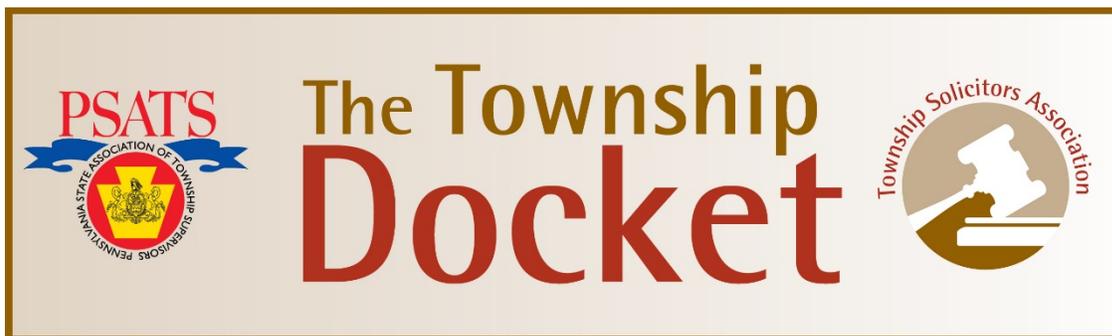


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March 1, 2021

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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](mailto:scoburn@psats.org).

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## Headlines

### **PSATS 2021 Annual Conference & Exhibit Show Canceled Due to Governor's Restrictions; Spring Solicitors Seminar to be Virtual**

Based on the state's restrictions on crowd capacity at events and the Hershey Lodge's safety guidelines, the PSATS Executive Board has decided to cancel the PSATS Annual Conference & Exhibit Show this year. For more information as to why PSATS was forced to make this decision and its plans going forward, please watch this [video](#).

The PSATS Spring Solicitors Seminar will still take place Monday, April 19, 9:30 a.m. - 3:30 p.m., but will be held as a virtual seminar. If you are already registered, you do not need to do anything else; PSATS will send you a registration link.

For more information about the seminar agenda or to register, [click here](#).

Remember that the Pennsylvania CLE Board is treating live virtual CLEs, such as the PSATS Spring Solicitors Seminar, as if they were in-person CLEs during 2021.

### **Gov. Wolf Extends COVID-19 Disaster Declaration**

On February 19, Gov. Tom Wolf signed an executive order extending the COVID-19 disaster declaration for an additional 90 days. This extension covers a wide variety of matters, including procurement and remote meetings (Act 15 of 2020 is pegged to the disaster declaration). To read Gov. Wolf's order, [click here](#).

## Are You Up to Speed on Municipal CDL Requirements?

PSATS frequently receives questions from members about the requirements for their township's CDL drivers. Here is a "Top 5" list of things that townships with CDL drivers — and their solicitors — must know:

1. Employers must participate in a legally compliant program that provides random drug and alcohol testing for CDL drivers.
2. Employers must provide CDL drivers a copy of their policy governing random drug and alcohol testing.
3. Employers must be registered with the Federal Motor Carrier Safety Administration's Drug and Alcohol Clearinghouse and query the clearinghouse for each new hire and on an annual basis.
4. Employers must regularly update their roster of CDL drivers subject to random testing.
5. All employees with supervisory responsibility for CDL drivers must attend mandatory probable cause training.

PSATS can help your municipal clients ensure compliance with these obligations. For more information, contact James Wheeler, Coordinator of PSATS' CDL Drug & Alcohol Testing Program, at 717-763-0930, ext. 128.

## Budgeting for Townships' Other Post-Employment Benefits

Tim Horstmann and Adam Santucci of McNees Wallace & Nurick, LLC, the PSATS Solicitors Association sponsor, recently wrote a blog article outlining effective ways for municipalities to rein in their other post-employment benefits (OPEB) costs. To read the article, [click here](#).

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## Recent Decisions

### Court Reverses Township Denial of B&B Application and Special Event Barn

In *Marshall v. East Bradford Twp. Bd. of Supervisors*, \_\_\_ A.3d \_\_\_, 2021

WL 608273 (Pa.Cmwth. Feb. 17, 2021), the court reversed a township's decision to reject a conditional use application to use a barn at a proposed B&B for special events. The court found that the language of the zoning ordinance did not support the township's findings. For more, [click here](#).

### Township Ordinance Struck Down for Impermissible Delegation of Authority to Property Owners

In *Southpointe Golf Club, Inc. v. Board of Supervisors of Cecil Twp.*, \_\_\_ A.3d \_\_\_, 2021

WL 646479 (Pa.Cmwth. Feb. 19, 2021), the court reversed a ruling that 1) denied a procedural validity challenge to a township's unified development ordinance and 2) affirmed the zoning hearing board's denial of a substantive validity challenge. The ordinance impermissibly placed control in the hands of neighboring landowners to determine whether the board of supervisors has the option of waiving review standards. To read more, [click here](#).

## **PUC Rules Two Municipal Permitting Fees Preempted by State Law**

On February 19, the Public Utility Commission (PUC) ruled that Armstrong Telecommunications Inc., a public utility, did not have to pay certain permitting fees — a “location site inspection fee” and a “pole inspection fee” — levied on it by Waterford Township, Erie County, because those fees were preempted by the Public Utility Code. The PUC also expressly distinguished inspections for public utility facilities from those due to roadway disturbances and did not address the reasonableness of the township’s fees. For a more detailed review of the PUC’s decision, [click here](#).

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## **Upcoming Educational Offerings**

### **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.

### **Zoning Implications for Agritourism in Pennsylvania – 3/18/21 Webinar (1 CLE)**

The intersection of farming and entertainment is a popular business in Pennsylvania. Many farmers across Pennsylvania have diversified their farms by inviting the public onto their property for everything from hayrides and corn mazes to barn weddings and events. While this past year has placed barriers on many of these activities, they will return. There are several important legal considerations for agritourism operations in Pennsylvania, such as zoning, regulations, insurance, and other matters. Zoning laws regulate land uses, including agritourism, and may affect how property owners use their land because of related parking, hours of operation, traffic, noise, and lighting issues. Gretchen Moore and Alexis Wheeler from Strassburger McKenna Gutnick & Gefsky will present and explore case law and

analysis of this burgeoning farm use.

### **Understanding Sick Leave During a Global Pandemic – 3/23/21 Webinar (1 CLE)**

This webinar, presented by Neil Morris and Gabriel Celii of Offit Kurman, will provide a comprehensive overview of the key changes to leave requirements, best practices, how to avoid common misconceptions and pitfalls, and the interplay between these changes and the Family and Medical Leave Act, Americans with Disabilities Act, state and local laws, and current leave policies that are already in existence.

### **Spring Solicitors Seminar – 4/19/21 (5 CLE) \*\*NOW VIRTUAL\*\***

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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Pennsylvania State Association of Township Supervisors  
4855 Woodland Drive  
Enola, PA 17025