

**FORSYTH COUNTY
BOARD OF COMMISSIONERS**

MEETING DATE: FEBRUARY 15, 2018 AGENDA ITEM NUMBER: 8-A&B

SUBJECT: A. RESOLUTION GRANTING AN EASEMENT ACROSS PORTIONS OF COUNTY PROPERTY AND AUTHORIZING EXECUTION OF A DEED OF EASEMENT FOR ON-SITE STORM WATER CONTROL DEVICES

B. RESOLUTION AUTHORIZING EXECUTION OF AN OPERATION AND MAINTENANCE AGREEMENT FOR ON-SITE STORM WATER CONTROL DEVICES

(KERNERSVILLE PUBLIC LIBRARY PADDISON BRANCH)

COUNTY MANAGER'S RECOMMENDATION OR COMMENTS: Recommend Approval

SUMMARY OF INFORMATION: See Attached

ATTACHMENTS: YES NO

SIGNATURE: *J. Randolph Watts, Jr.* **DATE:** February 14, 2018
COUNTY MANAGER

**RESOLUTION GRANTING AN EASEMENT ACROSS PORTIONS OF COUNTY
PROPERTY AND AUTHORIZING EXECUTION OF A DEED OF EASEMENT
FOR ON-SITE STORM WATER CONTROL DEVICES
(KERNERSVILLE PUBLIC LIBRARY PADDISON BRANCH)**

WHEREAS, the Town of Kernersville has requested an easement across portions of County property designated for use as the Kernersville Public Library Paddison Branch, as more particularly described in the attached Deed of Easement for on-site storm water control devices in accordance with the requirements of the Watershed Protection Ordinance of the Town of Kernersville; and

WHEREAS, the proposed easement is approximately twenty feet in width and surrounds the permanent Storm Water Control Structure Area at the Kernersville Public Library Paddison Branch property, as more particularly described in the attached Deed of Easement; and

WHEREAS, Forsyth County is authorized pursuant to the provisions of N.C.G.S. 153A-176 and 160A-273 to grant easements under these circumstances; and County staff has determined that the proposed consideration and other terms negotiated between the parties are reasonable;

NOW, THEREFORE, BE IT RESOLVED that the Forsyth County Board of Commissioners hereby grants an easement across portions of County property designated for use as the Kernersville Public Library Paddison Branch for on-site storm water control devices as further described in the attached Deed of Easement.

BE IT FURTHER RESOLVED that the Forsyth County Board of Commissioners hereby approves the proposed consideration, outlined herein, to Forsyth County for the requested easement.

BE IT FURTHER RESOLVED by the Forsyth County Board of Commissioners that the Chairman or County Manager and Clerk to the Board are hereby authorized to execute, on behalf of Forsyth County, the attached Deed of Easement to grant the requested easement for on-site storm water control devices on County property designated for use as the Kernersville Public Library Paddison Branch, subject to a pre-audit certificate thereon by the County Chief Financial Officer, if applicable, and approval as to form and legality by the County Attorney.

Adopted this the 15th day of February 2018.

**RESOLUTION AUTHORIZING EXECUTION OF AN OPERATION AND
MAINTENANCE AGREEMENT FOR ON-SITE STORM WATER
CONTROL DEVICES
(KERNERSVILLE PUBLIC LIBRARY PADDISON BRANCH)**

WHEREAS, the Town of Kernersville has requested that Forsyth County enter into the attached Agreement for the purpose of operating and maintaining on-site storm water control devices on the Kernersville Public Library Paddison Branch property in accordance with the requirements of the Watershed Protection Ordinance of the Town of Kernersville;

NOW, THEREFORE, BE IT RESOLVED that the Forsyth County Board of Commissioners hereby authorizes execution of the attached agreement for the operation and maintenance of on-site storm water control devices on the Kernersville Public Library Paddison Branch property.

BE IT FURTHER RESOLVED by the Forsyth County Board of Commissioners that the Chairman or County Manager and Clerk to the Board are hereby authorized to execute, on behalf of Forsyth County, the attached Operation and Maintenance Agreement for the on-site storm water control devices on County property designated for use as the Kernersville Public Library Paddison Branch, subject to a pre-audit certificate thereon by the County Chief Financial Officer, if applicable, and approval as to form and legality by the County Attorney.

Adopted this the 15th day of February 2018.

