Kendall County provides most of the electric services for the jail, mental health building, and courthouse, a considerable saving for all Kendall County residents, not just Yorkville.

Trustee Lendi stated that her main concern is life safety. She researched the subject by speaking with pilots and instructors, reading FAA documents and articles on solar field fires, and watching the FAA Safety Video for Aurora Airport. She didn't claim to be an expert, but from what she learned in the documentation she read, we cannot rely on the FAA to do the job of the Village Board in reviewing the location regarding the safety of the pilots. The FAA did

require a glare study that included pilots in the interim requirements, but that is no longer necessary. They rely on the Airport and the form they fill out to state that the project will not cause any visual impact. Furthermore, it states that the Airport will perform sufficient analysis for potential glint and glare for the control tower, not the pilots. During a previous meeting, a pilot shared the same information, and it's now been confirmed by her research. Additionally, it states that the FAA relies on Planning and Zoning Officials to be the front line in the land use decision-making process around the airport.

Trustee Lendi clarified that the two solar locations are situated directly in the path of active runways. She stated that pilots have expressed concern about glare and the location of the panels being so close to the end of the runway. If a pilot overshoots the runway, they could go into the array, causing a severe problem for fire officials to perform a rescue with limited access. The airport has student pilots and inexperienced pilots.

Trustee Lendi further explained that fires in solar fields have unique difficulties that might not impact large airports but may challenge our fire department.

She stated that for her, it's not about money, tax revenue, a negative impact on home value, or glare in residents' backyards; it's about life safety. Do not put a solar farm at the end of a runway where planes could crash into it. We should be doing research and making sure we protect the lives of our neighbors.

Trustee Schomas asked what the changes have been implemented since the other two meetings occurred.

Attorney Kramer's response included the following points: first, the proposal involved burying the ComEd lines; second, an additional glare study was conducted; and third, a licensed pilot who is also an air traffic controller testified that there is no problem from a pilot's point of view and a traffic control perspective. He explained that the land is zoned M1, which could bring other types of businesses, such as manufacturing, data centers, etc. The risk is not high considering what could be there and human lives at stake.

President Konen asked that staff pull up the illustration showing the solar array layout.

President Konen asked about emergency services and how they would gain access if needed. The applicant responded that the area would be fenced in, and emergency services would have access to the facility. This would be coordinated with a plan with the fire department. Regarding monitoring, the AC and DC sides can be disconnected, stopping electricity from flowing onto the grid and the panels. Before construction begins, there will be a meeting with Fire and Police regarding safety issues.

Trustee Lendi reiterated that she worries about Life Safety and that glare would increase the chance of inexperienced pilots' issues. There are currently two active runways, and one runway does line up with the array.

President Konen said she had done her due diligence regarding residential and commercial solar farms by speaking with the airport, regional, and commercial pilots. The intent is not to add hurdles or cause problems. Looking at the solar field array, it's on the backside of the lot, and there are trees. The area already has obstacles; we don't want to worsen matters. Pilots are confronted with plenty of obstacles.

President Konen referenced front-facing solar stating that she doesn't like how they look and wouldn't choose to have them on her home, but she believes that residents have the right to have them on their homes. She stated that if she gives homeowners rights, then she will provide landowners with rights as they are the same. The issue is how to prevent the worst-case scenario from happening. She stated that the City of Aurora has property rights, and the Board's job is to decide if special use is permitted in this area. It's a quiet use. We will always be concerned about the safety of pilots in the area.

President Konen stated that she's concerned with the fencing surrounding the array and would like to ensure that the fencing is down and around so a plane can clear the fence if needed.

Trustee Lendi asked if there would be a way to move the panels in the way of the runway. The applicant did not have an answer.

Motion by Trustee Michels, second by Trustee Schomas, to approve **Ordinance: Approving a Special Use Permit – Community Solar 1 (Aurora Airport).**

**Ayes: Michels, Schomas, Herron, Konen; Nays: White, Lendi; Abstain: None;**

**Recuse: Bonnie; Absent: None**

*Trustee Bonnie rejoined the meeting at 7:25 p.m.*

**b. Ordinance: Approving a Special Use Permit – Community Solar 2 (Aurora Airport).**

President Koenen asked the applicant if they knew the distance between the runway and the array. The applicant stated that they don't have that exact information but that it is outside the runway protection zone.

The applicant stated that they don't have an issue reorganizing but needed clarification on what the Board was asking.

A brief discussion was held regarding the location of the array and panels that are in a straight line with the runway. The information provided on the location of the panels was from the airport.

Attorney Kramer clarified that if the special use is approved, the petitioner must get approval of the final site plan; if they are asked to move or remove panels, that would be done.

