

## REQUEST FOR BOARD ACTION

ITEM NO. 27.

**DATE OF MEETING:** May 3, 2010

**REQUESTED BY:** Michael G. Mack, Director, PCU

**SHORT TITLE:** Resolution Accepting Conveyance of Developer Installed Water System and Easements in Turnstone Plantation Subdivision to Pender County.

**BACKGROUND:** Prior to the commencement of water and/or sewer service to serve any new development, the Pender County Water and Sewer Ordinance requires the submittal of a Deed of Dedication, easements, lien waivers and other documents to transfer title free of liens and encumbrances of all utility improvements to become part of the Water and Sewer District's system for acceptance by the Board of Director of the respective District. In addition, the Owner of the improvements is required to submit two copies of the recorded Subdivision Final Plat for the property and provide a Financial Guarantee through a 12-month warranty period subsequent to final acceptance of the improvements.

The current Developer of the Turnstone Plantation Subdivision, CMH Parks, Inc. has submitted the required Deed of Dedication form (provided by PCU), Easement over, along and upon the entire area of the streets and cul-de-sacs for maintenance, repair and upkeep of the water improvements, Fee Simple Affidavit of no liens, and posted a Financial Guarantee in the amount of 10% of the cost of installation (\$6,000). This system was constructed in accordance with the RPTWSD specifications and has received the Engineer's Certification and Final Approval from the NC Public Water Supply Section.

Staff has reviewed the provided documents and recommends the Board of Directors of the Rocky Point/Topsail Water and Sewer District accept the water system improvements within the Turnstone Plantation Subdivision.

**SPECIFIC ACTION REQUESTED:** To accept the developer installed water system improvements for permanent ownership and maintenance upon the expiration of the 12-month warranty period that will commence with the Board's acceptance of this resolution.

**COUNTY MANAGER'S RECOMMENDATION**

Respectfully recommend approval.

MB  
Initial

**RESOLUTION**

**NOW, THEREFORE BE IT RESOLVED** by the Rocky Point/Topsail Water and Sewer District Board of Directors that:

The water system improvements installed within the Turnstone Plantation Subdivision are hereby accepted for permanent ownership and maintenance upon the expiration of the 12-month warranty period that will commence with the Board's acceptance of this resolution. The Chairman/County Manager is authorized to execute any/all documents necessary to implement this resolution.

**AMENDMENTS:**

MOVED \_\_\_\_\_ SECONDED \_\_\_\_\_

APPROVED \_\_\_\_\_ DENIED \_\_\_\_\_ UNANIMOUS

YEA VOTES: Tate \_\_\_ Brown \_\_\_ Blanchard \_\_\_ Rivenbark \_\_\_ Williams \_\_\_

\_\_\_\_\_  
Jimmy T. Tate, Chairman                      Date

\_\_\_\_\_  
ATTEST                                      Date

STATE OF NORTH CAROLINA

DEED OF DEDICATION

COUNTY OF PENDER

Prepared by:

THIS DEED OF DEDICATION, made and entered into this the \_\_\_ day of April, 2010, by and between CMH PARKS, INC., a Tennessee corporation whose address is: 500 Alcoa Trail, Maryville, Tennessee 37804, party of the first part, hereinafter referred to as "Developer", and PENDER COUNTY, a governmental entity created and existing under the laws of the State of North Carolina, party of the second part, hereinafter referred to as Grantee;

WITNES SETH:

That whereas Developer is the owner and developer of a tract or parcel located in Township Rocky Point, Pender County, North Carolina, known as Turnstone Plantation,

And whereas Developer has caused to be installed water distribution lines [and/or sewer lines] under and along the road rights-of-way hereinafter described and referenced;

And whereas Developer wishes to obtain water [and/or sewer] from Grantee for the property and to make water [and/or sewer] from Grantee's system available to individual owners;

And whereas, in order to obtain water [and/or sewer] for said subdivision Developer must convey title to the water distribution [and/or sewer collection] system to Grantee through an instrument of dedication acceptable to Grantee;

NOW THEREFORE, Developer, in consideration of Grantee accepting said water [and/or sewer] lines and making water [and/or sewer] available to said subdivision, has conveyed by these presents does hereby convey to Grantee, its lawful successors and assigns, the following described property;

BEING all of the two (2) parcels of land located North of Secondary Road 1437 (Carver Road), and depicted as Tract 1 (17.83 acres) and Tract 2 (13.45 acres) on plat entitled "MAP OF RECORD FOR RAINTREE DEVELOPMENT CORPORATION", by Mark A. Stocks, Surveyor dated September 21, 2006, and recorded in Map Book 42 at Page 150 to which reference is made for a complete description

and also partially referred to in a subsequently recorded plat map as Lots 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50 as shown on map recorded in Map Book 46 at Page 33 of the Pender County Registry and known as all of Turnstone Plantation, Phase 2 as depicted on Map recorded in Map Book 46 at Page 33 of the Pender County Registry, reference to which is hereby made for a more particular description. And being the identical property described in Book 3232 at Page 84 of the Pender County Registry.

TO HAVE AND TO HOLD said *water* [and/or sewer] lines and equipment above described together with the privileges and appurtenances thereto belonging to Grantee forever.

