

NORTHAMPTON COUNTY COUNCIL - EASTON, PA

Ordinance No. _____ SESSION 2020 Bill No. 784

Introduced by Tara M. Zrinski and Thomas A. Giovanni on August 20, 2020

Enacted _____ Effective _____

TITLE: AN ORDINANCE PROVIDING FOR THE LEASE WITH THE PENNSYLVANIA FISH AND BOAT COMMISSION FOR MINSI LAKE IN UPPER MOUNT BETHEL TOWNSHIP, PENNSYLVANIA

WHEREAS, the Pennsylvania Fish and Boat Commission has requested an update to the original Lease Agreement with the County of Northampton for the +/-308 acres of land surrounding Minsi Lake located in Upper Mount Bethel Township from 1975; and

WHEREAS, Minsi Lake is only one of two public lakes located within Northampton County; and

WHEREAS, Northampton County, under the Department of Public Works, Division of Parks and Recreation, has provided environmental and recreational improvements and long-term maintenance and management of the property, known as Minsi Lake Park; and

WHEREAS, Northampton County, under the Department of Public Works, Division of Parks and Recreation, will continue to provide environmental and recreational improvements and long-term maintenance and management of the property, known as Minsi Lake Park on the +/-308 acres of land for the next 25 years.

NOW, THEREFORE, IT IS HEREBY RESOLVED by the Northampton County Council that it does hereby agree to the lease of said property until September 1, 2045 in accordance with the Lease Agreement which is attached hereto and made a part hereof as Exhibit "A".

This ordinance was advertised on the _____ day of _____, 2020 and was adopted by the Northampton County Council on the ____ day of _____, 2020.

ATTEST:

Linda M. Zembo
Clerk to Council

Ronald R. Heckman
County Council President

Lamont G. McClure
County Executive

**COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA FISH AND BOAT COMMISSION
LEASE - MINSI LAKE, NORTHAMPTON COUNTY**

THIS AGREEMENT made this _____ day of _____, 2020,

BY AND BETWEEN

The Commonwealth of Pennsylvania, acting through the Pennsylvania Fish and Boat Commission, an independent administrative commission of the Commonwealth of Pennsylvania, hereinafter called "COMMISSION,"

AND

County of Northampton, a municipal subdivision of Commonwealth of Pennsylvania, hereinafter called "COUNTY."

WITNESSETH

WHEREAS, the mission of the COMMISSION is to protect, conserve and enhance the Commonwealth's aquatic resources and to provide fishing and boating opportunities, and the COMMISSION has long recognized that this mission can best be accomplished by working and cooperating with local partners that support and promote fishing, boating and conservation; and

WHEREAS, the COMMISSION accordingly has pursued and fostered partnerships with various entities interested in promoting fishing, boating and conservation; and

WHEREAS, the COUNTY provides, among other things, opportunities for public recreation at facilities owned and/or leased and managed by the COUNTY; and

WHEREAS, the COMMISSION owns a +/- 308 acres property, containing Minsi Lake a 117-acre impoundment, located in Upper Mount Bethel Township, Northampton County, Commonwealth of Pennsylvania, as depicted on **EXHIBIT A**, attached hereto and incorporated herein, hereinafter referred to as the "PREMISES;" and

WHEREAS, the COUNTY desires to lease the PREMISES to enhance its public recreational use and operation; and

WHEREAS, the COMMISSION is authorized under section 746 of the Fish and Boat Code, 30 Pa. C.S. §746, to lease any land when the COMMISSION determines the lease will promote public boating or fishing or otherwise further the interests of the COMMISSION; and

NOW THEREFORE, in consideration of the mutual benefits to be derived by the parties hereto by the right granted and terms set forth herein, hereby leases the PREMISES to the COUNTY for public recreation including fishing, boating, and aquatic resource protection and the parties agree to the following terms:

1. **TERM** - The term of this agreement will be twenty-five (25) years from the date of the last signature hereto, at which point it will terminate.

2. **CONSIDERATION** - The COMMISSION reserves the right to pass along any land ownership costs such as any in-lieu of tax fees or assessments on the PREMISES or portion thereof, in the form of an annual fee. Fees due hereunder will be invoiced by and made payable to the COMMISSION.