NORTH CAROLINA)
FORSYTH COUNTY }

DEED OF EASEMENT

THIS EASEMENT made this the _____ day of _____, 20____, by and between Forsyth County, Party of the First Part, and the TOWN OF KERNERSVILLE, Party of the Second Part;

WITNESSETH:

WHEREAS, the Parties of the First Part are owners of certain real property located in Kernersville Township, Forsyth County, North Carolina; and whereas, the said Parties of the First Part now desires to convey a twenty foot (20') access easement to the Party of the Second Part in accord with the requirements of the Watershed Protection Ordinance of the Town of Kernersville (Section 3-5.3(C)), and

WHEREAS, the Party of the First Part is owner of a certain tract of property lying and being in the Kernersville Township, Forsyth County, North Carolina and said property is more particularly described in a Deed as recorded in Deed Book _____, Page _____, Forsyth County Registry, hereinafter referred to as "Property";

WHEREAS, the purpose of the easement is to provide the Town of Kernersville with access from a public right-of-way to and around all storm water control devices, including the storm water control devices, located on the Property of the Parties of the First Part;

WHEREAS, pursuant to the Town of Kernersville Watershed Protection Ordinance, hereinafter referred to as Ordinance, easements are needed for the benefit of the Party of the Second Part for the operation and maintenance of storm water control devices located upon the property of the Party of the First Part;

NOW, THEREFORE, the said Parties of the First Part for and in consideration of the sum of Ten Dollars and other valuable considerations to them paid including the agreement contained herein, do hereby give, grant and convey unto the Party of the Second Part, their heirs and assigns, a perpetual right and easement for the purpose of ingress and egress over Property more particularly described as follows:

Access easement confined to that area on the Property designated and intended for vehicular traffic to and from the Permanent Storm Water Control Structure Area to and from Harmon Lane, that being the public road that currently provides access to the property, and further to provide an easement not less than twenty feet (20') in width surrounding the Permanent Storm Water Control Structure Area.

TO HAVE and to hold said right and easement to them, the said Party of the Second Part, their heirs and assigns forever; it being agreed that the right and easement hereby granted is appurtenant to and runs with the Property now owned by the Party of the Second Part and hereinabove referred to.

It is the intent of the Grantor that the Notwithstanding the foregoing, all easements given herein shall be subject to the provisions of the

Watershed Protection Ordinance and shall allow the Town the access needed to perform its duties pursuant to the ordinance regarding Storm Water Control Structures.

This agreement between the parties shall be binding upon the heirs, assigns and successors of all parties hereto.

IN TESTIMONY WHEREOF, the said Parties of the First Part have hereunto set their hands and seals the day first above written.

PARTIES OF THE FIRST PART:

By: _____ (SEAL)

_____ (SEAL)

_____ (SEAL)

_____ (SEAL)

STATE OF NORTH CAROLINA)

COUNTY OF _____)

I, _____, a Notary Public of _____ County, North Carolina, do hereby certify that _____ (*insert name of authorized signer*), the _____ (*insert title*) of _____ (*insert entity name*) personally came before me this day and acknowledged the execution and sealing of the foregoing instrument as _____ (*insert title*) on behalf of and as the act of the company referred to in this acknowledgement.

Witness my hand and notarial seal, this the _____ day of _____, 20____.

My Commission Expires: _____

Notary Public

(or, if individual owner)

NORTH CAROLINA

FORSYTH COUNTY

I, _____, a Notary Public in and for said County and State, do hereby certify that _____ personally appeared before me this day and acknowledged the execution of the foregoing Deed of Easement.

Witness my hand and notarial seal, this the _____ day of _____, 20____.

My Commission Expires: _____

Notary Public

EXHIBIT A PROPERTY
DESCRIPTION
(PER DEED)

STATE OF NORTH CAROLINA
COUNTY OF FORSYTH

OPERATION AND MAINTENANCE AGREEMENT

THIS AGREEMENT made pursuant to Town of Kernersville Watershed Protection Ordinance and entered into this _____ day of _____, 20____, by and between the TOWN OF KERNERSVILLE, a North Carolina Municipal Corporation, Party of the First Part, hereinafter referred to as "TOWN"; and FORSYTH COUNTY, Party of the Second Part, here-in after referred to as "Property Owner".

WITNESSETH:

1. The Property Owner is the owner of certain lands lying in Tax Block 206, Tax Lot 5404E as more particularly described in Deed Book 3236, Page 1269, in the Office of the Register of Deeds of Forsyth County, North Carolina upon which it is erecting and will make improvements, said development to be known as Forsyth County Public Library Paddison Branch (hereinafter the "PROPERTY").

2. The Property Owner desires to build engineered stormwater controls using wet detention ponds and related structures (hereinafter Stormwater Control Structure) to provide storage and treatment of stormwater runoff to serve the development on said Property, as required by the Kernersville Watershed Protection Ordinance (hereinafter the "ORDINANCE").

3. The Property Owner has applied to the TOWN for the issuance of a high density watershed permit to construct, maintain and operate the Stormwater Control Structure consistent with the plans and specifications of the Stormwater Control Structure and the Operation and Maintenance Agreement on file at the office of the Watershed Administrator and to develop lands within the Abbotts Creek Watershed.

