

COUNTY COUNCIL

OF

TALBOT COUNTY

2020 Legislative Session, Legislative Day No.: October 13, 2020

Resolution No.: 296

Introduced by: Mr. Divilio, Mr. Leshner, Mr. Pack, Ms. Price

**A RESOLUTION TO FORMALLY ABANDON AND AUTHORIZE CONVEYANCE OF A CERTAIN PORTION OF KATES POINT ROAD IN TRAPPE, MARYLAND, SAID PORTION OF ROADWAY CONSISTING OF 0.4 MILES, MORE OR LESS, LOCATED ASTRIDE TWO PARCELS OF LAND HELD IN COMMON OWNERSHIP WITH ADDRESSES AT 31373 KATES POINT ROAD AND 31450 KATES POINT ROAD, TRAPPE, MARYLAND 21673, FURTHER DESCRIBED AS TAX MAP 60, PARCELS 10 AND 12 (COLLECTIVELY, THE "PROPERTY"); TO ESTABLISH CERTAIN CONDITIONS PRECEDENT TO SUCH ABANDONMENT AND CONVEYANCE, INCLUDING A SURVEY OF THE AREA TO BE ABANDONED AND REVISION PLAT AT THE OWNER'S EXPENSE; AND, TO AUTHORIZE CONVEYANCE OF THE COUNTY'S INTEREST IN SUCH ABANDONED PORTION OF THE ROADWAY BY QUITCLAIM DEED FOR NO MONETARY CONSIDERATION TO THE UNDERLYING FEE SIMPLE OWNER OF THE PROPERTY**

By the Council: October 13, 2020

Introduced, read the first time, and ordered posted, with Public Hearing scheduled on Tuesday, November 10, 2020 at 6:30 p.m. in the Bradley Meeting Room, South Wing, Talbot County Courthouse, 11 North Washington Street, Easton, Maryland 21601.

By order:   
Susan W. Moran, Secretary

**A RESOLUTION TO FORMALLY ABANDON AND AUTHORIZE CONVEYANCE OF A CERTAIN PORTION OF KATES POINT ROAD IN TRAPPE, MARYLAND, SAID PORTION OF ROADWAY CONSISTING OF 0.4 MILES, MORE OR LESS, LOCATED ASTRIDE TWO PARCELS OF LAND HELD IN COMMON OWNERSHIP WITH ADDRESSES AT 31373 KATES POINT ROAD AND 31450 KATES POINT ROAD, TRAPPE, MARYLAND 21673, FURTHER DESCRIBED AS TAX MAP 60, PARCELS 10 AND 12 (COLLECTIVELY, THE "PROPERTY"); TO ESTABLISH CERTAIN CONDITIONS PRECEDENT TO SUCH ABANDONMENT AND CONVEYANCE, INCLUDING A SURVEY OF THE AREA TO BE ABANDONED AND REVISION PLAT AT THE OWNER'S EXPENSE; AND, TO AUTHORIZE CONVEYANCE OF THE COUNTY'S INTEREST IN SUCH ABANDONED PORTION OF THE ROADWAY BY QUITCLAIM DEED FOR NO MONETARY CONSIDERATION TO THE UNDERLYING FEE SIMPLE OWNER OF THE PROPERTY**

**WHEREAS**, the County owns and maintains a 2.41 mile± public right-of-way known as Kates Point Road in Trappe, Maryland, which maintenance includes, without limitation, resurfacing, drainage, snow plowing and removal, and a tidal wetland crossing near the eastern terminus of the road; and,

**WHEREAS**, Kates Point Road begins at the intersection of Kates Point Road and Koogler Road and extends in an easterly direction to the intersection of Kates Point Road and Clarks Wharf Road, running thence in a southeasterly direction through the center of a parcel of land owned by Kates Point Farm LLC ("Owner") to a point of termination at a second, adjacent parcel also owned by Owner, pursuant to a deed recorded among the Land Records of Talbot County, Maryland in Liber 2582, folio 256, which parcels are further described as Tax Map 60, Parcels 10 and 12 ("Property"); and,

**WHEREAS**, the Property is improved by residences and accessory structures, in addition to the still-utilized portion of Kates Point Road on the premises; and,

**WHEREAS**, Owner has requested that the County abandon the 0.4 mile± portion of Kates Point Road located on the Property, such portion of the roadway being shown and described in yellow dashed line on an aerial titled "Exhibit A to Resolution 296 Vicinity of Kates Point Road, Trappe, Talbot County, Maryland," which is attached hereto as Exhibit "A" (the portion to be abandoned shall be referred to hereinafter as the "Surplus Roadway"); and,

**WHEREAS**, abandonment of the Surplus Roadway would allow the Owner to install additional security measures on the premises, such as a gate, to curtail poaching, littering and trespassing that occur on the Property on a regular basis; and,

**WHEREAS**, abandonment of the Surplus Roadway would not impact any other property owner's access to Kates Point Road. All such owners who have direct access to Kates Point Road will still have direct access following abandonment of the Surplus Roadway; and,

**WHEREAS**, due to revenue and budgetary constraints, the County has been evaluating ways to reduce costs to the County and to become more efficient across all departments, including the Talbot County Roads Department; and,

**WHEREAS**, the Superintendent of the Roads Department does not believe that maintaining the Surplus Roadway is necessary to the inventory of public roads in Talbot County. If the Surplus Roadway were abandoned, the Roads Department would no longer be responsible for maintaining or plowing it or maintaining the tidal culvert, translating into savings for the Department; and,

**WHEREAS**, the County Engineer has recommended that abandonment of the Surplus Roadway be conditioned upon the dedication of a drainage easement to the County to address overland flow from Kates Point Road that drains in the direction of the Surplus Roadway; and,