Motion by Trustee Schomas, second by Trustee Michels, to approve **Ordinance:** Approving a Special Use Permit – Community Solar 2 (Aurora Airport).

**Ayes: Schomas, Michels, Herron, Konen; Nays: White, Lendi; Abstain: None;**

**Recuse: Bonnie; Absent: None**

**c. Approval: Village of Sugar Grove Main Street Resurfacing Project - Phase III Engineering Agreement.**

Village Administrator Scott Koeppel stated that the agreement with KKCOM was for the village's match portion of the project. The eligible match is 75/25, and the next item aligns with this.

Motion by Trustee Schomas, second by Trustee Herron, to approve the Village of Sugar Grove Main Street Resurfacing Project - Phase III Engineering Agreement.

**Ayes: Schomas, Herron, Michels, Lendi, Bonnie, White; Nays: None; Abstain: None;**

**Absent: None**

**d. Resolution: Village of Sugar Grove Main Street Resurfacing Project - Joint Funding Agreement.**

Village Administrator Scott Koeppel explained that this ties in with the last item. The project engineers will be with Engineering Enterprises, Inc.

Motion by Trustee Schomas, second by Trustee Herron, to approve the Village of Sugar Grove Main Street Resurfacing Project - Joint Funding Agreement.

**Ayes: Schomas, Herron, Michels, Lendi, Bonnie, White; Nays: None; Abstain: None;**

**Absent: None**

**e. Ordinance: Amending Village Code: Eliminating Leaf Burning (Section 4-6-3-F).**

Chief Rollins noted that on March 19, when this item was first presented, the Board sought additional input from the residents. Information went out to residents asking that they attend the Board Meeting on April 2.

This topic was brought up under the Health and Safety Code, and several residents are concerned about health conditions and smoke getting inside homes and permeating into furniture.

Motion by Trustee Herron, second by Trustee Bonnie, to approve Amending Village Code: Eliminating Leaf Burning (Section 4-6-3-F.).

**Ayes:, Herron, Bonnie, White, Lendi; Nays: Michels, Schomas; Abstain: None;**

**Absent: None**

**f. Ordinance: Zoning Amendment – Roof Location Limitations for Solar Collectors (Section 11-4-21-A-2-f).**

Director Magdziarz stated that the ordinance is to approve the amendment recommended by the Plan Commission.

President Koenen invited Mike Rayburn to speak.

Mike Rayburn spoke about why he believes the zoning amendment should be approved. President Konen stated that she did not favor the front-facing solar and explained that she had changed her position, but she was concerned about how it was installed. She asked staff to include the following restrictions:

*Mounting Location. Panels are permitted on a roof plane facing a street, subject to the following conditions:*

- 1. Conduit/piping: no conduit or piping shall be visible on roof surfaces facing a public street.*
- 2. Support Structures: No solar panel supporting structures on roof surfaces facing a public street shall be visible.*
- 3. Commercial & Industrial Property Mounting Location: properties with a commercial or industrial zoning classification may only have solar panels installed on a flat roof hidden by a parapet wall or otherwise screened from view.*

Mike Rayburn stated that he agreed with item number one.

It was clarified that support structures are the mountings used to install the panels.

President Konen noted that text amendments can be added to the Ordinance as other things come before the Board and asked the Board how they feel about the three additional items.

Trustee White stated that he's opposed this, and we've made decisions based on aesthetics numerous times. The petitioner has done an excellent job explaining his position. This is an economic issue, but it's also aesthetics for the Board. This is why we have ordinances with certain restrictions. There are significant economic reasons for allowing this and aesthetic reasons for not. It's about balance. Trustee White stated his balance has always been that he doesn't want it on the front.

Trustee Lendi stated that her daughter recently did a School Project on front-facing solar panels. Part of her research included a hand count of satellite images of homes in Sugar Grove and approximately 580 homes with the south side facing the street.

Trustee Herron agreed with the conditions being added.

Trustee Bonnie agreed with the conditions being added.

Motion by Trustee White, second by Trustee Herron, to approve the Zoning Amendment – Roof Location Limitations for Solar Collectors (Section 11-4-21-A-2-f).

**Ayes: White, Herron, Lendi, Bonnie, Schomas; Nays: Michels; Abstain: None; Absent: None**

**g. Resolution: Approving Contract with Four Seasons Landscaping for Landscaping Services at Village Entrances.**

The Enhancement Committee met with 4 Seasons Landscaping and would like to use their allotted budget to enhance the signs and entrances to the Village. If approved, work would start right away.

Motion by Trustee Bonnie, second by Trustee Herron, to approve Contract with Four Seasons Landscaping for Landscaping Services at Village Entrances.