3. **USE & PUBLIC ACCESS** –
 - a. The COUNTY agrees that the primary use of the PREMISES will be for public fishing, boating and aquatic resource protection and access to the PREMISES for these activities will be available to the public free of charge. In the event that the COMMISSION finds that an action allowed hereunder is having an adverse impact on public fishing and boating and the aquatic resources on the PREMISES, the COMMISSION will notify the COUNTY of such in writing and all use related thereto will cease within one (1) week of receiving such a notice. The COUNTY may take actions to address the COMMISSION's findings and concerns and request the COMMISSION to re-evaluate its adverse impact findings and the COMMISSION will respond to any such request in writing.

 - b. The PREMISES was acquired utilizing Project 70 Land Acquisition and Borrowing Act funds. The use of the PREMISES will conform to the requirements of the aforesaid federal and state funding.

 - c. The COUNTY may regulate the time that the PREMISES is available to the public as part of its rights hereunder; however, any regulations established hereunder must not be unreasonable and will require the prior written approval of the COMMISSION. The COUNTY may temporarily close the PREMISES for maintenance and repairs; however, every reasonable effort will be made by the COUNTY to limit any such closing of the PREMISES to periods of lowest public use.

 - d. The COUNTY may charge fees for recreational activities conducted at the PREMISES with the prior written approval of the COMMISSION. However, all revenue produced at the PREMISES must be used for the maintenance, operation and enhancement of the PREMISES. The COUNTY must keep records on all revenue produced at the PREMISES and how the revenue was spent. The COUNTY must allow the COMMISSION immediate access to all revenue records for the PREMISES and provide the COMMISSION with copies of such records upon request.

 - e. The COUNTY will be responsible for providing and securing any and all necessary permits, approvals, licenses and providing any notices required by its actions pursuant to exercising rights granted herein. The COUNTY will be responsible for any damage to the PREMISES caused by the COUNTY or by any third parties performing work on its behalf pursuant to exercising rights granted herein.

4. **DEVELOPMENT -**

- a. The COUNTY may develop, enhance and/or place improvements on the PREMISES for public recreation, aquatic resource protection, and to enhance the operation of the PREMISES; however, any such development or improvement must not adversely impact public fishing and boating or the aquatic resources on the PREMISES. The COUNTY may pursue funding from third parties for development with the prior approval of the COMMISSION, which will not be unreasonably denied.
- b. The COUNTY must give the COMMISSION a prior written notice of any development, enhancement or improvement to be conducted, placed and/or operated on the PREMISES for its review and approval. The COMMISSION will have sixty (60) days after receiving notice to raise objections, request modifications, and/or clarify maintenance obligations. The COUNTY must address any objections, request for modifications and/or maintenance obligation made by the COMMISSION to the COMMISSION's satisfaction.
- c. The COMMISSION may assist the COUNTY with the development, maintenance, and operation of the PREMISES for public fishing and boating and aquatic resource protection and enhancement at the PREMISES; however, it is expressly understood that the COMMISSION will not be obligated to do so and any action taken hereunder will be at the sole discretion of the COMMISSION.

5. **MAINTENANCE & OPERATION -**

- a. The COUNTY will be fully responsible for all maintenance, repair, operation, and supervision of the PREMISES and any improvements thereon including improvements existing at the time of the execution hereof. Maintenance and repair will include but not be limited to mowing of grass, trash pickup, and removal, filling, and repairing stabilized areas, sealing cracks, and filling pot holes, repairing, and seeding areas which may be prone to erosion and other activities necessary to maintain the PREMISES and all portions thereof in a safe, tidy, functional, sanitary, and presentable manner at all times.
- b. Supervision and control will be subject only to the jurisdiction and control hereby reserved by COMMISSION for the inspection and enforcement of the laws of the Commonwealth of Pennsylvania and regulations lawfully adopted by the COMMISSION or its successor in function.
- c. The COMMISSION will be responsible for the operation, maintenance, and repair of the dam and its appurtenances including mowing. Major maintenance and repairs to the dam and its appurtenances, and the replacement thereof, will, if necessary, be the responsibility of the COMMISSION.
- d. The COMMISSION will have the right, upon giving notice to the COUNTY, to unilaterally make any necessary structural repairs or replacements. The COUNTY may only make structural repairs or replacements with the prior written approval of the COMMISSION.

