

## **Solicitor's Response to Resident Concerns**

As Solicitor for Towamencin Township, I am writing to address the concerns received about the Township's compliance with the Sunshine Act, at its September 23, 2026 meeting concerning the Pinnacle Realty Development/Hilltop Plans. These concerns address compliance with the Pennsylvania Sunshine Act, characterize the Board's action as "Ordinance 220," and raise questions regarding demolition review. Each concern is addressed below.

### **The Board's Action Complied with the Sunshine Act**

The Sunshine Act requires that an agency post its agenda, including matters that will be or may be the subject of deliberation or official action, on its website and at the meeting location at least 24 hours before the meeting. 65 Pa.C.S. § 709(c.1). The Township posted the full meeting agenda and packet on Friday before the September 23 meeting, providing more than 24 hours' advance notice. Item 6.2 was initially listed as "Discussion: Pinnacle Realty Development/Hilltop Plans."

At exactly 8:20 AM on September 22, the Township revised Item 6.2 on the website to read "Discussion and Consideration: Pinnacle Realty Development/Hilltop Plans." The same revision was made on Facebook at 8:26 AM. These revisions provided additional clarity that the Board might take action on the matter, but the subject matter itself, the Pinnacle Realty Development/Hilltop Plans, remained unchanged. The revision occurred more than 24 hours before the meeting, satisfying the Sunshine Act's notice requirement in §709 (c.1).

The Sunshine Act expressly permits an agency to add a matter of agency business to the agenda during a meeting upon majority vote, provided the reasons for the change are announced and the amended agenda is posted afterward. 65 Pa.C.S. § 712.1(e). Here, the Township did not add a new matter during the meeting; rather, it clarified an already-noticed item in advance. The revised agenda item gave the public notice that deliberation and potential action would occur. The public participated extensively in a discussion lasting approximately 1.5 hours.

On the date of the meeting, Supervisor Osei posted information on social media not under the control of the Township about the planned residential cluster district and a discussion at the meeting. This social media post was not an official Sunshine Act posting by the Township. The Sunshine Act's notice requirements apply to the agency itself, not to individual members' personal communications on platforms outside the agency's control. An individual supervisor's characterization of an agenda item on personal social media does not alter or supersede the Township's official agenda posting, nor does it constitute a Sunshine Act violation. The Township satisfied all applicable notice requirements through its official postings on the Township website and at the meeting location.

Pennsylvania courts have consistently held that the Sunshine Act's purpose is "to provide citizens with an opportunity to observe the deliberation, policy formulation, and decision-making processes of public agencies." McGrath v. Bd. of Sch. Dirs., 87 Pa. D. & C.5th 419, 435 (2020). The Township's actions advanced this purpose. The public had access to not only the agenda, but the full packet of information, knew the subject matter under consideration, and participated

meaningfully in the discussion. The revision from "Discussion" to "Discussion and Consideration" did not deprive the public of notice or the opportunity to attend and comment; it provided additional transparency about the Board's intent.

### **The Board's Vote Was Not an Ordinance**

The concerns refer to the Board's action as "Ordinance 220." This characterization is incorrect. The Board did not enact, propose, or vote on an "Ordinance 220" on September 23, 2026.

Under Pennsylvania law, a zoning ordinance is a legislative act subject to specific procedural requirements, including review by the planning agency, submission to the county planning agency, public hearings with published notice, and formal enactment following prescribed notice and publication procedures. 53 P.S. §§ 10607–10610. None of these steps occurred or were authorized on September 23.

Instead, the Board took official action to request that the developer move forward with one of three sketch plans under Section 153-408.C of the Township's Zoning Ordinance. That section establishes a procedure for rezoning a tract to the Mixed Residential Cluster designation and requires the applicant to submit specific materials, including but not limited to a preliminary subdivision plan, development impact study, map amendment ordinance, evidence of ownership, and identification of encumbrances. The Board's vote directed the developer to prepare and submit these materials for the 220-unit plan, which the Board found offered the most open space, housing diversity, improved access, and other potential public benefits.

This action was a non-binding expression of the Board's preliminary preference to guide the developer's submission. The Board did not rezone the property, approve any subdivision or land development plan, enter into a contract, expend Township funds, or make any final land-use determination. The developer remains obligated to submit the required materials under Section 153-408.C, after which the Township will follow all applicable procedural requirements for any map and text amendment, subdivision approval, or other official action. Characterizing this preliminary guidance as "Ordinance 220" fundamentally misrepresents the nature and legal effect of the Board's action.

### **No Demolition Decision Was Made**

Concerns also express that no demolition impact documents were provided for the residential structure at Troxel Road and Sumneytown Pike that may be demolished or relocated and may have historic significance. The Board's September 23 action did not authorize, approve, or require the demolition of any structure. The vote requested the developer to proceed with preparing materials under Section 153-408.C for the 220-unit plan. Whether any structure on the tract will ultimately be demolished, relocated, or preserved, and whether that structure has historic significance requiring review under applicable law, are questions that may be addressed during the formal review process if and when the developer submits a complete application.

Should a demolition be proposed in the future, the Township will ensure that all applicable procedural requirements, including any required historic or demolition impact review, are

satisfied before any approval is granted. No such approval has been given, and no such review was required or triggered by the Board's preliminary expression of preference among three conceptual sketch plans.

## **Conclusion**

The Board of Supervisors acted lawfully, transparently, and within its authority on September 23, 2026. The revised agenda provided constitutionally adequate notice under the Sunshine Act. The Board's vote was not an ordinance but a non-binding request for the developer to prepare submission materials under the Zoning Ordinance. No demolition or other final land-use decision was made. The public was afforded full opportunity to participate, and the deliberation was thorough and substantive.

**Mark A. Hosterman, Esq.**