4. The Property Owner has conveyed unto the Town of Kernersville, or its successors or assigns an Easement and Right-of-Way establishing the right of ingress, egress and regress over the property for the purpose of inspection, repair, or maintenance of the stormwater control structure(s). A description of the area containing the stormwater control structure(s) within a drainage easement is contained within the Deed of Easement filed with the Register of

Deeds together with all dedication(s) necessary for access to and from the storm-water control structure(s) and a public street. The detention pond, vegetative filters, all pipes and water control structures, including berms and dikes, and sufficient area to perform inspections, maintenance, repairs and reconstruction together with all Easements and Right-of-Way applying thereto has been described in the Deed of Easement. This Deed of Easement is recorded in Deed Book _____, Page _____ of the _____ County Registry.

5. The TOWN desires to assure that the Stormwater Control Structure(s) on the PROPERTY are properly constructed, maintained and operated in accordance with law, the ORDINANCE, and High Density Watershed Permit (hereinafter "PERMIT") provisions in order to protect the quality of the waters of the State and the public interest therein.

NOW, THEREFORE, in consideration of the promises and the benefits to be derived by each of the parties hereto, the TOWN and Property Owner do hereby mutually agree as follows:

1. The OWNER shall construct the Stormwater Control Structure(s) in accordance with the ORDINANCE, PERMIT and plans and specifications hereafter issued and approved by the TOWN; and shall thereafter properly operate and maintain such systems and facilities in accordance with the ORDINANCE, and applicable PERMIT provisions, the plans and specifications of the Stormwater Control Structure(s), the Operation and Maintenance Agreement and State Law.

2. The OWNER shall not transfer ownership and/or control of any lots until construction of the Stormwater Control Structure has been completed in accordance with the PERMIT and approved plans, and the Kernersville Watershed Administrator has inspected, and the Town's Watershed Review Committee has approved of the facilities. In order to change the name of the permit holder, the Property Owner must request that the permit be re-issued to the property owners.

3. The OWNER shall provide in an Operation and Maintenance Plan that the Stormwater Control Structure, appurtenances and access easements thereto shall thereafter be properly maintained and operated in conformity with law and the provisions of the PERMIT for construction, operation, repair and maintenance of the Stormwater Control Structure.

4. The agreements set forth in numbered paragraphs 1,2, and 3 above shall be conditions of any PERMIT issued by the TOWN to the Property Owner for the construction, maintenance, repair and operation of the Stormwater Control Structure.

5. A copy of this Operation and Maintenance Agreement shall be filed at the Forsyth County Register of Deeds and in the office of the Watershed Administrator. The OWNER agrees that for itself and successors in title that the Stormwater Control Structures, appurtenances and access easements thereto shall be properly maintained and operated in conformity with law and the provisions of the Permit for the construction, operation, repair and maintenance of the Stormwater Control Structures.

IN WITNESS WHEREOF, the parties have hereto set their hands and seals, this _____
day of _____, 20__:

PARTY OF THE FIRST PART:

TOWN OF KERNERSVILLE

By: _____
Dawn H. Morgan, Mayor

ATTESTED TO:

Keith Hooker, Town Clerk

PARTY OF THE SECOND PART:

_____ (SEAL)

By: _____

ATTESTED TO:

STATE OF NORTH CAROLINA)
COUNTY OF _____

I, _____, a Notary Public of _____ County, North Carolina, do hereby certify that Keith Hooker personally came before me this day and acknowledged that he is the Town Clerk of the Town of Kernersville, a North Carolina municipal corporation, and that by authority duly given as the act of the Town of Kernersville, the foregoing instrument was signed in its name by its Mayor, sealed with its corporate seal and attested by her as its Town Clerk.

Witness my hand and official seal, this the _____ day of _____, 20__.

Notary Public
Print/Type Name: _____

My Commission Expires: _____

STATE OF NORTH CAROLINA)
COUNTY OF _____)

I, _____, a Notary Public of _____ County, North Carolina, do hereby certify that _____ personally came before me this day and acknowledged that ___he is Secretary of _____, and that by authority duly given as the act of the corporation, the foregoing instrument was signed in its name by its _____ President, sealed with its corporate seal and attested by _____ as its Secretary.

Witness my hand and notarial seal, this the _____ day of _____, 20__.

My Commission Expires: _____
Notary Public

NORTH CAROLINA
_____ COUNTY

I, _____, a Notary Public in and for said County and State, do hereby certify that _____ personally appeared before me this day and acknowledged the due execution of the fore- going Operation and Maintenance Agreement.

Witness my hand and notarial seal, this the _____ day of _____, 20__.

My Commission Expires: _____
Notary Public