6. **RESOURCE MANAGEMENT** - The COMMISSION shall have sole responsibility for all aquatic resource management and utilization on all portions of the PREMISES and may use whatever equipment it deems necessary to accomplish its obligations. The COUNTY may allow volunteers or agents who are appropriately trained to identify and remove invasive and alien plant species for the purpose of restoring native grasses and flowers with the prior written approval of the COMMISSION.
7. **DISPUTES** - Any disputes as to the meaning, effect, or implementation of this agreement or the applicability of any provision herein that the parties cannot amicably resolve will be referred to non-binding mediation and if not resolved through non-binding mediation through litigation in a forum of competent jurisdiction.
8. **ACTION** - The COUNTY agrees that the actions of its agents, employees, and assigns acting under this agreement, will be performed for and on behalf of the COUNTY and not as officers, agents, assigns, or employees of the COMMISSION. The COMMISSION agrees that the actions of its officers, agents, employees, and assigns acting under this agreement, will be performed for and on behalf of the COMMISSION and not as officers, agents, assigns, or employees of the COUNTY.
9. **INDEMNIFICATION** - The COUNTY shall at all times hereafter indemnify, save harmless, and defend the Commonwealth of Pennsylvania, the COMMISSION and its officers, agents, and/or employees from and against any and all detriment, damages, losses, claims, demands, suits, costs, and expenses not herein provided for, which the Commonwealth, COMMISSION or its officers, agents, or employees may suffer, sustain, or be subjected to directly or indirectly, by reason of the COUNTY's actions taken hereunder on the PREMISES.
10. **TERMINATION** -
 - a. The COMMISSION may terminate this agreement at any time and for any reason, including convenience, upon giving a six (6) month prior written notice to the COUNTY. If the COMMISSION terminates this agreement, the COMMISSION may do so without any obligation to compensate or reimburse the COUNTY for any improvements made to the PREMISES.
 - b. The COUNTY may terminate this agreement at any time and for any reason, including convenience, upon giving a twelve (12) month prior written notice to the COMMISSION with the notification period commencing on the receipt of the notice. In the event this agreement is terminated, the COUNTY shall remove improvements developed or placed hereunder from the PREMISES at the discretion of the COMMISSION within ninety (90) days after the effective termination date and restore the PREMISES to a neat and satisfactory condition.
11. **CONSTRUCTION** - This agreement will extend to and be binding upon the successors, agents, and assigns of the parties hereto and will be construed under the laws of the Commonwealth of Pennsylvania. The COUNTY may not sublease or transfer or assign any of the rights granted under this agreement without the prior written approval of the COMMISSION. In the event the COUNTY wishes to sublease or transfer or assign any of its rights hereunder, the COUNTY shall make the request in writing to the COMMISSION. This agreement will be subject and/or subordinate to all restrictions and encumbrances on the PREMISES of record or which the COUNTY received prior notice of or are

reasonably apparent from a field inspection.

12. **INSURANCE** - The COUNTY, during the term of this agreement, will maintain comprehensive liability insurance in an amount of not less than One Million Dollars (\$1,000,000) per occurrence. The COMMISSION shall be named an additional insured on the policy and provided proof of such upon request. The COMMISSION may adjust this amount periodically for inflation but not more than once in any four (4) year period by providing written notice to the COUNTY. In the event a portion of the leasehold interest on the PREMISES is assigned to another party, separate insurance in the amounts aforesaid will be required for the assigned portion of the PREMISES.

13. **LAND USE & DISPOSITION** – The COMMISSION reserves the right to address any boundary line discrepancy of the PREMISES by conveying property from the PREMISES or acquiring property to be added to the PREMISES in order to establish and confirm property lines and address access encroachments. The COMMISSION also reserves the right to and control any license agreements issued on the PREMISES prior to the date hereof, such as utility crossings for water, sewer, and electricity and to issue to licenses for the PREMISES upon the prior notice thereof to the COUNTY so long as any new license does not significantly adversely impact the COUNTY's use of the PREMISES or any improvements it places thereon.

14. **NOTICES** – Notices will be effective on the date they are received and will be sent by hand delivery, certified mail, or overnight delivery. Notices will be sent to the following:

For the COMMISSION: Pennsylvania Fish and Boat Commission
 c/o Real Estate
 595 East Rolling Ridge Drive
 Bellefonte, Pennsylvania 16823

With a copy to: Chief Counsel
 Pennsylvania Fish and Boat Commission
 Post Office Box 67000
 Harrisburg, Pennsylvania 17106-7000

For the COUNTY: County Executive
 Northampton County
 669 Washington Street
 Easton, Pennsylvania 18042

[Remainder of page intentionally left blank; Signature Page follows.]

IN WITNESS WHEREOF, the COMMISSION has caused this agreement to be signed by its Executive Director and its Administrative Secretary, thereunto duly authorized, and the COUNTY has caused the same to be executed the date first written above.