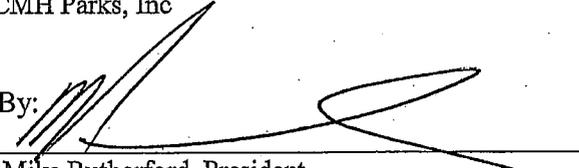
Non-exclusive easements over, along and upon the entire area of the streets and cul-de-sacs [and right of way] depicted on the maps and serving the areas referenced above for purposes of entry into the subdivision for maintenance, repair and upkeep of the water distribution [and/or sewer collection] systems and for connecting the same to the individual lots developed or to be developed lying adjacent to said streets and cul-de-sacs [and right of way] reserving unto developers, its successors and assigns, equal rights of easement and easement over, in, along, and upon said streets and cul-de-sacs for purposes of installing and maintaining such utilities as may be required for the development of said subdivision, including, but not limited to, electric, gas, telephone, cable and sewer.

And Developer does hereby covenant that it is seized of said water [and/or sewer] lines and equipment described above in fee simple and has the right to convey the same in fee simple, that the same are free and clear of encumbrances, and that it will warrant and defend the title to the same against all persons whomsoever.

IN WITNESS WHEREOF, the Grantor [Developer] has caused this instrument to be duly executed, the day and year first above written.

CMH Parks, Inc

By:

  
Mike Rutherford, President

STATE OF TENNESSEE

COUNTY OF BLOUNT

I, a Notary Public of the County and State aforesaid, do hereby certify that personally came before me this day and acknowledged that he(or she) is PRESIDENT (title of corporate officer/Member or Manager of LLC) of CMH Parks, Inc. being authorized to do so, executed the foregoing on behalf of the corporation.

Witness my hand and official seal, this the 6<sup>th</sup> day of APRIL 2010.

(Notary Seal)



Signature of Notary Public

*Sharon Corn*

Sharon Corn

Printed or Typed Name of Notary Public

My Commission Expires: 11-01-11

#### ACCEPTANCE OF DEED

This Deed of Dedication and accompanying Affidavit for CMH Parks, Inc. was accepted by the Pender County Board of Commissioners on the \_\_\_ day of \_\_\_\_\_, 2010

Pender County Board of Commissioners

(Chairman)

Glenda Pridgen

Clerk to the Board

AFFIDAVIT

STATE OF NORTH CAROLINA

COUNTY OF PENDER

CMH PARKS, INC., a Tennessee corporation, whose address is 500 Alcoa Trail, Maryville, Tennessee, 37804, hereinafter referred to as Affiant, being first duly sworn, hereby deposes and says under oath as follows:

1. That it is the owner of certain property located in Rocky Point Township, Pender County, North Carolina, known as Turnstone Plantation Subdivision, containing lots numbering 8 thru 19 and lots numbering 27 thru 50 as more particularly described in a Deed of Dedication in favor of Pender County of even date wherewith.
2. That it has caused to be installed water distribution [and/or sewer collection] lines under and along the road right-of-ways property hereinafter described and referenced;

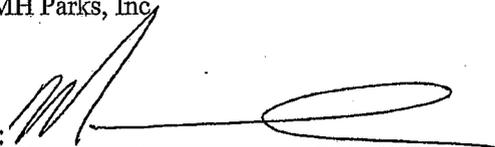
BEING all of the two (2) parcels of land located North of Secondary Road 1437 (Carver Road), and depicted as Tract 1 (17.83 acres) and Tract 2 (13.45 acres) on plat entitled "MAP OF RECORD FOR RAINTREE DEVELOPMENT CORPORATION", by Mark A. Stocks, Surveyor dated September 21, 2006, and recorded in Map Book 42 at Page 150 to which reference is made for a complete description and also partially referred to in a subsequently recorded plat map as Lots 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50 as shown on map recorded in Map Book 46 at Page 33 of the Pender County Registry and known as all of Turnstone Plantation, Phase 2 as depicted on Map recorded in Map Book 46 at Page 33 of the Pender County Registry, reference to which is hereby made for a more particular description. And being the identical property described in Book 3232 at Page 84 of the Pender County Registry.

3. All the work which has been performed in the construction and installation of said water distribution [and/or sewer ] lines described in paragraph 2, above, has been fully paid for an

there are now no liens of any kind including any lien for labor or material against the subdivision property which would in any way jeopardize title of Affiant to the property in said subdivision nor are there any legal actions pending against Affiant or any contractor arising out of any work performed in said subdivision or the water [and/or sewer] lines installed therein which would in any way jeopardize title to the subdivision or the water distribution [and/or sewer collection] system located therein.

IN WITNESS WHEREOF, the Affiant has caused this instrument to be duly executed by its authorized officer(s) this 6<sup>th</sup> day of April, 2010

CMH Parks, Inc.

By: 

Mike Rutherford, President

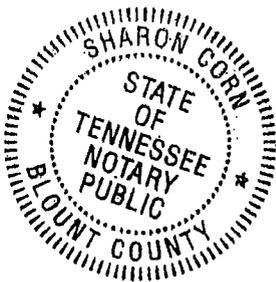
STATE OF TENNESSEE

COUNTY OF BLOUNT

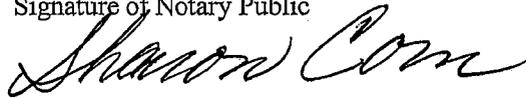
I, a Notary Public of the County and State aforesaid, do hereby certify that personally came before me this day and acknowledged that he (or she) is PRESIDENT (title of corporate officer) of CMH Parks, Inc., being authorized to do so, executed the foregoing on behalf of the corporation.

Witness my hand and official seal, this the 6<sup>th</sup> day of APRIL 2010.

(Notary Seal)



Signature of Notary Public



Sharon Corn  
Printed or Typed Name of Notary Public

My Commission Expires: 11-01-11