

TOWNSHIP OF WASHINGTON
FRANKLIN COUNTY, PENNSYLVANIA

RESOLUTION NO. 224

OF THE BOARD OF SUPERVISORS OF THIS TOWNSHIP
RESCINDING THE WASHINGTON TOWNSHIP MUNICIPAL
AUTHORITY'S CONDITIONAL USE APPLICATION
CU94-02.

WHEREAS, Washington Township ("Township") is presently involved in litigation relating to the application of the Washington Township Municipal Authority ("WTMA") for a Conditional Use permit for the expansion and updating of its waste water treatment facility on Lyons Road; and

WHEREAS, the litigation has taken various forms and has been docketed to Miscellaneous Volume BB, Page 139, Miscellaneous Volume BB, Page 157 and No. A.D. 1994-420; and

WHEREAS, two of the actions cited in the immediately preceding paragraph are the result of appeals taken by Benjamin A. Stevens and Judith E. Stevens, his wife ("Stevens") from determinations of the Washington Township Zoning Hearing Board and, purportedly, the Washington Township Board of Supervisors; and

WHEREAS, Stevens has alleged, among other things, that procedural irregularities occurred with respect to the WTMA's Conditional Use application process; and

WHEREAS, this Board has consistently claimed and continues to claim that no such procedural irregularities occurred; and

WHEREAS, this Board strives and will continue to strive to construe the laws of the Commonwealth of Pennsylvania, its own Ordinances and all rules and regulations applicable thereto in the fairest, most objective and most impartial manner; and

WHEREAS, this Board now finds itself in a position wherein it has been urged by the Court of Common Pleas to rescind its prior approval of the WTMA's Conditional Use application granted on October 17, 1994 all as more fully set forth in the Order of Court dated March 9, 1995, a copy of which is annexed hereto; and

WHEREAS, in the interest of accommodation to the WTMA and the Court, this Board believes that it should consider rescinding such approval to the extent, if any, permitted by law; and

WHEREAS, in considering such rescission, the Township intends to reserve its rights to assert all defenses, all counterclaims and to fully litigate all issues which may be raised in the pending or in any other litigation; and

WHEREAS, the Township expressly states that it waives no

rights in passing this resolution; and

WHEREAS, in taking such action, the Township, its respective agencies, public officials, agents, representatives, and employees admits of no impropriety in the procedures employed and admits of no negligence or any other misconduct.


NOW, THEREFORE, BE IT RESOLVED that this Board of Supervisors hereby rescinds, to the extent permitted by law, its approval of the WTMA's Conditional Use application CU94-02 granted on October 17, 1994.

BE IT FURTHER RESOLVED that the Township admits of no wrongdoing; that it reserves all rights to assert all defenses, counterclaims and to litigate all issues which have been raised or which might be raised in litigation docketed to No. A.D. 1994-420 and in Miscellaneous Volume BB, pages 139 and 157 or in any other litigation; and that the Township admits of no impropriety of procedure or otherwise and admits of no negligence or misconduct in granting the aforesaid Conditional Use approval on October 17, 1994.


DULY RESOLVED this 20th day of March, 1995, by the Board of Supervisors of Washington Township, Franklin County, Pennsylvania, in lawful session duly assembled.

TOWNSHIP OF WASHINGTON
COUNTY OF FRANKLIN
COMMONWEALTH OF PENNSYLVANIA

Attest:



Juanita L. Ausherman,
Secretary

By 

~~Paul G. Bencheff,~~
VICE Chairman

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IN THE COURT OF COMMON PLEAS OF THE
39TH JUDICIAL DISTRICT OF PENNSYLVANIA
FRANKLIN COUNTY BRANCH

Appeal of Benjamin A. Stevens :
and Judith E. Stevens, his wife, :
interested parties, from the : Misc. Vol. BB, 157
Decision of the Washington :
Township Hearing Board :

APPEARANCES:

Stephen D. Kulla, Esquire, appears on behalf of the
Appellants.

Jan Sulcove, Esquire, appears on behalf of the
Intervenor, Washington Township Municipal Authority.

Richard J. Walsh, Esquire, appears on behalf of the
Washington Township Board of Supervisors.

ORDER OF COURT

March 9, 1995, the motion of the Washington
Township Municipal Authority requesting a dismissal of the
appeal for review of administrative action filed by the
appellants, Benjamin A. Stevens and Judith E. Stevens, his
wife, having been presented to the Court read, considered
and ordered to be filed, the Court finds that the matters
raised in the appeal have been rendered moot by virtue of
the action of the Municipal Authority in filing a second
application for a conditional use pertaining to the
proposed expansion of the Waste Water Treatment Plant
site.

1 IT IS HEREBY ORDERED that the motion to dismiss
2 will be granted on the following conditions:

3 That the Municipal Authority, on or before March
4 27, 1995, files of record in the Office of the
5 Prothonotary of Franklin County notification that the
6 decision of the Board of Supervisors of Washington
7 Township, Franklin County, Pennsylvania rendered on
8 October 17, 1994, approving its request for a conditional
9 use for Waste Water Treatment Plant located at 7934 Lions
10 Road, Waynesboro, Pennsylvania, has been rescinded by the
11 Board of Supervisors;

12 That the Washington Township Municipal Authority
13 files a new application with the Board of Supervisors of
14 Washington Township for a conditional use and the
15 Washington Township Planning Commission and the Washington
16 Township Board of Supervisors agree to hold new
17 application with the Board of Supervisors of Washington
18 Township for a conditional use unless such application has
19 already been filed.

20 This Court shall retain, for the purpose of
21 addressing the matters raised by the appellee, Township
22 Board of Supervisors, in its motion to quash and also the
23 matters raised by the appellants in their appeal to review
24 the action of an administrative agency, for the reason
25 that these matters are capable of repetition and could

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continue to escape judicial review and are matters of importance to the public.

Upon precipe indicating that the conditions of this order have been satisfied, the Prothonotary of Franklin County shall enter this Order of Court as a final decree pursuant to Pennsylvania Rule of Civil Procedure 227.4.

Prothonotary of Franklin County is directed to notify the attorneys of record in this matter of the filing of this Order of Court.

By the Court,

Douglas H. Herman
J.

cc:
Stephen D. Kulla, Esq.
Jan Sulcove, Esq.
Richard J. Walsh, Esq.