ATTEST

NORTHAMPTON COUNTY

Executive Secretary (date) County Executive (date)

ATTEST:

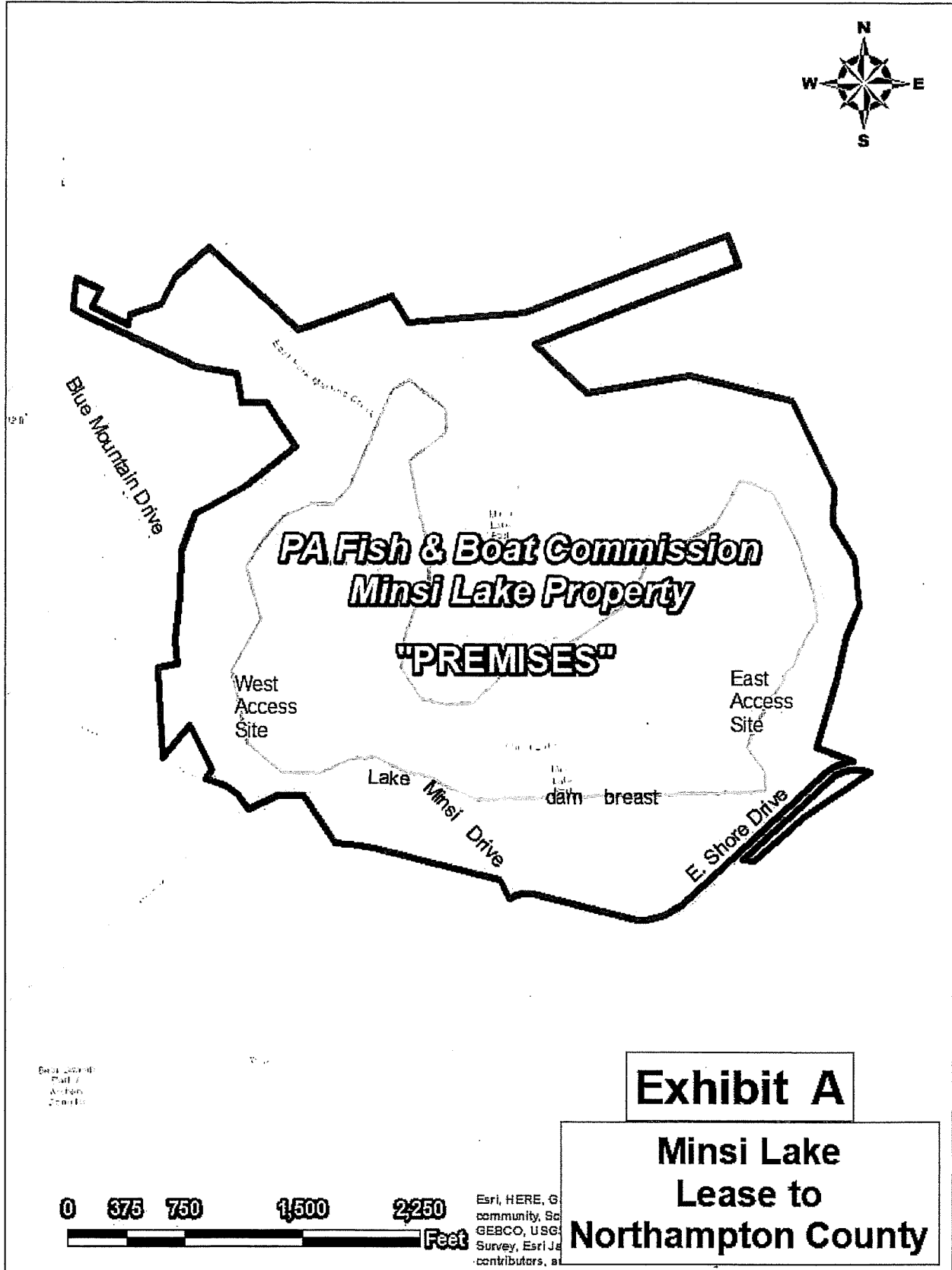
**COMMONWEALTH OF PENNSYLVANIA
PA FISH AND BOAT COMMISSION**

Administrative Secretary (date) Timothy Schaeffer (date)
Executive Director

APPROVED AS TO FORM AND LEGALITY

Authorized Agency Attorney (date) Office of Attorney General (date)
Pennsylvania Fish and Boat Commission

Northampton County Solicitor (date)



Scale 2000 ft
Map 7
Northampton
County



Esri, HERE, G
community, So
GEBCO, USE
Survey, Esri Ja
contributors, a

Exhibit A

**Minsi Lake
Lease to
Northampton County**