**WHEREAS**, the Talbot County Director of Planning and Zoning has determined that abandonment of the Surplus Roadway will require the establishment of the Surplus Roadway as a private road to provide road frontage for Parcel 12; and,

**WHEREAS**, Local Government Article ("LG") § 10-312, Md. Code Ann., states that the County may dispose of any real or leasehold county property provided that "before the county makes any disposition, grant, or lease of county property, the county shall publish notice of the disposition, grant, or lease once a week for 3 successive weeks in at least one newspaper of general circulation in the county and shall include the terms of compensation to be received and give opportunity for objections"; and,

**WHEREAS**, Chapter 134 of the Talbot County Code (Roads Ordinance) authorizes the abandonment and disposition of public roads that are no longer needed for public use, provided that certain notice requirements are met, namely holding a public hearing on the proposed disposition, advertising the same for at least three consecutive weeks in the newspaper, and giving special notice of the proposed disposition and hearing to abutting property owners at least three weeks in advance; and,

**WHEREAS**, subject to public comment, the County desires to abandon and authorize conveyance of the Surplus Road on the terms and conditions herein.

**NOW, THEREFORE, BE IT RESOLVED** by the County Council of Talbot County, Maryland that:

1. The above recitals are hereby incorporated as if fully set forth herein.
2. The County Council finds that:
  - (a) The County has duly complied with the notice, hearing, and comment requirements set forth in LG § 10-312 and Chapter 134 of the Talbot County Code;

- (b) The Surplus Roadway is not needed for a public use and the County is lawfully authorized to abandon and dispose of such portion of the roadway as provided herein; and,
  - (c) Subject to satisfaction of the conditions set forth in Paragraph 3, below, the County Council President is authorized to execute a quitclaim deed in a form approved by the Talbot County Office of Law conveying the County's interest in the Surplus Roadway to Owner.
3. Conditions (a) through (d) below shall each be satisfied prior to the transfer of the County's interest in the Surplus Roadway to Owner:
- (a) Owner, at Owner's sole cost and expense, shall commission a survey of the Surplus Roadway by a Maryland-licensed land surveyor, which survey shall be approved by the County and include both a map/drawing and a metes and bounds legal description.
  - (b) Owner, at Owner's sole cost and expense, shall prepare and record a revision plat and private road maintenance declaration in forms approved by the Department of Planning & Zoning and Public Works, which shall:
    - i. Identify the Surplus Roadway to be abandoned;
    - ii. Identify the easements set forth in subparagraph (c), below; and
    - iii. Define the access easement rights and construction and maintenance obligations of each parcel of Owner's property having use of the private road.
  - (c) Owner, at Owner's sole cost and expense, shall grant the following easements, which shall be identified and included on the revision plat referred to above:
    - i. A drainage easement for the benefit of Talbot County on terms approved by the Department of Public Works to address overland flow from Kates Point Road that drains in the direction of the Surplus Roadway; and,
    - ii. A private road access easement to Kates Point Road for the benefit of Parcel 12 over the Surplus Roadway and adjacent portion(s) of Parcel 10 on terms approved by Owner and the Department of Public Works.
  - (d) Owner shall enter into an indemnification agreement on terms approved by the Talbot County Office of Law, under which Owner shall (i) acknowledge that the County is no longer responsible for maintaining the Surplus Roadway or providing any service related thereto; (ii) agree that Owner is now responsible

for any maintenance of the Surplus Roadway; and, (iii) agree to indemnify and hold harmless the County, its officials, department heads, employees, agents and contractors, from and against any claim of any kind or nature whatsoever arising out of or related to Owner's ownership and use of the Surplus Roadway.

(e) If the foregoing conditions are not satisfied within eighteen (18) months from the date this Resolution is adopted, then the County shall be under no obligation to convey the Surplus Roadway to Owner and may continue to maintain said Roadway as part of the inventory of public roads in the county. If Owner is diligently attempting to satisfy the foregoing conditions but is unable to do so by the 18-month deadline, Owner may request an extension of time from the County Manager, who is authorized to grant up to two (2) six-month (6-month) extensions in his sole and absolute discretion.

4. Upon timely satisfaction of the conditions set forth in Paragraph 3, above, the County Council President is authorized to execute a quitclaim deed in form approved by the Talbot County Office of Law conveying the Surplus Roadway to Owner for no monetary consideration, which deed shall (i) reference the plat and private road declaration approved by the Talbot County Department of Planning and Zoning and Department of Public Works and (ii) promptly be recorded among the Land Records of Talbot County, Maryland at Owner's sole cost and expense.

5. Upon execution and delivery of the quitclaim deed to Owner, the Surplus Roadway shall be deemed formally abandoned.

**BE IT FURTHER RESOLVED**, that this Resolution shall take effect immediately upon its date of passage.

**EXHIBIT A TO RESOLUTION 296**

**Vicinity of Kates Point Road, Trappe, Talbot County, Maryland**



**PUBLIC HEARING**

Having been posted and Notice, Time and Place of Hearing, and Title of Resolution No. \_\_\_\_\_ having been published, a public hearing was held on Tuesday, \_\_\_\_, 2020, in the Bradley Meeting Room, South Wing, Talbot County Courthouse, 11 North Washington Street, Easton, Maryland 21601.

**BY THE COUNCIL**

Read the second time: \_\_\_\_\_, 2020

Enacted: \_\_\_\_\_, 2020

By Order: \_\_\_\_\_  
Susan W. Moran, Secretary

Pack -

Divilio -

Callahan -

Price -

Lesher -

EFFECTIVE: \_\_\_\_\_, 2020