

**TOWNSHIP OF FREDON**

**RESOLUTION 2021 - 53**

**RESOLUTION APPROVING ADMINISTRATIVE CONSENT ORDER  
WITH THE STATE OF NEW JERSEY, DEPARTMENT OF  
ENVIRONMENTAL PROTECTION**

**WHEREAS**, on August 5, 2008, the State of New Jersey, Department of Environmental protection (“NJDEP”) issued an Administrative Order and Notice of Civil Administration Penalty Assessment (“AO/NOCAPA”), amended August 14, 2008, to Gale & Kitson, Fredon Golf, LLC (G&KFG”); Bear Brook Village, LLC (“BBV”); and Bear Brook Development, Inc. (“BBD”) (collectively the “Respondents”); and

**WHEREAS**, the AO/NOCAPA alleges that the Respondents failed to comply with certain requirements of the Freshwater Wetlands Protection Act, N.J.S.A. 13:9B 1 et seq., and Flood Hazard Area Control Act, N.J.S.A. 58:16A 1 et seq., on properties identified as Block 1807, Lot 6, Block 1803, Lot 5, and Block 1802, Lots 8.02 and 71, situated in Fredon Township (“Township”), Sussex County (collectively the “Properties”); and

**WHEREAS**, the Properties are subject to a Declaration of Restriction for Modified Transition Area filed with the Sussex County Clerk on July 30, 1998 that restricts development in the modified transition area and adjacent wetlands on the Properties; and

**WHEREAS**, in order to resolve the issues and allegations set forth in the AO/NOCAPA, the Respondents and NJDEP desire to enter into an Administrative Consent Order (“ACO”), a copy of which is attached hereto as **Exhibit A** and incorporated herein by reference; and

**WHEREAS**, the proposed ACO requires that that Respondents, individually or collectively, undertake and/or implement certain freshwater wetland restoration work approved by the NJDEP as described therein; and

**WHEREAS**, in 2006, prior to the issuance of the AO/NOCAPA, the Township and the Planning Board of the Township of Fredon, now the Land Use Board (“Land Use Board”) entered into an Escrow Agreement with BBV and others to establish an Escrow Fund to pay for the completion of various improvements to portions of the Properties, including “[r]esolution of the questions concerning possible wetlands encroachments by the Golf Course by BBV.”; and

**WHEREAS**, the Township and the Land Use Board have agreed to be signatories to the proposed ACO for the purposes of ensuring that the remaining commitment under the Escrow Agreement is satisfied and that funds are dispersed in accordance with the Escrow Agreement and the terms of this ACO.

**NOW, THEREFORE, BE IT RESOLVED** by the Township Committee of the Township of Fredon, in the County of Sussex, State of New Jersey that the Administrative Consent Order is hereby approved in the form substantially similar to **Exhibit A**, subject to any changes or modifications deemed necessary and appropriate by the Township Attorney and/or Land Use Board Attorney; and

**BE IT FURTHER RESOLVED** that the Township Committee hereby authorizes the Escrow Fund, established pursuant to the 2006 Escrow Agreement with Bear Brook Village, LLC and others, to be used to pay for the proposed restoration work approved by the NJDEP in accordance with the terms and conditions of the Escrow Agreement and ACO.

**BE IT FURTHER RESOLVED** that the Mayor is hereby authorized to execute the ACO, substantially in the form attached hereto as **Exhibit A**, subject to any changes or modifications deemed necessary and appropriate by the Township Attorney and Land Use Board Attorney, and to take such further action(s) as may be necessary to implement the purposes of the ACO and Escrow Agreement.

Moved By:

Seconded By:

### **VOTING**

Township Committee Member	In Favor	Against	Abstain	Absent
Glenn Deitz				
Carl Lazzaro				
Guy Masi				
John Richardson				
John P. Flora				

### **CERTIFICATION**

I hereby certify that the foregoing is a true copy of Resolution adopted by the Fredon Township Committee, in the County of Sussex, at a meeting thereof held July 22, 2021.

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Suzanne Boland, RMC  
Municipal Clerk