



REQUEST FOR BOARD ACTION

ITEM NO. 31

DATE OF MEETING: June 20, 2016

REQUESTED BY: Michael G. Mack, Utilities Director

SHORT TITLE: Resolution by the Board of Directors of the Rocky Point/Topsail Water and Sewer District Accepting the Deed of Dedication for the Conveyance of Title to the Water Distribution System Properly Installed to Serve the Following Project;

- Avendale – Phase 4A

BACKGROUND: In accordance with the Pender County Water and Sewer Ordinance, Article XII, Subsection II, 5.a: submission of a Deed of Dedication is required for acceptance of any new water and/or sewer extensions constructed to serve any structure within a subdivision prior to the commencement of water and/or sewer service by the District. With acceptance of these improvements, the conveyance of title to these infrastructure improvements will occur and the District will become responsible for the permanent maintenance of these improvements. Staff is recommending acceptance of the respective project infrastructure improvements listed below;

- Avendale – Phase 4A: 830 LF 8” watermain on Avendale Drive, 360 LF 6” watermain on Maxwell Drive, 380 LF (combined) 2” watermain on Maxwell Drive and Buchanan Court, 3 fire hydrants, valves, and related water appurtenances.

All of the above improvements have been inspected, engineer certified, and issued Final Approval by the NCDENR – Public Water Supply Section.

SPECIFIC ACTION REQUESTED: The Board of Directors of the Rocky Point/Topsail Water and Sewer District is requested to adopt a resolution accepting the Deed of Dedication and Affidavit for the Water Distribution improvements installed to serve Avendale – Phase 4A.

RESOLUTION

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

a resolution accepting the Deed of Dedication and Affidavit for the Water Distribution improvements installed to serve Avendale – Phase 4A.

The District Manager/Chairman shall have authority to execute any/all documents necessary to implement this resolution.

AMENDMENTS:

MOVED _____ SECONDED _____

APPROVED _____ DENIED _____ UNANIMOUS

YEA VOTES: Brown ___ McCoy ___ Keith ___ Piepmeyer ___ Williams ___

George R. Brown, Chairman Date 06/20/16

ATTEST 06/20/16
Date

DEED OF DEDICATION

STATE OF NORTH CAROLINA

COUNTY OF PENDER

THIS DEED OF DEDICATION, made and entered into this the ____ day of ___, 20___, by and between Avendale Development, LLC, of Ashe County, North Carolina, party of the first part, hereinafter referred to as "Owner", and ROCKY POINT/TOPSAIL WATER AND SEWER DISTRICT, a municipal corporation duly created and existing under the laws of the State of North Carolina, party of the second part, hereinafter referred to as Grantee;

WITNESSETH:

That whereas Avendale Development, LLC is/are the owner(s) of a tract or parcel located in Topsail Township, Pender County, North Carolina, known as Avendale Phase 4A ;

And whereas Owner has caused to be installed water distribution lines under and along the road rights-of-way hereinafter described and referenced;

And whereas Owner wishes to obtain water from Grantee for the property and to make water from Grantee's system available to individual owners;

And whereas, in order to obtain water for said community subdivision, Owner must convey title to the water distribution system to Grantee through an instrument of dedication acceptable to Grantee;

NOW THEREFORE, Owner, in consideration of Grantee accepting said water lines and making water available to said community subdivision, does hereby convey to Grantee, its lawful successors and assigns, the following described property;

Water Distribution System, North Carolina

See map of water system attached as Exhibit A hereto

TO HAVE AND TO HOLD said water lines and equipment above described together with the privileges and appurtenances thereto belonging to Grantee forever.

Together with 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 system 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 Owners, 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 Owner 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 [Owner] has caused this instrument to be duly executed, the day and year first above written.

Avendale Development, LLC

(Name of Owner)

By:  J. W. Fussell, Manager

(Name and Title of Officer signing)

STATE OF NORTH CAROLINA

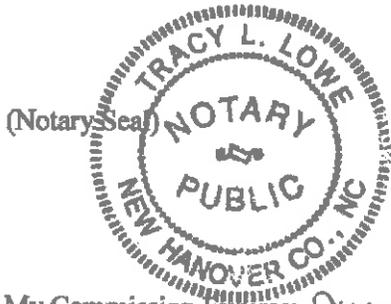
COUNTY OF ~~PENDER~~ NEW HANOVER

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

Witness my hand and official seal, this the 15th day of April, 2016.

Tracy L. Lowe

Signature of Notary Public



Tracy L. Lowe

Printed or Typed Name of Notary Public

My Commission Expires: August 19, 2016

ACCEPTANCE OF DEED

This Deed of Dedication and accompanying Affidavit for (Name of Owner) was accepted by the Pender County Board of Commissioners on the _____ day of _____, 20____.

Pender County Board of Commissioners

_____(Chairman)

Glenda Pridgen

Clerk to the Board

AFFIDAVIT

STATE OF NORTH CAROLINA

COUNTY OF PENDER

Avendale Development, LLC, a North LLC, with an office and place of business in Ashe County, North Carolina, 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 ^{Topsail} ~~Rocky Point~~ Township, Pender County, North Carolina, known as Avendale Subdivision, containing lots numbering 24 thru 32 and 146 thru 165, as more particularly described in a Deed of Dedication in favor of Pender County of even date herewith.
2. That it has caused to be installed water distribution lines under and along the road right-of-ways property hereinafter described and referenced;

See map of water system attached as Exhibit A hereto

3. All the work which has been performed in the construction and installation of said water distribution lines described in paragraph 2, above, has been fully paid for and 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 system located therein.

IN WITNESS WHEREOF, the Affiant has caused this instrument to be duly executed by its authorized officer this 15th day of April, 2016.

Avendale Development, LLC

(Name of Owner)


By: J. W. Fussell, Manager

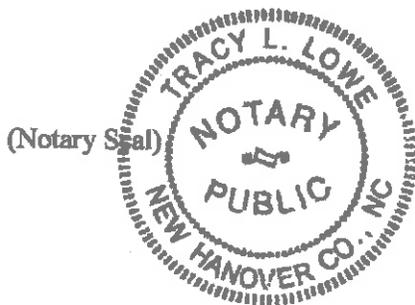
(Name and Title of Officer Signing)

STATE OF NORTH CAROLINA

COUNTY OF ~~PENDER~~ NEW HANOVER

I, a Notary Public of the County and State aforesaid, do hereby certify that J. W. Fussell personally came before me this day and acknowledged that he is Manager (title of corporate officer) of Avendale Development, LLC (name of corporation), being authorized to do so, executed the foregoing on behalf of the corporation.

Witness my hand and official seal, this the 15th day of April, 2016.




Signature of Notary Public

Tracy L. Lowe
Printed or Typed Name of Notary Public

My Commission Expires: August 19, 2016