**Ayes: Bonnie, Herron, Michels, Lendi, Bonnie, White; Nays: None; Abstain: None; Absent: None**

**h. Ordinance: Approving and Setting a Public Hearing Date for Proposed TIF #3 (I-88 & IL-47).**

Village Administrator Scott Koeppel explained that this is the next step regarding TIF #3. This doesn't bring any new information to do with the TIF or the project, but it is a requirement to pass an Ordinance setting the date and time of the Public Hearing at 45 days before the Public Hearing itself. The date of the Public Hearing is June 18, 2024, at 6:00 pm at Waubensee Community College. This also sets the date of the Joint Review Board when the taxing bodies will meet to discuss the TIF establishment. It is strictly about the TIF, not the project itself.

President Konen clarified that the Ordinance only sets the date for the Public Hearing about the TIF, not the redevelopment agreement. Administrator Koeppel stated that the TIF can be established without a redevelopment agreement. The TIF has to be established, and then a redevelopment agreement can be done afterward, which would need to be approved by the Village Board.

The Area Eligibility Report and Development Plan will be presented during the public hearing. They are precise to the creation of the TIF. The public hearing happens in front of the Village Board, and then 14-90 days later, the Board will vote on creating the TIF. The intent is for residents to have their voices heard before the Board votes.

Motion by Trustee Schomas, second by Trustee Herron, Approving and Setting a Public Hearing Date for Proposed TIF #3 (I-88 & IL-47).

**Ayes: Schomas, Herron, Michels, White, Lendi, Bonnie; Nays: None; Abstain: None; Absent: None**

**10. Public Comment**

- Perry Elliott commented about setting the date for the Public Hearing for proposed TIF #3.
- Daniel Entile commented about Community Solar 1 & 2.
- Bob Ramardi commented about the Crown Project.
- Mike Rayburn commented about residential solar installation.
- Beth Blackburn commented about the Crown Project.



## **11. Discussion Items**

### **a. Waterford Place Amendment.**

Daniel Marion informed the Board that an application had been submitted to amend the Waterford Place PUD. The application seeks to change the permitted use on Lot 27 from a medical office building to an attached single-family dwelling. The applicant wishes to construct a duplex on this property. The Waterford Place PUD was amended in 2000, allowing medical office space on Lot 27. The original PUD did not include Lot 27 except for specifying the location of the driveway. The applicant has provided preliminary plans and elevations for the proposed duplex, which is designed to complement the existing Waterford Place dwellings. The village staff evaluated the proposal and concluded that the intended use is similar to the attached single-family dwellings already in Waterford Place.

The Planning Commission conducted a public hearing, at which interested persons were present. The primary concerns were traffic on Capitol Drive and parking issues in Waterford Place. Pavement markings will prohibit parking on Capitol Drive. However, the duplex residents will have sufficient parking on the property. The Planning Commission recommended the approval of the PUD amendment with its recommended conditions. The staff is seeking recommendations on how to prepare the ordinance for approval.

The duplex's outside aesthetics were discussed. It was clarified that this duplex is not part of the Waterford Place Homeowners Association. The applicant will bring revised, more detailed plans to the next Village Board Meeting on May 7, 2024.

### **b. Letter from State's Attorney's Office.**

President Konen explained that the State Attorney will not be petitioning the Circuit Court. Individuals can pursue this on their own.

Trustee Bonnie went on record to say that he disagrees with the State's Attorney findings.



Office of the Kane County State's Attorney

**JAMIE L. MOSSER**  
**STATE'S ATTORNEY**

March 20, 2024

Jennifer Konen, President  
Village of Sugar Grove  
160 S. Municipal Drive, Suite 110  
Sugar Grove, Illinois 60554

Re: Patrick Sean Michels, Village Trustee

Dear Village President Konen,

I write in response to your letter – dated February 9, 2024 – requesting a *Quo Warranto* action against Village Trustee Patrick Sean Michels (“Mr. Michels”).

As you know (and discussed in your letter), Mr. Michels had felony charges brought against him for forging a certificate of occupancy and delivering that forgery to the property owner and title company. Upon the bringing of those charges, Mr. Michels applied for our Deferred Prosecution Program (“Program”). After it was verified that he was a non-violent, first-time offender and that he did not use his elected position to commit this crime (this would preclude him from the program), he was deemed eligible and accepted into the Program. Mr. Michels then executed the Deferred Prosecution Agreement (“Agreement”) which stipulated to a dismissal of all charges upon the successful completion of the Program. After signing the Agreement, the Judge overseeing his case accepted it, deferred the prosecution, and assessed a fine of \$1,584. Consistent with the Program, there was no guilty plea entered by Mr. Michels, nor a conviction by the Court of any of his charges at that time. Mr. Michels currently remains in the Program and is scheduled to have a status of completion hearing in early May. If he successfully completes the Program by that time, he will have his pending charges dismissed pursuant to the Agreement.

