07 May 2012

Mr. David Sanko
Executive Director

Pennsylvania State Association of Township Supervisors

4855 Woodland Drive

Enola, PA 17025

Dear Mr. Sanko,

I have read the PSATS NewsBulletin dated April 2012 and am impelled to cite several gross mis-statements regarding your “Update on Act 13 of 2012” as well to note some glaring failures of PSATS to fulfill its By-Laws obligations to its members.

You use a section heading that says “Commonwealth Court extends implementation of Act 13 Zoning Provisions”. The implication is that the zoning provisions of Act 13 will be implemented at the end of the 120 day period. This is far from a given. The zoning provisions of Act 13 have been challenged in court by a number of municipalities and individuals on Constitutional grounds and the plaintiffs have a very strong case. You then state that the court determined that municipalities need more time to modify existing zoning ordinances and continue that “The court denied the remaining preliminary injunctive relief sought by seven municipalities and other parties that are challenging the act’s constitutionality.” **The court did no such thing and you know it.** You are being deliberately misleading. The main case regarding the constitutionality has yet to be heard. When injunctive relief was granted, the judge had not even read the complaint. So far, the court has granted the plaintiffs injunctive relief and has denied motions by the gas industry and the House and Senate leadership to intervene. That sounds to me a lot more like the plaintiffs are winning the battle so far. No mention of this in your article, of course.

You go on to say that townships have until Dec. 7 to bring their ordinances into compliance which is true but will only be necessary if the court finds against the plaintiffs, something else you neglect to mention. The court did, in fact, find that irreparable harm would result to municipalities should Act 13 go forward under timelines provided as there would have been several months where municipalities could not enforce old laws and had yet to enact new laws. The municipal plaintiffs saw the problem as did the court. Where was PSATS whose job it is to advocate to ensure our protections? The court confirmed with its injunction that the legislation posed real danger to municipalities. By its silence, PSATS exposed municipalities to danger that needed to be enjoined.

To date, a very large number of municipalities around the state, representing both Republican and Democrat areas, have passed resolutions supporting the challenge to Act 13. Political pressure is being felt by many Representatives and State Senators who fear for their re-election prospects if they continue to support Act 13. The Democrat Caucus has introduced six bills intended to rescind or severely modify the zoning portion of Act 13 (as well as modify the fee structure). Again, a significant item that your newsflash fails to mention.

PSATS has failed miserably in its duty to follow its own Charter mandated responsibilities. Since you have apparently forgotten, Article II, Section 2 of PSATS By-Laws states:

**SECTION 2.** The purpose of this Association shall also be:

A. To secure and preserve for the unincorporated areas of the state the benefits of local self-government administered by township elected officials.

B. To protect the township against any attempt to abolish it as a governmental unit.

C. To resist any effort at further centralization of governmental powers by depriving the township of any rights, duties or privileges that it now possesses.

D. To secure, through friendly communication, a better acquaintance among township officials.

E. To promote a better knowledge of the rights and duties of township officials and, by comparison of experiences and interchange of ideas, to arrive at the best way to discharge those duties.

F. To secure from the General Assembly legislation that will enable township government to function more efficiently.

G. To provide ancillary and informational services to townships of the second class.

I draw your attention particularly to items B, C, and F. In the case of Act 13, PSATS gives all appearances of having sold out to the gas industry. During legislative debate you failed to accurately inform municipalities of the utter destruction of their zoning capabilities that Act 13 (or then HB 1950) represented and you produced at least two documents that legislators were able to hide behind and claim that “PSATS endorses this bill”. You denied that you endorsed the bill on several occasions in meetings with concerned local officials but then did nothing to clearly state that publically. You did nothing to solicit input from potentially impacted townships; neither did many of our legislators, something you should have been all over. You were made aware of many problems with the legislation by local officials who took the time to come to meet with you and the executive committee and did nothing to convince legislators of those short comings. When the State government takes away the right of local officials to plan and zone, it takes away their ability to govern. When you do not react to this, you arein direct conflict with Section B. By not responding to the usurping of constitutional rights to the protection of safety, health and welfare and the vesting of those rights and duties in the state government, you violate section C. Allowing the State to pass a bill like HB 1950 without an all out fight is blatant dereliction of duty with respect to Section F.

Your commentary in the PSATS Bulletin serves only industry’s and the Governor’s interests and perspectives. When will PSATS begin to react in a meaningful way to real and vital issues that have the potential to emasculate local government? This is what we pay you for.

Sincerely,

David M. Ball

Councilman

Peters Township