

it to The Press.

"With regard to the substantive issues, I will attempt to address your questions as best as possible without the full opinion and the cases cited therein," she wrote in an email to The Press. "There are several relevant points initially.

"Your email makes reference to an advisory by the commission.

"An advisory is an opinion issued for the benefit of the party making the request, based on a hypothetical situation.

"I cannot comment on the hypothetical presented by other parties.

"...A rezoning request is a very different proceeding than other requests that you have referenced...

"...For example, it is very different than a request for funding or reimbursement where a particular person receives a direct, personal benefit.

"The courts have established that a rezoning request is a legislative function, stemming from the Municipalities Planning Code, which sets forth that all petitions for amendments to land use ordinances are deemed legislative acts.

"The courts have interpreted this to require a direct and personal conflict for recusal."

Young applied a two-prong test in her reading of the application of the Ethics Act to non-profit board memberships.

"In the instant case, even if the fire company is viewed as a business, each officer, member or member of an officer's family does not receive a pecuniary or personal gain."

She relies on the fact that "all positions are unpaid and voluntary."

"The Commonwealth Court, which is precedential, has held that even a supervisor who owns property in a zoning district that the board is voting to re-zone, does not possess a disqualifying private interest," Young wrote. "This issue has been before the Commonwealth Court many times and the results have followed this precedent."

NW4SD says the issue has the appearance of bias or impropriety.

Young disagrees.

"The bias or appearance of bias standard has not been applied to legislative functions in Pennsylvania," Young stated. "Based upon the existing cases, it does not appear that two of the board of supervisors' members, despite being members and holding other positions with the fire company are subject to recusal."