Please know that my office has reviewed whether a *Quo Warranto* action may be brought against Mr. Michels, including what legal hurdles there are (if any) in bringing such an action. It is because of that review – as quickly outlined below – that I decline to file such an action against Mr. Michels at this time.

An action for *Quo Warranto* under 735 ILCS 5/18-101(3) applies only where the public

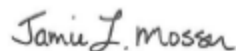
officer has done an act that works as an automatic forfeiture of his office. Indeed, pursuant to Municipal Code Section 3.1-10-50(c)(2), as cited in your letter, a municipal officer can only be removed if *he has admitted guilt or entered into a written agreement to plead guilty to a felony*. As noted above, the Program does not require defendants to formally plead guilty to any offense. The Agreement also does not constitute an agreement to plead guilty to a felony. To be clear, the provision in the Agreement, whereby the defendant agrees to state a factual basis, does not amount to an agreement to plead guilty to a felony under Section 3.1-10-50(c)(2).

Accordingly, the record reflects that Mr. Michels did not plead guilty to any offense in open court before a judge, nor did he accept a guilty plea or the terms of any guilty plea agreement after appropriate admonishments. Without more, my office has no legal basis to bring a *Quo Warranto* action against Mr. Michels at this time.

Please note that 735 ILCS 5/18-102 allows any interested person to (1) request the Attorney General bring a *Quo Warranto* action if the State's Attorney declines to bring such an action and (2) bring their own action if both the State's Attorney and Attorney General decline. I thus have no legal objection at this time to you making a similar request to the Illinois Attorney General's Office, if you still wish to have someone pursue a *Quo Warranto* action against Mr. Michels. I also have no objection – if the Attorney General declines your request – to the Village itself seeking such an action against Mr. Michels, if the Village has such a legal right.

Please let me know if you have any questions or concerns. I am happy to discuss my decision and its legal basis with you. I am also willing to reconsider this decision if Mr. Michels fails the Program and ends up being convicted of or agrees to plead guilty to a felony.

Sincerely,



Jamie L. Mosser  
Kane County State's Attorney

## 12. Reports

### a. Staff

#### Village Administration

No additional updates.

#### Finance Department

No additional updates.

#### Community Development

Code enforcement was initiated regarding the detention basin at Sugar Grove Center. Director Magdziarz will have the inspector give special attention to the Sugar Grove Center and the Calamos properties. Director Magdziarz explained that several attempts had been made to contact the owner regarding the mowing and clearing of the volunteer trees on the Calamos property. This could go to administrative adjudication if needed.

#### Public Works

Trustee Lendi asked for a statement on Forever Chemicals at a future meeting.

Police Department

No additional updates.

Community Development

Director Cassa told the Board he will attend the International Shopping Center Convention next month. In addition to looking for development opportunities, we will partner with CBRE to find a restaurant for the space adjacent to the proposed Starbucks. When he returns, he'll present a recap to the Board. In September, he and Village Administrator Koeppel will attend the Chicago International Shopping Center Midwest Show.

Becky Gwilt has started as the new Economic Development Assistant.

**b. Trustees**

Trustee Lendi stated that the Bliss Woods clean-up will be on Sunday, April 28, from 10 a.m. to 12 p.m.

Trustee Heron explained that the trees were taken down at Waubonsee because they will build an automotive center. This is a positive development for Waubonsee and Sugar Grove.

Trustee Schomas stated that there wasn't anything to report from the Forest Preserve District meeting. The Park District has some color rendering plans for a playground. He made them aware of the solar fields near the sports complex.

**c. President**

President Konen attended the Subway ribbon cutting. There will be an Arbor Day event at John Shields Elementary School on April 26 and the Library on April 27.

President Konen met with Dr. Sylvia Smith from Giant Steps. They are doing great work, and hopefully, we can work with them in the future.

President Koenen explained that she, Village Administrator Koeppel, and Trustee Bonnie will leave for the Metro West Drive Down to Springfield.

**13. Executive Session - None**

- Personnel – 5 ILCS 120/2(c)(1)
- Litigation – 5 ILCS 120/2(c)(11)
- Property/Land Acquisition – 5 ILCS 120/2(c)(5)
- Sale of Property – 5 ILCS 120/2(c)(6)
- Review of Executive Session Minutes – 5 ILCS 120/2(c)(21)

**14. Adjournment**

Motion by Trustee Bonnie, second by Trustee Herron, to adjourn the meeting at 8:37 p.m.

**Ayes: Bonnie, Herron, Michels, Lendi, Bonnie, White; Nays: None; Abstain: None;  
Absent: None**

ATTEST:  
/s/ Tracey R. Conti  
Tracey R. Conti  
Village Clerk