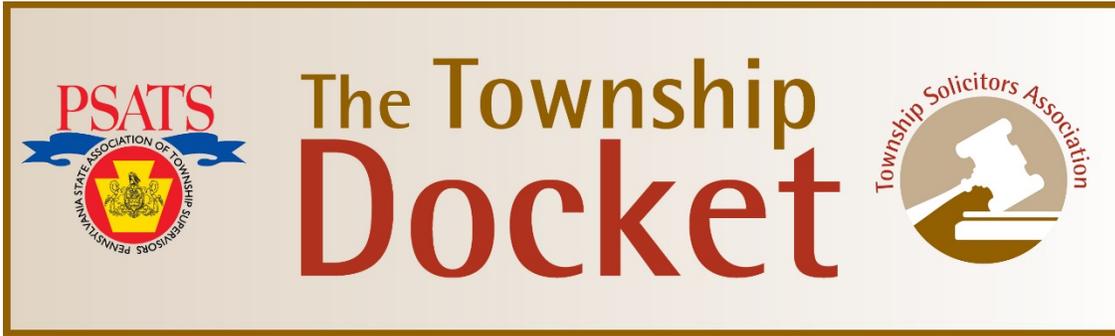


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February 1, 2021

This biweekly enewsletter for members of the Pennsylvania State Association of Township Solicitors is intended to focus on news and matters of interest to solicitors, share case updates in a timely manner, and provide details about upcoming training opportunities. Email comments and suggestions to scoburn@psats.org.

Headlines

Are Personal Delivery Devices Coming to a Township Road Near You?

This weekend, PennDOT released draft policy and procedures for personal delivery devices (PDDs), or autonomous robots, that are designed to deliver packages to consumers. Act 106 of 2020 authorized the use of PDDs on sidewalks, in pedestrian areas, and along berms of roads posted at 25 miles per hour or less.

PennDOT's policy and procedures would require operators to reach out to affected municipalities before submitting applications and consult with them as part of the review process. For more information on PDDs, [click here](#).

REMINDER: PSATS Webinar Tomorrow on Municipal COVID-19 Vaccination Policies

On February 2 starting at noon, PSATS will be hosting a one-hour webinar titled "COVID-19 Vaccines: What Municipal Employers Need to Know." Attorneys from Eckert Seamans will present a focused discussion on the relevant factors that municipal employers should consider when implementing vaccination policies.

The webinar is free for PSATS Webinar PowerPass holders (\$15 for CLE credit). For more information or to register, [click here](#).

Solicitors Association Sponsor Launches Municipal Management Subsidiary

McNees Wallace & Nurick, the 2021 sponsor of the PSATS Solicitors Association, recently launched

Keystone Municipal Solutions, which will be aimed at providing municipalities with interim management and professional consulting services. For more information, go to keystonemunicipalsolutions.com.

Recent Decisions

Signs, Signs, Everywhere a Sign! Busy Stretch for Billboard Decisions

In *Lamar Advantage GP Co., LLC v. City of Pittsburgh Zoning Bd. of Adjustment*, ___ A.3d ___, 2021 WL 189276 (Pa. Jan. 20, 2021), the state Supreme Court ruled that there was insufficient evidence that a billboard company violated Pittsburgh’s zoning code prohibiting nonconforming signs from enlarging another nonconforming sign, when the company ratcheted a static vinyl sign over an electronic billboard atop Mount Washington without any structural alterations. It also distinguished this outcome from that in *Lamar v. Monroeville*, 939 A.2d 994 (Pa.Cmwth. 2007), because of numerous factual differences.

Meanwhile, in *In re Appeal of Charlestown Outdoor, LLC*, No. 826 C.D. 2019, 2021 WL 208215 (Pa.Cmwth. Jan. 21, 2021), the court rejected a validity challenge to a township zoning ordinance on the basis that it excluded outdoor advertising billboards within the township. It found that while the ordinance available to the public provided for billboards in a district that no longer exists, there was substantial evidence that the township properly amended its ordinance and that the “fact that a third-party commercial publisher codified the Ordinance incorrectly does not reflect on the Township.”

It also rejected a *de facto* exclusion argument in this case because the fact there is no location within the sole allowable zoning district where a billboard can be constructed was the result of post-ordinance construction of a slip ramp by PennDOT, and substantive validity challenges are “based upon the conditions as they existed at the time of an ordinance’s enactment on other occasions.” The court elaborated that “[t]o hold otherwise would require a municipality to rezone based upon another’s use of its land.”

