RESOLUTION NO. 2016072

RE: AUTHORIZING THE ADOPTION OF THE CONVEYANCE OF SURPLUS RIGHT- OF- WAY PROPERTY POLICY TO ABUTTING PROPERTY OWNERS PURSUANT TO NYS HIGHWAY LAW SECTION 118-a

Legislators PULVER, BOLNER, SAGLIANO offer the following and move its adoption:

WHEREAS, the Commissioner of Public Works has advised that the Department of Public Works wishes to institute a "Conveyance of Surplus Right of Way Property Policy" in connection with conveyances of surplus County owned right-of-way property to abutting property owners pursuant to New York State Highway Law Section 118-a, and

WHEREAS, over the years the County has acquired certain right-of-way properties in connection with highway improvement projects, such as relocations, widening projects, straightening of curves, and drainage projects, and

WHEREAS, the County now has these various surplus right-of-way properties along County highways, that are no longer needed for highway purposes, and

WHEREAS, New York State Highway Law Section 118-a gives the County the authority to abandon these various surplus right-of-way properties to abutting property owners upon the recommendation of the County Superintendant of Highways or the Commissioner of Public Works, and

WHEREAS, the County on occasion receives requests from individual property owners, businesses, and corporations who own abutting property to the right-of-way property owned by the County, and they wish to obtain such property from the County, and

WHEREAS, the Department of Public Works hereby recommends and offers the attached policy to be implemented for conveyance of surplus right-of-way property to abutting property owners in accordance with New York State Highway Law Section 118-a, now therefore, be it

RESOLVED, that this Legislature hereby approves and adopts the Conveyance of Surplus Right-of-Way Property Policy to be implemented when the Department of Public Works wishes to convey surplus right-of-way to abutting property owners in accordance with New York State Highway Law Section 118-a.

CA-048-16 CAB/kvh/G-0188
03/10/16 Fiscal Impact: See attached statement

STATE OF NEW YORK
ss:
COUNTY OF DUTCHESS

This is to certify that I, the undersigned Clerk of the Legislature of the County of Dutchess have compared the foregoing resolution with the original resolution now on file in the office of said clerk, and which was adopted by said Legislature on the 11th day of April 2016, and that the same is a true and correct transcript of said original resolution and of the whole thereof.

IN WITNESS WHEREOF, I have hereunto set my hand and seal of said Legislature this 11th day of April 2016.

CAROLYN MORRIS, CLERK OF THE LEGISLATURE

FISCAL IMPACT STATEMENT

☐ NO FISCAL IMPACT PROJECTED

APPROPRIATION RESOLUTIONS

(To be completed by requesting department)

Total Current Year Cost $ _____

Total Current Year Revenue $ _____
and Source

D.5020.26600 - Sales of Real Property

Source of County Funds *(check one)*: ☐ Existing Appropriations, ☐ Contingency,
☐ Transfer of Existing Appropriations, ☐ Additional Appropriations, ☐ Other *(explain)*.

Identify Line Items(s):

Related Expenses: Amount $ _____
Nature/Reason:

Anticipated Savings to County: _____

Net County Cost (this year): _____
Over Five Years: _____

Additional Comments/Explanation:
The proposed standardization of the policy for conveyance of surplus right-of-way ensures that the County will receive fair market value for each parcel conveyed to abutting property owners and that the County will not be responsible for any of the costs associated with the transfer.

Prepared by: Rachel Kashimer, Budget Office Prepared On: 3/7/16

Dutchess County

Conveyance of Surplus Right-of-Way Policy

Dutchess County through the Department of Public Works establishes a Policy to Convey Surplus Highway Right-of-Way:

1. As a result of highway relocations, widening projects, straightening of curves, drainage projects, or other highway improvements, Dutchess County owns property formerly used for highway purposes along county highways that is no longer needed for highway purposes ("surplus property" or "surplus right-of-way".)

2. Dutchess County can convey such surplus property to abutting property owners pursuant to NYS Highway Law Section 118-a.

3. Dutchess County shall consider conveying surplus property to an abutting property owner, only upon written request from said owner in accordance with this policy.

4. Dutchess County shall convey surplus property to an abutting owner via sale at fair market value, as determined by an independent appraiser who is licensed to appraise real property in New York State.

5. The abutting property owner to whom surplus property is being conveyed shall be required to pay for said appraisal and deliver the appraisal to the County Attorney.

