

PSATS 2018 REPORT – Vice Chair Fred R. Gaines

1. Pennsylvania Public Official and Employee Ethics Act

This Act has been drafted to ensure the people of the Commonwealth of Pennsylvania that their Public Officials are functioning in an impartial and honest manner. It requires that on or before May 1 of every year the official have, on file a Statement of Financial Interest.

Individual responsible for filing these Statements include all Public Officials including:

Any individual employed by the Commonwealth or a political subdivision who is responsible for taking or recommending official action of a non-ministerial nature with regard to:

- a. Contracting or procurement;*
- b. Administering or monitoring grants or subsidies;*
- c. Planning or zoning;*
- d. Inspecting, licensing, regulating or auditing and person; or*
- e. Any other activity where the official action has an economic impact of greater than a de minimis nature on the interest of any person.*

2. Good Contractor Relations

The most critical element in ensuring good relations with a contractor is for the Owners and their representatives to fully understand the contract documents. Documents must have the following characteristics:

- Clear and free from misinterpretation
- Free in conflicts in language and documentation between documents and contractors
- Accurately reflect the contract

Pennsylvania has had four (4) Prime Contractors on government construction projects in excess of \$25K since 1913. In order to ensure that the contracts run smoothly with minimum conflicts between the prime contractors.

- Have a mandatory, recorded, pre-bid meeting

3. Land Use and Zoning Law Update

The program that I attended was offered by two attorneys who reviewed many of the recent cases relating to interpretation of Pennsylvania's Land Use Laws. Essentially, the laws are in a constant state of flux; being modified by the legislature frequently by decisions being handed down by the court system. Among the essential issues were:

- In many issues, the SALDO, being more specific generally trumps the requirements of the Zoning Code.
- “Promissory Estoppel” or promises made outside of a public meeting are not binding. Residents can sue (and win) if decisions are made in private.
- The Township Zoning Code must Zone for everything.
- In addition there are two forms of Exclusionary Zoning that are prohibited:
 - De Facto – The actual activity is banned.
 - De Jure -Restrictions are in place so the activity cannot be performed.
- Cannot adopt a version of a National Code before it is published
- Agricultural land is considered developed land.
- Stormwater ordinance is not a Land Use ordinance and is not in the domain of the

4. Stormwater, Buffers & More

It is apparent that small municipalities, the engineers and the developers that are attempting to develop properties within them are encountering difficulty with problems created by the lack of adequate stormwater planning. What should have been considered during the planning and design phase took months of corrective action.