Implementation of Act 537 Plan Does Not Trigger Taking

In *Pileggi v. Newton Twp.*, ___ A.3d ___, 2021 WL 29266 (Pa. Jan. 5, 2021), the court rejected a claim by property owners that the township engaged in a *de facto* taking of their land because the township opted to allow sewage to be disposed of through approved on-lot disposal systems and denied or otherwise did not ensure the approval of their proposed alternative sewage treatment system. The court found that the township “did not wield the power of eminent domain in any way” during the implementation of its Act 537 plan or when processing the property owners’ permit submissions. Given the absence of any actual and formal exercise of the power to condemn, there could be no taking.

Upcoming Educational Offerings

[COVID-19 Vaccines: What Municipal Employers Need to Know – 2/2/21 Webinar \(1 CLE\)](#)

In this webinar, Ryan J. Cassidy, Michael McAuliffe Miller, and Scott E. Blissman of Eckert Seamans’

Labor and Employment Group will present a focused discussion of the relevant factors that municipal employers should consider when implementing vaccination policies, maintaining employee morale, handling enforcement issues, and managing accommodations requests. Topics to be addressed include ADA and religious accommodation requirements, current legal standards implicated by mandatory vaccine policies in the public sector, whether public employers can (or should) require employees to be vaccinated, how to handle employee refusals, and collective bargaining issues.

[What's All the Noise about Noise Ordinances – 2/3/21 Webinar \(1 CLE\)](#)

In this webinar, township supervisors, staff, and solicitors will receive sound information about the need for noise ordinances, hear about the startling current research on noise and its adverse effects on health, learn important distinctions between nuisance law and noise ordinances, and discuss ways to avoid the decibel level trap. Attendees will also learn tips on drafting a true, simple, and effective noise ordinance.

[Home-Based Businesses: Is Your Township Ready for More? – 2/10/21 Webinar \(1 CLE\)](#)

Home business activities and functions are considered a form of home-based businesses or occupations (HBBs) as defined, permitted, and regulated by most municipal zoning ordinances. In this webinar, representatives of Solicitors Association sponsor McNees Wallace and Nurick, LLC, will explore opportunities and options for municipalities to proactively plan and zone for HBBs.

[HR and Labor Relations in 2021 – Four New Things to Watch For – 2/23/21 Virtual Class \(2 CLE\)](#)

In this virtual class, attorneys from Eckert Seamans will detail what to expect in human resources and labor relations in 2021, including work-from-home issues, employee stress and coping, compensation and bargaining, and general management issues.

[Setting Up Stormwater Management Fees – 2/24/21 Webinar \(1 CLE\)](#)

The uncertainties of 2020 have many municipalities thinking again about a fairly collected and reliable source of revenue to support even their basic stormwater activities. In this session, Steve Hann of Hamburg, Rubin, Mullin, Maxwell & Lupin, PC, and Nathan Walker of Gannett Fleming, Inc., will discuss how a stormwater user fee, when properly established, can be a transparent, flexible, and equitable way for municipalities to set and achieve a long-term vision for water quality and flood control goals that meet the needs of their residents and businesses.

[High Cube and Automated Warehouses: Are You Prepared? – 3/17/21 Webinar \(1 CLE\)](#)

A new land use, the high cube or automated warehouse, is starting to pop up around Pennsylvania. These warehouses have a variety of forms, from “a warehouse on top of a warehouse” to largely robotic retrofits in an existing building, but in essence, they will have significant transportation, emergency management services, workforce, tax, and environmental implications, among other things. Because they come in a variety of forms — including new developments, site redevelopments and existing building additions, and retrofits — high cube and automated warehousing affect subdivision and land development,

zoning, and/or building codes needs. The Lehigh Valley Planning Commission has drafted a series of municipal considerations that its representatives will review with webinar attendees. This is a first-of-its-kind community guide in the nation to address this emerging form of development and its associated technology.

[The Criminal and Civil Consequences of Municipal Firearm Regulation – 3/17/21 \(1 CLE\)](#)

While many municipal officials and employees are not aware of the restrictions that exist when it comes to local governments enacting and enforcing firearm and ammunition-related regulations, the consequences for municipalities and their elected officials can be extreme, and they do not end merely with taxpayer disgruntlement over the wasted expenditure of taxpayer funds spent to enact, enforce, and defend such regulations. Join us for a one-hour discussion on Pennsylvania's firearm, ammunition, and range preemption statutes so that you can protect your municipalities from more than just taxpayer disgruntlement.

[Spring Solicitors Seminar – 4/19/21 \(5 CLE\)](#)

This seminar will cover a wide variety of emerging and important trends and issues vital to the practice of every municipal solicitor. Don't miss this opportunity to hear from experts and network with your peers from around the state.



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