6. The abutting property owner to whom a property is being conveyed shall be required to provide to the County Attorney a boundary survey, including metes and bounds description of the surplus property to be conveyed. The survey shall be prepared by a Surveyor licensed to practice in New York State. The cost of the survey and metes and bounds description shall be the expense of the abutting property owner.

7. The Dutchess County Department of Public Works will submit a resolution request to the Dutchess County Legislature requesting authorization to convey the surplus property to the abutting property owner. The resolution request will be accompanied by a written statement from the Public Works Commissioner or County Highway Superintendant indicating that the surplus property is not required for highway purposes and a recommendation that the property be conveyed in accordance with NYS Highway Law Section 118-a and this policy. In addition, the resolution request shall be accompanied by a written statement from the County Attorney indicating that the requirements of New York State Highway Law Section 118-a and this policy have been satisfied, and the surplus property can be conveyed in accordance with same.

8. The abutting property owner to whom surplus property is being conveyed shall be required to pay for all fees, taxes, and other expenses related to transfer of title.

9. The abutting property owner to whom surplus property is being conveyed shall be required to enter into a purchase agreement in a form satisfactory to the County Attorney.

10. In the event that there are extenuating circumstances whereby the fair market value of the surplus property is diminished, or it is deemed in the best interest of the County to offer the surplus property for an amount lower than the appraised fair market value; the Commissioner of Public Works or the County Highway Superintendant will include a written statement justifying that recommendation with the resolution request. The County Attorney will submit a written statement endorsing the Commissioner or County Highway Superintendent's recommendation.

This policy was adopted by the Dutchess County Legislature on pursuant to Resolution No. 2016xxx.

McKinney's Consolidated Laws of New York Annotated
Highway Law (Refs & Annos)
Chapter 25. Of the Consolidated Laws
Article VI. County Roads

McKinney's Highway Law § 118-a

§ 118-a. Abandoning of parts of county highways

Currentness

Whenever, pursuant to this act or under the provisions of any statute, any county road shall have been widened, straightened, extended, drained, paved and/or otherwise improved and in the process thereof a county shall have acquired from an adjacent owner certain lands necessary for said right-of-way by purchase, condemnation or as a gift and where under such circumstances either the grantor of said new right-of-way shall own the property on both sides thereof for the full length of the new taking or the consent in writing of any and all other owners within such area be given, and there shall be sections of the old road as it existed before said improvement which are of no further use for highway purposes to said county, the board of supervisors of said county in which said land is situated, upon the recommendation of the county superintendent of highways, may abandon to the abutting owner or owners such sections or parts of the old road as it existed before said improvement which are of no further use for highway purposes, providing the road after such abandonment shall not be less than three rods in width, and the chairman of the board of supervisors of said county is hereby authorized to execute and acknowledge in the name of the county and affix the seal of the county to a quit-claim deed or deeds of the land so abandoned and to deliver the same to the abutting owner or owners for such consideration and upon such terms and conditions as the board of supervisors of the county shall deem proper.

Whenever, pursuant to this chapter or under the provisions of any statute, the maintenance of any section of a highway by the state is discontinued by official order or otherwise and the maintenance thereof transferred to a county, and such section of such road is of no further use for highway purposes to said county, the board of supervisors in which said land is situated, upon the recommendation of the county superintendent of highways, may adopt a resolution to abandon to the abutting owner or owners of such section of such road which is of no further use for highway purposes, and the chairman of the board of supervisors of said county is hereby authorized to execute and acknowledge in the name of the county, and affix the seal of the county to a quit claim deed or deeds of the lands so abandoned, and to deliver the same to the abutting owner or owners for such consideration and upon such terms and conditions as the board of supervisors of said county shall deem proper.

The adoption of the hereinbefore mentioned resolution by the board of supervisors shall be an immediate abandonment and discontinuance of the use for highway and street purposes of said sections or parts of the old road described in said resolution without any further or other proceeding.

Notwithstanding any other provisions of law, the superintendent of highways, with the approval by resolution of the board of supervisors, may establish parking areas on land which would ordinarily be abandoned by the highway department, due to new right-of-ways, or widening, straightening, extending, draining, paving or otherwise improving highways. The superintendent may also place upon said parking areas suitable picnic tables and facilities for the traveling public. The area so developed by the superintendent of highways shall be used for parking and resting purposes primarily and shall not be developed for or as a public park.

Credits
(Added L.1943, c. 257. Amended L.1957, cc. 695, 1025.)

 © 2016 Thomson Reuters. No claim to original U.S. Government Works.